

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	08.04.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p>1 Service Appeal No. 1366/2014, Ikram Ullah Khan, Ex-SDO C&W Sub Division, Charsadda. Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar etc.</p> <p>2. Service Appeal No. 1367/2014, Shafaatullah Ex-Sub Engineer C&W Division, Charsadda Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:-</u> Appellant with counsel (Mr. Ijaz Anwar, Advocate) and Mr. Muhammad Jan, GP with Saleem Shah, Supdt. for the respondents present.</p> <p>2. Appellants herein namely Ikram Ullah and Shafaat Ullah, respectively then as SDO and Sub-Engineer, C&W Division, Charsadda were proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on the charge of irregularity in the work <u>Tor Dher Road Tehsil Tangi. District Charsadda.</u> The competent authority issued them charge sheet and statement of allegations incorporating therein the following three charges:-</p> <p>i. You made an advance payment amounting to Rs. 10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this</p>

act of omission it was presumed to a huge corruption and loss to the government exchequer.

- ii. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. You have not carried the quality control test during the execution of work.”

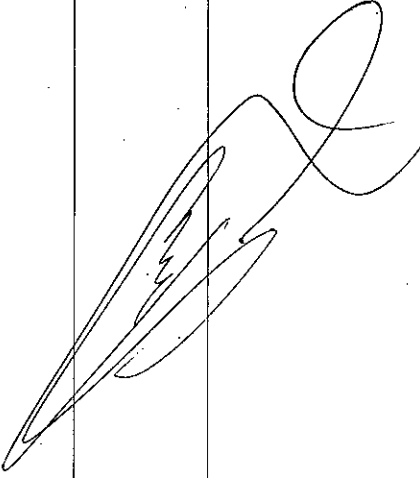
Enquiry through an Enquiry Committee comprising of Ahmad Jan Afridi, then ADC, Peshawar and Engr. Syed Muhammad Ilyas Shah, then Director Maintenance, PKHA, Peshawar was constituted to enquire into the matter. The committee embarked upon enquiring the charges and also received replies of the appellants to the charge sheet, wherein they have denied the charges. On receipt of the enquiry report, the competent authority issued show cause notice wherein the appellants were tentatively put to show cause as to why (minor) penalty of stoppage of two annual increments for two years may not be imposed on them. To this show cause notice the appellants submitted their replies wherein they have defended themselves and have also desired to be heard in person. Thereafter, the competent authority vide his impugned order dated 02.09.2014 after having considered the charges, material on record, enquiry report of the enquiry committee, explanation of the appellants concerned, imposed major penalty of dismissal from service upon them. Feeling aggrieved, the appellant submitted departmental appeals which were also rejected,

hence these appeals under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. In view of the above, both appeals are proposed to be disposed off by this single judgment.

3. Arguments heard and record perused.

4. Main argument of the learned counsel for the appellant was that the competent authority under Rule 14 (4)(a) of Government Servants (E&D) Rules, 2011 issued show cause notice to the appellants, put them on notice to show cause as to why (minor) penalty of stoppage of annual increment for two years, may not be imposed on them but vide impugned order major penalty of dismissal from service was imposed unlawfully, against law & rules which took the appellants by surprise, without giving them opportunity of defence. The learned counsel for the appellant further stressed that the enquiry committee in their report has also recommended a minor penalty of stoppage of two annual increments for two years, about which the competent authority issued show cause notice to the appellants. The learned counsel maintained that in case the competent authority did not agree with the enquiry report and its recommendations in that case he under rule 14(6) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 should, after recording reasons in writing, have either remanded the enquiry to the enquiry committee

with his directions or should have ordered a denovo enquiry through a different enquiry officer or enquiry committee. He lastly submitted that the penalty is too harsh, which is not in commensuration with the charges against the appellants. The learned counsel for the appellant requested that the impugned orders being illegal and in violation of the prescribed procedure, may be set aside and the appellant may be reinstated into service with all back benefits. Reliance was placed on 2013-SCMR-817, 2009-SCMR-281 and 2008-PLC (C.S)1028-Federal Service Tribunal.



5. Mr. Muhammad Jan, learned Government Pleader, in rebuttal submitted that all codal formalities of the charge sheet, enquiry, show cause notice have been complied with and it is evident that nowhere the appellants have raised any objection on the enquiry proceedings during the course of enquiry. He further submitted that the competent authority was not bound to act upon the recommendations of the enquiry report and in view of serious charges against the appellants, major penalty was properly imposed on the appellants. He submitted that the appeals may be rejected.

6. At the relevant time, appellants were performing in the capacity of SDO and Sub Engineer on the project of Tor Dher Road Tehsil Tangi, District Charsadda. It is also not in dispute that a sum of Rs. 10,002,017/- was paid by the appellants to the

contractor prior to execution of road and construction works. According to the charge sheet, this act of the appellants was presumed to be falling in the pale of huge corruption and a loss to the government ex-chequer. This allegation was denied by the appellants by taking the plea that the advance payment was recovered through Transfer Entry Order (TEO) and thus no loss was caused to the government ex-chequer. The enquiry committee in its report has given its findings in para-5 of its concluding para, which is reproduced as follows:-

“Although such advance payment is an irregularity but as mentioned in the charge sheet, the advance payments amounting to Rs. 10,002,017/- were recovered through TEO, as such there remains no loss to the government but the work has not been completed as per Technical sanction/design.

7. It is very much evident from the above findings of enquiry report that enquiry committee failed to have given an unambiguous and explicit findings about allegations of corruption and loss to the government ex-chequer leveled against the appellants. Contrarily the enquiry committee while quoting from the charge sheet, that as so provided in the charge sheet recovery was affected through TEO, there is no explanation as to whether payment released through TEO means a cash repayment ----- no loss to government---- or it was adjustment in the payment bills, then how no loss to the

government be presumed when construction was not upto the required standard? So far allegations that joint survey was not conducted to ascertain the actual normal surface level (NSL) is concerned, the same allegation has also been denied by the appellants in their reply by stating that proper cross sections were taken at an interval of 200 meter all along the road length of 5.5 Km, with the plea that due to limited survey equipments and in the absence of survey Division of CDO, the situation could not be improved further. But the enquiry findings in this respect are that all the 29 cross sections provided were of stereo type (repetition), the long section is also not representative of the existing road profile, more over there is no field book available in its support, hence the authenticity of the cross sections and long section is doubtful. So far the third allegation of non-observance of quality control test during execution of work is concerned, so the appellants have taken the plea that important compaction tests on formation of embankment Sub Base and Base course have duly been conducted during execution to give guidance in quality control about which they have also annexed copy of the test reports. Findings of the enquiry committee in this regard are that test results provided were not supported by required back up Data and calculation, which makes its authenticity disbelieving.

8. Charge of corruption as evident from charge sheet was also perceived by the competent authority to exist. The work

job assigned to the appellants is of such a nature that same should fulfill all its technical and procedural requirements failing which allegation of corruption can rightly be perceived to exist. About the substandard quality of the work, a relevant portion of the enquiry report is reproduced as follows: "that the cracks and minor settlements were witnessed in various areas of the finished surface. The cracks/distresses developed may be due to poor quality of TST wearing course and poor compaction of the underlying layers. Some dumper trucks were also seen to be plying on the road during the visit. These dumper trucks are further a cause of rapid expansion of the cracks and earlier failure of the road constructed to a poor quality lesser thickness. Due to the cracked surface the rain water penetrates down into the pavement making the pavement structure moist which may also be expansion of the cracks and failure thereof." The Tribunal is of the view that in fact the recovery was not effected from the contractor through any bank instrument but in fact the advance amount was adjusted against work done at a latter stage which was called recovery through TEO. Here this may be observed that the work was also not found upto the required standard as stated above from the enquiry report.

9. The above situation pertains to the enquiry report has led the Tribunal to the conclusion that the enquiry report is not comprehensive nor inquisitional or charge specific. The

appellants were proceeded under the E&D Rules, 2011 wherein there is no provision of any recommendation of penalty to be made in the enquiry report by the enquiry officer/committee. While recommending stoppage of two annual increments for two years, it is evident that enquiry committee has gone beyond the scope of its legal mandate.

11. While having discussed the foregoing, this cannot be denied that under Rule 14 (4)(a), of Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011, the competent authority was required to have informed the civil servant about the proposed penalty. Though this notice was given but the proposed penalty mentioned was stoppage of two annual increments and not dismissal from service. Legally, the competent authority is vested with jurisdiction to disagree with the report of the enquiry officer/committee but the remedy is either fresh direction to the same enquiry officer or enquiry committee or enquiry denovo through another officer. Imposition of major penalty by the competent authority, after reading material on record etc, might have led the competent authority to the conclusion that appellants deserved affliction of major punishment but while doing this, the prescribed procedure was not observed and thus the appellants were prejudiced.

12. The Tribunal in the light of the entire record on file, is led to the inference that according to E&D Rules, 2011, the

enquiry committee had no mandate to recommend penalty to the competent authority. Similarly, the competent authority if convinced that the appellants deserved major punishment should have recorded his reason and informed the appellants about imposition of major penalty in the show cause notice, which last mode was also not adopted by the competent authority to have given to the appellants opportunity of vindicating themselves in the reply and thus to have given them opportunity of defence.

13. For the said reasons, this Tribunal is constrained to set aside the impugned orders dated 02.09.2014 and 10.11.2014 and to remit the cases to the competent authority for conducting denovo enquiry strictly in accordance with law and rules. The appellants are reinstated in service for the purpose of enquiry proceedings. Back benefits will be subject to the outcome of denovo enquiry. The whole exercise should be completed within three months after receipt of this judgment by the competent authority failing which the appeal should be deemed to have been accepted in the terms as prayed for. Appeals are allowed accordingly. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED

08.04.2015


(ABDUL LATIF)
MEMBER


(PIR BAKHSI SHAH)
MEMBER


25.02.2015

Counsel for the appellant and Mr. Saleem Shah, Supdt. for respondents alongwith Addl: A.G present. Written statements submitted. The case is assigned to D.B for rejoinder and final hearing for 25.05.2015.


Chairman

10.03.2015

Counsel for the appellant present. Application for early hearing submitted. According to learned counsel for the appellant the appellant is at the verge of retirement and as such the appeal deserves to be heard earlier. Let the same be fixed before D.B for rejoinder and final hearing for 19.03.2015. Notice to respondents be issued for the date fixed.


Chairman

19.3.2015

Appellant with counsel (Mr. Ijaz Anwar, Advocate) and Mr. Muhammad Jan, GP with Saleem Shah, Supdt. for the respondents present. Arguments heard. To come up for order on 25.3.2015.


MEMBER


MEMBER

25.3.2015

Appellant in person and Mr. Muhammad Jan, GP with Saleem Shah, Supdt. for the respondents present. Due to rush of work, case is adjourned to 8.4.2015 for order.


MEMBER


MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1366/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
<p><i>Appellant deposited process fee & security As 350/- Points/Group attached with file of</i></p>	<p>28.11.2014</p> <p>19.1.2015</p>	<p>The appeal of Mr. Ikramullah Khan presented today by Mr. Ijaz Anwar Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p> <p>This case is entrusted to Bench for preliminary hearing to be put up there on.</p> <p>Appellant with counsel present. The learned counsel for the appellant submitted that in violation, derogation of the rules, recommendation of the enquiry report was over-looked, and that with malafide intentions, the appellant was dismissed from service by the incompetent authority. Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for submission of written reply/comments on 25.2.2015.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1366/2014

Ikram Ullah Khan SDO C&W Sub Division
Charsadda.....(*Appellant*)

VERSUS

Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber
Pakhtunkhwa Civil Secretariat Peshawar and others.


(*Respondents*)

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Ullah S
Appellant

Through


IJAZ ANWAR
Advocate Peshawar

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

Appeal No. 1366/2014

S.W.P. No. 1398
28/11/2014

Ikram Ullah Khan Ex-SDO C&W Sub Division
Charsadda.....(Appellant)

VERSUS

1. Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar.
2. Secretary to Govt of Khyber Pakhtunkhwa Communication & Works Department, Civil Secretariat Peshawar.
3. Chief Engineer Center Communication & Works Department, Peshawar.
4. Executive Engineer C&W Division Charsadda.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 02.09.2014, whereby the appellant has been awarded major punishment of Dismissal from Service, against which the Departmental Appeal dated 16.9.2014 has been rejected vide order dated 10.11.2014.

Prayer in Appeal: -

On acceptance of this appeal the order dated 2.9.2014 and the rejection order dated 10.11.2014 may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.

Respectfully Submitted:

1. That the appellant was working as SDO C&W in the respondent department, and was lastly posted as SDO C&W Division Charsadda.

2. That while posted there, the appellant was served with a charge sheet containing the following allegations:
 - i. You made an advance payment amounting to Rs. 10,002,017/- (Which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the Govt Exchequer.
 - ii. You have not conducted joint survey to ascertain the actual Natural Surface level (NSL) for work out the earth work and other quantities.
 - iii. You have not carried the quality control tests during the execution of work.
(Copy of charge sheet and statement of allegations are attached as annexure A & B).
3. That the appellant duly replied the charge sheet and deny the allegations. The appellant clarified that final settlement of accounts were made through the transfer entry order (TEO) after detailed re-measurement of work, and there was no loss to the Govt exchequer, the appellant also explained that proper cross section were taken at interval of 200 meter all along the road length of 5.5 Km, similarly earth was calculated at each cross section of each proposed road profile. It is also a matter of fact that most of the circle laboratories are abundant and there is only one road material and testing laboratory of PKHA, the required test were carried from the PDA laboratory. The appellant was thus not involved in any omission or commission.
4. That in the meantime the inquiry committee conducted the inquiry and submitted its findings/recommendations as follows:

Based on the above facts and conclusions, the inquiry committee in its wisdom recommends the following:-

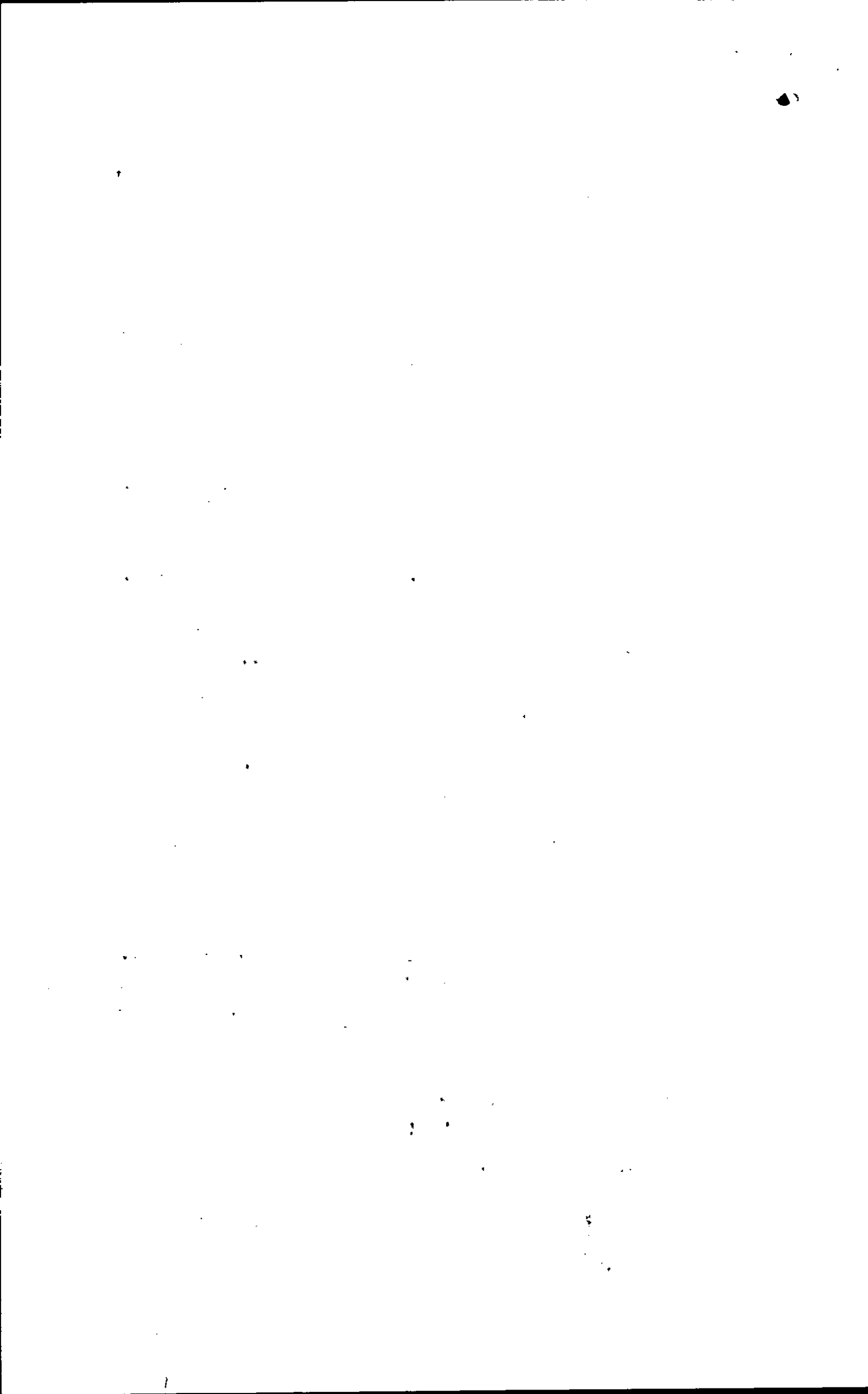
"Since the charges provided in the charge sheet/statement of allegations are partly proved, a minor penalty of stopping of increment for two years be imposed on both the officer/official for committing irregularity and not ensuring proper quality control".

(Copies of the inquiry report is attached as annexure C).

5. That without appreciating the facts of the case or the defense of the appellant, vide letter dated 8.5.2014, the appellant was served with a show cause notice proposing the penalties as follows:
"As a result thereof, I as competent authority, have tentatively decided to impose upon the penalty of stoppage of annual increment for two years under Rule 4 of the said rules"
 (Copy of ~~Show Cause~~ is attached as annexure **D**).
6. That the appellant submitted reply to the show cause notice refuting the allegations so leveled, however, vide a surprised move, without even adhering to the recommendations or the penalty proposed in the show cause notice, the appellant was awarded the major penalty of dismissal from service vide order dated 2.9.2014. (Copies of the dismissal order dated 2.9.2014 is attached as annexure **E**).
7. That the appellant submitted his departmental appeal dated 16.9.2014 to the appellate authority, however, the same was regretted vide letter dated 10.11.2014. (Copies of departmental appeal 16.9.2014 and rejection order dated 10.11.2014 are attached as annexure **F&G**).
8. That appellant has never committed any act or omission which could be termed as misconduct, albeit been awarded the penalty of *"Dismissal from Service."*
9. That the appellant is jobless since the illegal removal from service.
10. That the impugned Penalty Order is illegal unlawful against law and facts hence liable to be set aside inter alia on the following grounds :

GROUND OF APPEAL.

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That the appellant has duly rebutted and refuted the allegations by explaining every charge as follows:
 - i. The advance payment of Rs. 10002017/- has been fully recovered through a transfer enter order (TEO) and as such there remains no loss to the Govt. This statement of the inquiry committee in the inquiry report is undisputed



and does not carry any ambiguity. Hence the presumption of huge corruption and loss to the Govt Exchequer as mentioned in the show cause notice is false, baseless and legally handicapped.

- ii. The main thrust of the charge in the show cause notice was that the joint survey (of the consultants and C&W department staff) was not carried out to ascertain the natural surface level for working out the earthwork and other quantities. The inquiry committee reported that the joint survey was not possible, as there were no consultants in the field. In such cases, the independent survey of the C&W staff is always carried out and fully relied upon.
- iii. The charge that the appellant has not carried out quality control test is baseless as stated in the show cause notice. The inquiry committee in their report gave contradictory statements whether or not the appellant carried out quality control tests. The following contradictions are conspicuous:-

Quality control tests were not carried out which puts the quality of work in doubt.

They (C&W staff) submitted three pages showing test results for compaction of base course, sub base course and sub grade with some photographs.

Subsequently, the site was visited by the committee on 31.3.2014. This statement would show that the inquiry committee did not carry out any quality test report themselves to ascertain the truth of the quality tests carried out on the project.

- C. That no proper procedure has been followed before awarding the major penalty of Dismissal from service to the appellant. No proper inquiry has been conducted, the appellant has not been associated with the inquiry proceedings, statements of witnesses if any were never taken in his presence nor he has been allowed opportunity of cross examination; moreover he has not been served with any show cause notice; thus the whole proceedings are defective in the eyes of law.

- D. That the inquiry committee has recommended only the penalty of stoppage of annual increment for two years, similarly the same has been conveyed in the show cause notice, the imposition of penalty beyond the one recommended or proposed in the show cause notice was illegal, and amounts to condemning the appellant as unheard.
- E. That the competent authority was bound under the law to examine the record of inquiry in its true perspective and in accordance with law and then to apply his independent mind to the merit of the case but he failed to do so and awarded major penalty of dismissal from service to the appellant despite the fact that the allegations as contained in the charge sheet had not been proved in the so-called inquiry.
- F. That the competent authority has passed the impugned order in mechanical manner and the same is perfunctory as well as non-speaking and also against the basic Principle of administration of justice. Therefore, the impugned order is not tenable under the law.
- G. That the appellant has at his credit a long and spotless career, the penalty of dismissal so awarded is harsh and does not commensurate with the allegations so leveled, the same is thus not sustainable.
- H. That the authority has acted beyond its limit and jurisdiction, while imposing the major penalty of dismissal from service, when one it has been proposed to impose the penalty of stoppage of annual increment for two years, how can an enhanced penalty be imposed without giving a show cause notice in respect of that penalty, the penalty so imposed cannot be sustained in the eyes of law.
- I. That the charges leveled against the appellant were never proved in the enquiry, the enquiry officer gave his findings on surmises and conjunctures.
- J. That appellant has never committed any act or omission which could be termed as misconduct, albeit been awarded the penalty of "*Dismissal from Service.*"

- K. That the appellant is jobless since the illegal dismissal from service.
- L. That the appellant also seeks permission of this Honourable Tribunal to rely on additional grounds at the time of hearing of the instant appeal.

It is, therefore, humbly prayed that on acceptance of this appeal the order dated 2.9.2014 and the rejection order dated 10.11.2014 may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.

Through

[Signature]
Appellant

[Signature]
IJAZ ANWAR

Advocate Peshawar

&

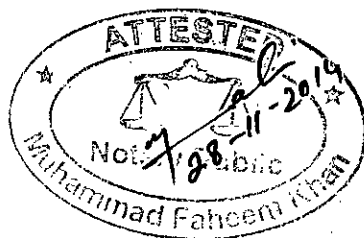
[Signature]
SAJID AMIN

Advocate, Peshawar

AFFIDAVIT

I, Ikram Ullah Khan Ex-SDO C&W Sub Division Charsadda, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal are true and correct and that nothing has been kept back or concealed from this Honourable Tribunal.

[Signature]
Deponent



(7)


ANNEX "A"

CHARGE SHEET //

Whereas, I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, charge you, Ikramullah, Assistant Engineer (BS-17) C&W Department, presently working as SDO C&W Sub Division Charsadda.

"That you while posted, as SDO C&W Sub Division Charsadda committed the following irregularities in the work "Tor Dher Road Tehsil Tangi, District Charsadda":

- i. You made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
 - ii. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
 - iii. You have not carried the quality control tests during the execution of work
2. By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 ibid.
3. You are, therefore, required to submit your written defence within ten (10) days of the receipt of this charge sheet to the Inquiry Officer/Committee, as the case may be.
4. Your written defence, if any, should reach the Inquiry Officer/ Committee within specified period, failing which it shall be presumed that you have no defence to make and in that case exparte action shall be taken against you.
5. The Statement of Allegations is enclosed.


(Muhammad Shahzad Arbab)
Chief Secretary
Khyber Pakhtunkhwa

___/01/2014



(8)

Amex "B"

DISCIPLINARY ACTION

I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Ikramullah, Assistant Engineer (BS-17) C&W Department, presently working as SDO C&W Sub Division Charsadda 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 & Disciplinary) Rules, 2011:

STATEMENT OF ALLEGATIONS

"That he while posted, as SDO C&W Sub Division Chasadda committed the following irregularities in the work "Tor Dher Road Tehsil Tangi, District Charsadda":

- i. He made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- ii. He has not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. He has not carried the quality control tests during the execution of work


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

- i. Ahmad Jan Azidi, ADC, Peshawar.
- ii. Inq. Mohammad Ilyas Sheh, Div. PKHA

3. The Inquiry Officer/Inquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the Department shall join the proceedings on the date, time and place fixed by the Inquiry Officer/ Inquiry Committee.

VA
G


(Muhammad Shahzad Arbab)
Chief Secretary
Khyber Pakhtunkhwa

___/01/2014

INQUIRY REPORT

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ANNEXURE C

Subject: TOR DHER ROAD TEHSIL TANGI DISTRICT CHARSAKDA

1. AUTHORITY

Vide Secretary to Government of Khyber Pakhtunkhwa, C&W Department Peshawar letter No. SOE/C&WD/8-27/2013 dated 17th February, 2014, an inquiry committee consisting of we, the undersigned, (Mr. Ahmad Jan Afridi PCS EG BS-18 Additional Deputy Commissioner Peshawar) and (Engr Syed Muhammad Ilyas Shah BS-19, Director Maintenance PKHA Peshawar) was appointed by the competent authority (Chief Secretary) to conduct formal enquiry under Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules 2011 against the following officer/official of C&W Department on ground of mis-conduct (**Annexure-A**) in the subject cited case :

- i. Mr. Ikramullah SDO C&W Sub Division Charsadda.
- ii. Mr. Shafat Ullah Sub Engineer C&W Division Charsadda.

Charge – Sheet and statement of allegation (**Annexure-B**) were served upon them from the competent authority (Chief Secretary). Each of the above officer/official was charged as under:-

“That you (both) while posted, as SDO C&W Sub Division Charsadda and Sub Engineer C&W Division Charsadda respectively, committed the following irregularities in the work “Tor Dher Road Tehsil Tangi, District Charsadda”.

- I. You made an advance payment amounting to Rs. 10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works, for this act of omission, it was presumed to be a huge corruption and loss to the government exchequer.
- II. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- III. You have not carried out the quality control tests during execution of work.

2. PROCEEDINGS

Subsequent to the appointment as inquiry committee, the Chief Engineer (Center) C&W Department was requested to nominate a focal person for the subject enquiry and to

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direct the official concerned to provide all the relevant record required by the enquiry committee (Annexure-C).

The accused officer/official were directed to appear before the enquiry committee on 25th of February 2014 at the office of one of the committee members at Bacha Khan Chowk Peshawar along with written reply in light of charge sheet (Annexure-D). The officer/official appeared before the inquiry committee in the office of Additional Deputy Commissioner on 25th of February. They requested some time space for submission of their written reply, as such, they were directed to submit their replies on or before 3rd of March 2014. In their defense, they submitted written replies on 2nd of March 2014 which also contained copies of relevant page of contract agreement with the excerpt highlighted, X-sections at every 200 meter; a single page long section, a calculation sheet based on the X-sections, a single page Design Sheet and three pages showing test results for compaction of base course, sub-base course and subgrade along with some photographs and copy of TEO for recovery of Rs. 10002018/-.

The following record was also provided by the office of the focal person i-e Executive Engineer C&W Division Charsadda (nominated as focal person by the Chief Engineer Center C&W Department).

- Copy of TEO for recovery of Rs. 10002018/-
- Copy of 7th Running Bill (minus bill for the above mentioned amount)
- Copy of Contract Agreement
- Copy of Work Order
- Copy of Comparative Statement
- Copy of Revised Administrative Approval
- Copy of NIT
- Copy of Technical Sanction Estimate
- Copies of 1st, 2nd, 3rd, 4th, 5th and 6th running bills
- Copies of relevant pages of MBs (Measurement Books)

After receipt of the replies/written statement of the officer/official, and record from the office of the focal person, a number of meetings were held attended by the accused officer/official, together with site visit of the committee on 17/4/2014 in presence of Mr. Ikramullah SDO and Mr. Shafaat Ullah Sub Engineer. The visit however had to be brought to an end incomplete due to rainfall. Subsequently the site was visited by the committee on 31/3/2014 for visual inspection of the road in subject. Photographs of the damaged portions were taken for perusal and record. (Annexure-E)



3. **COMMENTS ON THE REPLIES/RECORD**

The X-sections, long section and calculation sheet showing the quantity of 15967.5 M3 seem to be not based on actual survey, as all the 29 X-sections show exactly the same area. Further, there is no copy of level book attached.

The point that due to rush of work on the laboratory staff of PKHA and wait for several weeks to get Field Density Tests (FDTs) and other sample testing has no material standing.

4. **FINDINGS:**

In view of the replies/written statements and record provided to the Inquiry Committee, the findings are as under:-

Clause-7 of the contract agreement has not been appropriately applied. After detailed re-measurement the quantum of excess work paid but not done, should have been completed as per technical sanction. In the instant case thicknesses of base and sub-base have not been provided according to the Technical Sanction/design.

All the 29 X-sections provided, are of stereo type, the long section is also not representative of the existing road profile, more over there is no field book available in support, the authenticity of the X-sections and long section is doubtful

The test results provided are not supported by the required back-up data and calculation which makes its authenticity disbelieving.

During visual inspection, cracks and minor settlements were witnessed in various areas of the finished surface. The cracks / distresses developed are may be due to poor quality of TST wearing course and poor compaction of the underlying layers. Some dumper trucks were also seen to be plying on the road during the visit. These dumper trucks are further a cause of rapid expansion of the cracks and earlier failure of the road constructed to a poor quality and lesser thicknesses. Due to the cracked surface the rain water penetrates down into the pavement making the pavement structure moist which may also cause expansion of the cracks and failure thereof.

5. **CONCLUSION**

Although such advance payments is an irregularity but as mentioned in the charge sheet, the advance payments amounting to Rs. 10,002,017/- were recovered through TEO, as such there remains no loss to the government but the work has not been completed as per Technical sanction/design.

Joint survey was not conducted to ascertain the actual NSL to work out the earthwork and other quantities. However, in such like works, where consultants are not engaged, in view of limited equipment the quantities may be worked out, based on experience, preliminary surveys, typical cross-sections and per meter cost of drains, pipe culverts, retaining walls etc. The thicknesses can be obtained by making cores at specific intervals and measurement recorded.

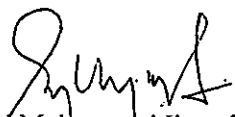
The required quality control tests, were not carried out during construction which puts the quality of work in doubt, as such, beneficial use of public money has not been warranted.

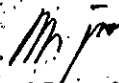
In view of the above, the allegations framed are partly proved.

6- RECOMMENDATION

Based on the above facts and conclusions, the inquiry committee in its wisdom recommends the following actions;

- i. Since the charges provided in the charge sheet/statement of allegations are partly proved, a minor penalty of stopping of increment for two year be imposed on both the officer/official for committing irregularity and not ensuring proper quality control.
- ii. The cracked/distressed areas developed due to poor quality control be dismantled and the areas redone with proper quality control and seal coats be provided in the areas where cracks have been initiated to control the ingress of water, so that beneficial use of public money is realized.


 Engr. Syed Muhammad Ilyas Shah
 Director Maintenance PKHA
 Peshawar


 Ahmad Jan Afridi
 Additional Deputy Commissioner
 Peshawar



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To,

1. The Additional Deputy Commissioner,
Peshawar.
2. The Director (Maintenance),
Pakhtunkhwa Highway Authorities,
Peshawar.

Subject: - INQUIRY REGARDING TOR DHER ROAD TEHSIL TANGI
DISTRICT CHARASADDA

S.HEAD: WRITTEN STATEMENT.

Dear Sir,

It is submitted that under signed have been charge sheeted vide Secretary C&W Office letter No.SOE / C&WD / 8-27 / 2013, dated 17-02-2014 in the subject Inquiry. My written statement to the charges / statement of allegations is follows please.

1. As per Clause-7 of standard contract agreement, all payments on intermediate certificate to be regarded as advances which states that "all such intermediate payments shall be regarded as payments by way of advance against the final payment only and not as payments for work actually done and completed and shall not preclude the requiring of bad, unsound and imperfect or re-erected or be considered as an admission of the due performance of the contract, or any part thereof in any respect or the accruing of any claim, nor shall it conclude , determine or affect in any way the powers of the Engineer in-Charge under these conditions or any of them as to the final settlement and adjustment of the accounts or otherwise or in any other way very or affect the contractor."

Therefore final settlement of Accounts was accordingly made through the transfer entry order (T.E.O) after detailed re-measurement of work and there remained no loss to the Government exchequer.

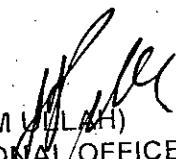
2. It is not true that we have not conducted joint survey of the road before commencement of work. Proper cross sections were taken at an interval of 200-meter all along the road length of 5.5 Km, based on available but limited survey equipments in the absence of survey Division of CDO, and accordingly earthwork was calculated at each cross section of proposed road profile (copy of cross sections and level book is attached please).



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3. It is a matter of fact that we have limited material testing laboratories in the province. Most of our Circle Labs are abundant and we are compelled to depend upon the lonely (Road & Testing Laboratory of PKHA) which caters for whole of the province. Hence due to rush of work on the Lab Staff, we have to wait for several weeks to get F.D.T's (Field Density Tests) and other samples for testing. Therefore important compaction tests on formation of embankment, Sub Base and Base course have duly been conducted during execution to give guidance in quality control (copy of test reports are annexed please)
4. Looking to the ground reality and limited resources of survey and laboratory equipments, I have tried my level best to produce good results within the limited resources and that is why the road is open to traffic and serving the commuters in a better way and is in sustainable condition (Photographs attached)

Therefore keeping in view my explanation based on facts, it is requested that under signed may be exonerated of charges and give opportunity to be vigilant in future even more.


(IKRAM ULLAH)
SUB DIVISIONAL OFFICER
C&W Sub Division No.II
Charsadda



PAKISTAN BUREAU OF STANDARDS

(15) ANNEX "D"

SHOW CAUSE NOTICE

I, Amjad Ali Khan Chief Secretary Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Ikramullah, Assistant Engineer (BS-17) C&W Department; presently working as SDO C&W Sub Division Charsadda as follows.

- i. That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide dated 25.02.2014; and
- ii. On going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee;

I am satisfied that you while posted as SDO C&W Sub Division Charsadda committed the following acts/omissions in the scheme "Tor Dher Road Tehsil Tangi, District Charsadda", specified in Rule 3 of the said rules:

- i. You made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- ii. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. You have not carried the quality control tests during the execution of work

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of "stoppage of annual increment for two years" under Rule 4 of the said rules.

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 (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry committee is enclosed.

AKK

(Amjad Ali Khan)
Chief Secretary
Khyber Pakhtunkhwa

5/10/2014

YB

To

The Chief Secretary,
Khyber Pakhtunkhwa,
Peshawar.

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SUBJECT: REPLY TO THE SHOW CAUSE NOTICE IN INQUIRY "TOR DHER ROAD TEHSIL TANGI DISTRICT CHARSADDA.

Dear Sir,

I have been served with a show cause notice vide Section Officer (Establishment), Communication & Works Department letter No.SOE/C&WD/8-27/2013 dated 8/5/2014. Containing minor penalty of "Stoppage of Annual Increments for two years", my reply to the show cause notice may be considered as under:-

1. According to the inquiry report of the inquiry committee, it has been clearly verified that the payment which was made to the contractor has been recovered through Transfer Entry, proof of which was already annexed with the reply to the charge sheet/statement of allegations, hence no loss to the government has been caused.
 2. The inquiry committee has also confirmed in the report that the laboratory tests of the said road/project were taken according to the requirement of the project, therefore, no irregularity of substandard/below specification work has to be taken into consideration.
 3. As per Clause-7 of standard contract agreement, all payments shall be made regarded as payments by way of advance against the final, completed and shall not pre-clude the requiring of bad, unsound and imperfect or re-erected or be considered as an admission of the due performance of the contract, or any fault thereof in any respect or the accruing of any claim, nor shall it conclude, determined or affect in any way the powers of the engineer incharge under these condition or any of them as to the final settlement and adjustment of the account or otherwise or in any other way very or affect the contractor. Since the project was on-going, therefore, subsequent recovery of the payment made were regularized as per law/rules enforce, hence no financial irregularity is committed in this regard.
 4. As confirmed from the inquiry report of the inquiry committee that during the visit/inspection of the project they found heavy loaded traffic/vehicle, which were the main reason of minor cracks, for which the contractor has also given in writing to the inquiry committee that even the road was completed three years back and is in maintenance period, even though he is ready to rectify the minor repair.
2. In view of the above reasons, the undersigned cannot be blamed for the charges leveled against me in the show cause notice served upon me and non of the charges are found proved on the basis of the clear findings of the inquiry committee as per the TORs, therefore, being innocent, I may very kindly be exonerated from the charges and the tentative minor penalty proposed may be withdrawn.
3. I may also be heard in person.

Yours Sincerely,

(IKRAMULLAH) S
SDO C&W Sub-Division Charsadda.

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ANNEX "E"

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the September 02, 2014

ORDER:

No.SOE/C&WD//8-27/2013: WHEREAS, the following officer/official were proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 for the alleged irregularities in the scheme "Tor Dher Road Tehsil Tangi, District Charsadda":

- i. Mr. Ikramullah the then SDO C&W Sub Division Charsadda now posted as SDO C&W Sub Division Booni, Chitral
- ii. Mr. Shafaat Ullah Sub Engineer C&W Division Charsadda.

2. AND WHEREAS, for the said act of misconduct they were served charge sheet/ statement of allegations.

3. AND WHEREAS, an inquiry committee comprising of Mr. Ahmad Jan Afridi (PCS EG BS-18) Additional Deputy Commissioner Peshawar and Engr. Syed Muhammad Ilyas Shah (BS-19) Director (Maintenance) PKHA Peshawar was appointed, who submitted the inquiry report.


4. NOW THEREFORE, the Competent Authority after having considered the charges, material on record, inquiry report of the inquiry committee, explanation of the officer/official concerned, in exercise of the powers under Rule-14(5)(ii) of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose the major penalty of "Dismissal from Service" upon the aforementioned officer/official.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. All Administrative Secretaries Govt of Khyber Pakhtunkhwa Peshawar
3. Secretary Admn, Infrastructure & Coord Deptt, FATA Sectt Warsak Road, Peshawar
4. All Chief Engineers, C&W Peshawar
5. Chief Engineer EQAA Abbottabad
6. Managing Director PKHA Peshawar
7. Superintending Engineer C&W Circle, Peshawar/Dir Lower
8. Project Director PMU C&W Peshawar
9. Executive Engineer C&W Division Charsadda/Chitral
10. PS to Chief Secretary Punjab, Sindh and Baluchistan
11. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
12. District Accounts Officer Charsadda/Chitral
13. Section Officer (PAC) C&W Department, Peshawar
14. Managing Printing Press for publication
15. PS to Secretary, C&W Peshawar
16. Officer/Official concerned
17. Office order File/Personal File


(USMAN JAN)
SECTION OFFICER (Estb)





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ANNEX "F"

Page | 1

APPEAL

My Reference No. 1k-I.....
Dated: September 16/16, 2014

To,

H.E. The Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

Through:- Secretary to Govt. of K.P.
Communication & Works deptt. Peshawar.

Sub Head: APPEAL AGAINST 'DISMISSAL FROM SERVICE' ORDERED BY SECRETARY C&W DEPTT. K.P. IN RESPONSE TO THE ORDERS & DIRECTIONS OF THE CHIEF SECRETARY K.P.

Reference: Secretary to Govt. of Khyber Pakhtunkhwa Communication & Works department Order no. SOE/C&WD/8-27/2013 dated September 02, 2014 (Annexure 'A')

Your Excellency,

Most humbly & respectfully, I make the following submissions for favour of your kind and just consideration, please.

(1) I was working as Sub Divisional Officer in the Govt. of Khyber Pakhtunkhwa C&W department and was posted as S.D.O. C&W subdivision, Charsadda.

(2) I executed a scheme "Tor Dher Road Tehsil Tangi, district Charsadda" in the capacity of S.D.O. along with the Sub Engineer and Executive Engineer. Subsequently, I was dismissed from service vide order under reference on grounds of few alleged irregularities in the stated scheme. The order of 'dismissal from Service' is extremely harsh, unwarranted and in contravention of the codal rules and norms of justice for the reasons briefly explained below:-

I I was issued "SHOW CAUSE NOTICE" (Annexure 'B') containing tentative minor penalty of stoppage of annual increments for two years' along with enquiry report conducted by inquiry committee comprising of Mr. Ahmad Jan Afridi' (PCS EG BS-18) Additional Deputy Commissioner, Peshawar and Engineer Syed Muhammad Ilyas Shah (BS-19) Director (Maintenance) PKHA Peshawar.



The joint perusal of the 'Show Cause Notice' issued by the Chief Secretary Khyber Pakhtunkhwa (Annexure 'B') and the 'Inquiry Report' of the 'inquiry committee' (Annexure 'C') will reveal the following points:-

Charge 1:- The advance payment of Rs. 10,002,017/- has been fully recovered through a transfer enter order (T.E.O) and as such there remains no loss to the Govt. This statement of the 'Inquiry Committee' in the 'Inquiry Report' is undisputed and does not carry any ambiguity. Hence the 'presumption' of huge corruption and loss to the Govt. exchequer as mentioned in the 'Show Cause Notice' is false, baseless and legally handicapped.

Charge 2:- The main thrust of the charge in the 'Show Cause Notice' was that the joint survey (of the consultants and C&W depts. staff) was not carried out to ascertain the natural surface level for working out the earthwork and other quantities. The inquiry committee reported that the 'joint survey' was not possible, as there were no consultants in the field. In such cases, the independent survey of the C&W staff is always carried out and fully relied upon.

Thus the 'Charge (ii)' in the 'Show Cause Notice' stands quashed.

Charge 3:- The charge that I have not carried out quality control test is baseless as stated in the 'Show Cause Notice'.

The inquiry committee in their report gave contradictory statements whether or not we have carried out quality control tests. The following contradictions are conspicuous:-

- "Quality control tests were not carried out which puts the quality of work in doubt". (inquiry report para 5 'conclusion')
- "They (C&W staff) submitted three pages showing showing test results for compaction of base course, subbase course and subgrade with some photographs". (ENQUIRY REPORT - PARA 2 - 'PROCEEDINGS' ANNEXURE 'C')
- "Subsequently, the site was visited by the committee on 31.3.2014" (ENQUIRY REPORT - PARA 2 - 'PROCEEDINGS' ANNEXURE 'C'). This statement would show that the 'inquiry committee' did'nt carry out any 'Quality test report' themselves to ascertain the 'truth of the quality tests' carried out on the project.

The Charge No.3 is, therefore, baseless and not maintainable.

II The inquiry committee in the 'inquiry report' under the caption 'findings' quashed the 1st two charges of the show cause notice & charge sheet as mentioned in the 'Para' I. The inquiry committee has also stated that the allegations mentioned are partly 'proved'.

However, realizing that the two main 'charges' of the show cause notice & charge sheet stand quashed, the 'inquiry team' tried to put a new 'soul' in the 'Show Cause Notice' by raising either extraneous or contradictory issues viz.

- (i) Non completion of work as per technical sanction / design.
- (ii) Quality control tests were not carried out which puts the quality of work in doubt.
- (iii) Survey for earthwork computation was not carried out.

The brief reply to the above issues are:-

S.No	Issues in the Inquiry Report	Reply / Explanation.
1.	Non-completion of work as per technical sanction / design.	<p>- It is an <u>extraneous issue neither raised in the charge sheet nor show cause notice. Hence legally, it should never be considered for any 'penalty' on me</u> in the light of the decision made by the 'August Civil Courts' in such like service – cases (hereinafter described under Para IV).</p> <p>- The inquiry committee badly failed to fix responsibility of default on the right person which has been given in clear words in the 'Technical Sanction Letter' at <u>Annexure 'D'</u> and reproduced below:-</p> <p><i>"The Executive Engineer should be responsible for the suitability of design, reasonability of rates' and execution of work according to approved specifications and scope of work as per administrative approval".</i></p>

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S.No	Issues in the Inquiry Report	Reply / Explanation.
		- The issue is thus irrelevant and carries legal as well as factual infirmities. Hence the issue can't be considered as my default.
2.	Quality control tests were not carried out which puts the quality of work in doubt.	- <u>Quality control tests were properly carried out and test reports were supplied to the inquiry committee as admitted by them in the enquiry report Para 2 under caption 'proceedings' (Annexure 'C') in the following words.</u> "They submitted three pages showing test results for compaction of base course, sub base course and sub grade with some photographs". - An a matter of fact, the inquiry team / committee did'nt carry out any compaction test themselves to reverify our submitted test results to them. This is confirmed by the following statement given in the inquiry report under caption 'PROCEEDINGS' "Subsequently, the site was visited by the committee on 31.3.2014 for <u>visual inspection</u> of the road in the subject". - The charge / allegation given in the charge sheet / show cause notice / inquiry report is simply based on surmises, conjectures and

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S.No	Issues in the Inquiry Report	Reply / Explanation.
		mis-statement, hence carries no legal importance.
3.	Joint survey not carried out.	<p>- <u>There were no consultants for the project. Hence no joint survey was possible. The fact has been admitted in the inquiry report under caption "CONCLUSION" in the following words.</u> "Joint survey was not conducted to ascertain the actual NSL to work out the earthworks and other quantities. <u>However, in such like works, where consultants are not engaged, in view of limited equipment, the quantities may be work out, based on experience, preliminary surveys.....</u></p> <p>- <u>Proper survey was carried out. The inquiry committee were given survey cross sections etc. as admitted by them in the inquiry report under the caption 'PROCEEDINGS' in the following words.</u> "They submitted X-sections at every 200 meter, a single page long section, a calculation sheet based on X-sections"</p> <p>- <u>The inquiry committee did'nt practically check the submitted</u></p>

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S.No	Issues in the Inquiry Report	Reply / Explanation.
		<p><u>survey X-sections but rejected them on speculations, conjectures and submits as proved from the following statements in the inquiry report.</u></p> <ul style="list-style-type: none"> • “Subsequently, the site was visited by the committee on 31.3.2014 for the <u>visual inspection</u> of the road in the subject (Please see the caption “PROCEEDINGS” • “The X-sections, long sections and calculation sheet showing the quantity of 15967.5 M³ <u>seem to be not based on actual survey</u>”. (Please see these remarks in Para 3 of inquiry report). <u>The use of the word ‘Seem’ manifests conjecture / speculation.</u>

III The “SHOW CAUSE NOTICE” shows that on the basis of three alleged charges against me, the competent authority contemplated imposition of minor penalty (viz. stoppage of annual increment for two years). But when the inquiry team in the inquiry report (Annexure ‘C’) turned down the main two charges (out of the three) having no merit or truth as explained under aforesaid Para I, it was expected that the competent authority in the ‘Order’ (deciding finally in the case) on the basis of one charge (though not valid) should have further reduced the ‘minor penalty’ of stoppage of two annual increments’. But instead, the competent authority decided imposition of ‘Major Penalty’ of my dismissal from service on the basis of one charge in the field which is biased, unlogical & unjust.

IV EXTRANEIOUS FACTS – NOT SUSTAINABLE.
Court Rulings (in other service cases) .

(24)

Quote:- "Enquiry and reliance to remain within four corners of contents of show cause notice. Reliance on extraneous matter tantamount to condemning without opportunity of being heard". (Civil Service Laws by Mazhar Ilyas Nagi – Vol.II – Pakistan Law House – Page 1316 Case "Mujahid A.Abbas Rizvi V.S.P. Bhawalpur 1983 PLC (C.S) 1127 (P.S.T).

Quote:- "Enquiry officer cannot embark upon matters which are extraneous to charge and come to light during enquiry. He is legally bound to deal only with charge sheet upon civil servant."

{Fifty two years' service law digest (1947-1998) – Page 619 case NLR 1982 TD 219}

Quote:- "Dismissal order passed on the basis of findings of inquiry officer arrived at in the light of material extraneous to charge sheet cannot be sustained. Tribunal accepting appeal and setting aside impugned dismissal order."

{Fifty two years' service law digest 1947-1998 Page 696 – case NLR 1982 TD 219}

UNQUOTE:-

V That I have a long and clear service career of 36 years in the C&W department. The penalty of 'Dismissal of Service' shall be a big blow on my integrity and reputation besides involving me in financial hardships.

There are a number of judgments of the august civil courts in such like cases where the Government and the competent authority were directed to take very lenient view on humanitarian grounds even in proven cases of corruption though my case contains totally baseless charges. Just few court decisions are reproduced below:-

Quote:- "Inefficiency and lack of vigilance on part of civil servant who has served department well for a long period of 19 years, should not be visited with ultimate penalty of dismissal of service. In such case, stoppage of increment for two years and censure of servant would be inefficient penalty.

{Fifty two years service law digest 1947-1998 Page 697 – case NLR 1985 TD 518}

Quote:- "Minor penalty. Imposition. Allegation against civil servant having fully been proved, he was rightly proceeded against and was right punished, but keeping view large family of civil servant of which he was lone bread winner and his long service of nineteen years, taking lenient view purely on humanitarian grounds, his major penalty of removal from service was converted to that of minor penalty of withholding of two increments with cumulative effect."

{Fifty two years service law digest 1947-1998 Page 924 – case NLR 1996 PLC 1046}



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Quote:- "Misconduct. Civil servant charged with misconduct. Evidence exonerating him before enquiry officer ignored. Extraneous factors taken into consideration. Civil servant punished with censure and stoppage of three increments. Order being conjectural and against solid evidence set aside."

PRAYER:-

Due to the aforesaid reasons and explanation, the order no. SOE/C&WD/8-27/2013 dated September 02, 2014 issued by the Secretary C&W deptt. Govt. of Khyber Pakhtunkhwa (**Annexure 'A'**) in respect of my dismissal from service may kindly be set aside being callous and without justification and merits. I may also kindly be reinstated in service with all back benefits to meet the ends of justice.

Thanking you in anticipation.

D.A. Annexures: A,B,C,D,E.

Yours sincerely,



(IKRAMULLAH)

Sub Divisional Officer (C&W)

S/o

Hussain Ullah Khan

Mohallah Chandni Chowk

Tangi Barazai Tehsil Tangi District Charsadda

Cell #0333-9162926

Copy forwarded for advance information to the Hon. Chief Minister, Khyber Pakhtunkhwa, Peshawar.

Office of the PSCM

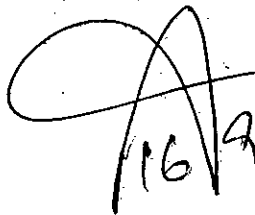
D. No: 1810

Date: 17/09/14

Dyalo

16391

16-9-2014



(20) ANNEX G



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. No. SOE/C&WD/8-27/2013
Dated Peshawar, the Nov 10, 2014


TO

Mr. Ikramullah
The then SDO
C&W Division Charsadda
(Now dismissed from Service)

Subject: Appeal against "Dismissal from Service" ordered by Secretary C&W Department Khyber Pakhtunkhwa in respect of response to the orders and directions of the Chief Secretary Khyber Pakhtunkhwa

I am directed to refer your appeal/representation dated 16.09.2014 and the same was examined and submitted to the Competent Authority (Chief Minister). The Competent Authority has rejected.

2. You are hereby informed accordingly.


(USMAN JAN)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar


SECTION OFFICER (Estb)



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Recd.



GOVT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT
No. SOE/C&WD/8-27/2013
Dated Peshawar, the February 17, 2014

- TO
- 1) Mr. Ahmad Jan Afridi (PCS EG BS-18)
Additional Deputy Commissioner
Peshawar
 - 2) Engr. Syed Muhammad Ilyas Shah (BS-19)
Director (Maintenance) PKHA Peshawar

Subject: TOR DHER ROAD TEHSIL TANGI, DISTRICT CHARASADDA

Dear Sir,

I am directed to refer to the subject noted above and to state that the Competent Authority (Chief Secretary) has been pleased to appoint you as inquiry committee to conduct formal inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in the subject case against the following officer/official of C&W Department.

- i. Mr. Ikramullah SDO C&W Sub Division Charsadda
- ii. Mr. Shafaat Ullah Sub Engineer C&W Division Charsadda

2. Copies of the charge sheets and statement of allegations duly signed by the Competent Authority (Chief Secretary) are enclosed, with the request to serve these upon the above mentioned accused officer/official and initiate proceedings against them under the provision of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and submit report within 30 days positively.

Yours faithfully

(USMAN JAN)
SECTION OFFICER (ESTT)

Encl: As above

Endst even No. & date

1. Chief Engineer (Centre) C&W Peshawar. He is requested to depute an officer well conversant with the case to assist the inquiry committee and provide them all relevant record required by the inquiry committee.
2. Executive Engineer C&W Division Charsadda
3. Copy alongwith copy of the charge sheet/statement of allegations is forwarded to the following officer/official with the direction to appear before the inquiry committee on the date, time and place fixed for the purpose of inquiry proceedings:
 - i. Mr. Ikramullah SDO C&W Sub Division Charsadda
 - ii. Mr. Shafaat Ullah Sub Engineer C&W Division Charsadda

SECTION OFFICER (ESTT)

GOVERNMENT OF KHYBER PAKHTUNKHWA
PAKHTUNKWA HIGHWAYS AUTHORITY.

Tele: # 091-9210963-9210963, Fax # 091-9210434, E-mail: info@pkha.gov.pk
Attached Department Complex, Near Treasury Office, Khyber Road Peshawar.

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No. 9209/Adms-35 /PKHA

Date: 10th April, 2014

To,

The Section Officer (Estt),
Govt. of Khyber Pakhtunkhwa,
C&W Department, Peshawar.

Subject: - TOR DHER ROAD TEHSIL TANGI, DISTRICT CHARSADDA

Reference: - Your letter No. SOE/C&WD/8-27/2013 dated 17th February, 2014.

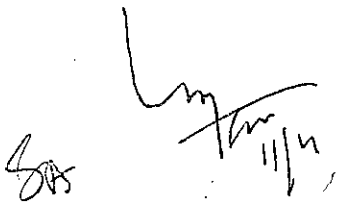
The Inquiry Report on the above cited subject prepared by the Inquiry Committee is submitted herewith along with the relevant documents (Annexure - A to E) for further necessary action please.


DIRECTOR (MAINTENANCE)

C.C:-

1. Managing Director, PKHA Peshawar.
2. Additional Deputy Commissioner, Peshawar.
3. PS to Secretary, C&W Department, Peshawar.

DIRECTOR (MAINTENANCE)







Reqdn

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-27/2013
Dated Peshawar, the May 08, 2014

TO

Mr. Ikramullah ✓
SDO C&W Sub Division
Charsadda

Subject: TOR DHER ROAD TEHSIL TANGI, DISTRICT CHARSADDA

I am directed to refer to the subject noted above and to enclose herewith two copies of the show cause Notice containing tentative minor penalty of "stoppage of annual increment for two years" alongwith inquiry report conducted by inquiry committee comprising of Mr. Ahmad Jan Afridi (PCS EG BS-18) Additional Deputy Commissioner Peshawar and Engr. Syed Muhammad Ilyas Shah (BS-19) Director (Maintenance) PKHA Peshawar and to state that the 2ND copy of the show cause Notice may be returned to this Department after having signed as a token of receipt immediately.

2. You are directed to submit your reply, if any, **within 7 days of the delivery of this letter**, otherwise, it will be presumed that you have nothing to put in your defence and ex-party action will follow.

3. You are further directed to intimate whether you desire to be heard in person or otherwise.


(USMAN JAN)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar


SECTION OFFICER (Estb)



Name of work:- Restoration of road formation damaged due to heavy flood dated 27/7/2010 to 30/7/2010 at Distt. Charsadda
 S.H.:- Road from Dhakki to Tordher Malyano Killi (5.50KM).

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C.A.W.A.-20
 (i)

SECTION OFFICER

Final payments must invariably be made on forms printed in red ink which should not be used for intermediate payment.

RUNNING ACCOUNT BILL A.

Central P.W.A Code. para. (Sps 212,215 and 117).

For Contractor:- This form provide for (1) Advance payments (2) secured Advances, and (3) payments for Measured Works.

Division..... Sub Division.....

Cash Book Voucher No. 1-K Date 9/2/13
 Name of Contractor S Kausar Ali Govt Contractor
 Name of works As above
 Serial No. Of this Bill 7th R/B/11
 No. And date of his previous bill for the works.....
 Reference to Agreement No..... Of.....
 Date of written order to commence work 12/3/2011
 Date of actual completion of work.....

1-----Accounts of Work executed.

Advance payment for work not yet measured			Item of work (grouped under Sub-head and Sub-works of estimates)	Unit	Rate	Quantity executed up-to-date as per Measurement Book	Payment on the basis of actual measurements				Remarks (with reasons for delay in adjusting payment shown in column 1)
Total as previous Bill	Since previous Bill	Total Up-to date					Up-to-date		Since Previ Bill		
1	2	3	4	5	6	7	8		9	10	
Rs.	Rs.	Rs.			Rs. Ps.		Rs.	Ps.	Rs. Ps.		
SH:-1) Road work.											
			1) Formation of embankment borrow excavation in common material as spfd;	PM3	40 / 16	16959.91	6854	517/22	(-)	72764/78	
			2) P/L Sub base of Pit Run gravel as specified.	"	322/02	2128.44	13494	73/52	(-)	841033/87	
			3) P/L Base course of water bound macadam as spfd;	"	995/75	2413.48	24032	222/71	(-)	441067/29	
			4) P/L TST to road surface.	PM2	339/02	19189.60	6521	009/87	(-)	28215/13	
							17128	223/32	(-)	1383081/07	
SH:-2) Structure work.											
			1) Excavation as in foundation in ordinary soil as spfd;	PM3	105/10	1298.49	13647	1/29	(-)	238725/20	
			2) P/L PCC(1;4;8) as spfd;	"	2110/30	787.37	22755	62/09	(-)	973828/78	
			3) P/L Mass concrete using 50% boulders & 50% PCC (1;3;6) as specified.	"	2211/-	1814.60	4012	080/60	(-)	4678674/99	
			4) Erecting & removing form work vertical as spfd;	PM2	306/59	4612.56	1414	164/77	(-)	124944/62	
			5) S/T of RCC pipes as spfd;	PM	9:3/-	497.36	4540	39/68	(-)	142199/75	
			(i) 18" dia.	"	5 / -	74.20	4325	8/60	(-)	11508/42	
			(ii) 12" dia.	"	1 / -	32.91	4436	2/68	(-)	30397/32	
			(iii) 24" dia.	"	1 / -	55.93	2572	7/80	(-)	19011/80	
			(iv) 9" dia.	"	1 / -	965.52	3357	315/79	(-)	1053073/05	
			6) P/L PCC(1;3;6) as specified.	M3	77/21	222.10	9234	73/39	(-)	932002/37	
			7) P/L PCC(1;2;4) as spfd;	"	4176/42						
			8) S/fabrication of mild steel reinforcement in cutting.	P/Tr	82234/55	6.289	517	103/08	(-)	47120/40	

Wherever there is an entry in column 9 on the actual measurement, the whole of the amount shown without detailed measurement should be adjusted by a minus entry in columns 2, equivalent to the amount shown in column 1 so that there total up to date in column 3 may be same Nil

When there are two or more entries in column 9 relating to each sub-head of estimate they should be tallied and total recorded in column 10

[Signature]
 Sub-Division Officer
 Charsadda

[Handwritten mark]

Advance payment for work yet measured			Item of work (grouped under "Sub-head" and Sub-works of estimates)	Unit	Rate		Quantity executed up-to-date as per Measurement Book	Payment on the basis of actual measurements				Remarks (with reasons for delay in adjusting payment shown in column 1)
Total as per previous Bill	Since Previous bill	Total Up-to-date			Up-to-date			Since previous Bill				
1.	2.	3.	4.	5.	6.		8.		9.		10.	
Rs.	Rs.	Rs.	Brought forward		Rs.	Ps.	Rs.	Ps.	Rs.	Ps.		
			9) P/L RCC(1;2;4) as specified.	PM3	5261/51	52.01	273651/13	(-)	23797/81			
			10) P/L RCC(1;2;4) as in Raft foundation as specified.	"	4699/95	2.40	58279/38					
			11) Structure back filling behind retaining wall.	PM3	404/16		13423293/22	(-)	8638980/08			
General Abstract.												
1) Road work.												
Rs. 17128223/- (-) 1383081/00												
2) Structure work.												
Rs. 13423293/22 (-) 8638980/78												
Total Rs. 30551516/22 (-) 10022062/11												
D/d: 0/20% Below (-)												
Rs. 61103/09 (-) 20044/12												
Total Rs. 30490413/- (-) 10002018/-												
		 Total Value of works done to date (A)					30490413/-		(-) 10002018/-		
(A)								(-) 40492431/-				
			Deduct---value of works shown in previous bill					(-) 10002018/-		(-) 10002018/-		
(D) in words---Rupees			Net value of work since previous bill (F)									
			Figure (F) in works--- Rupees									


 Sub-Divisional Officer
 C&W Sub-Division No. 16
 Chikmagalur

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II Account of "Secure" advances allowed on the security on the security of materials brought to site

Quantity outstanding in previous bill	Exact quantity utilized in works measured since previous bill	Quantity outstanding (including quantity brought to site since previous bill)	Full rates as assessed by the Divisional Officer		Description of Material	Unit	Reduced rate at which advance is made		up-to-date amount of advance	Reference to Divisional Officer's written order authorizing the advance	Reason for non-clearance when outstanding more than three months
			Rs.	Ps.			Rs.	Ps.			
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.		

[Handwritten signature]

Sub Divisional Officer
C & W Sub Division No. 11
Charsadda

Total amount outstanding as per this amount _____ (C)
 Deduct amount outstanding as per entry (C) of previous Bill _____ (E)
 Net amount since previous Bill (in words) --- Rupees _____

Entries relating to each description of materials should be posted thus in column 3. First enter the difference between the quantities in columns 1 and 2. Then show below this entry the quantities, if any brought to site against which a further advance has been authorised, this entry being prefixed by the plus sign. Finally strike the total of the two entries which will represent the total quantity outstanding.
 Entries in columns 8 show the money values of the total quantities outstanding as per column 7.

II--Certificate and Signature.
 The measurement on which are based the entries in columns 4 to 8 of Account I were made by _____ on _____ and are recorded at page 62-203 of Measurement Book No. 308.
 That in addition to and quite 25-144 the quantities of work actually executed 295 as shown in columns 7 of Account I some work has actually been done in connection with several items and the value of such work (after deducting therefrom the proportionate amount of secured advances if any ultimately recoverable on account of the quantities of materials used therein) is in case less than the advance payment as per column 3 of Account I made proposed to be made for the convenience of the contractor, in anticipation of and subject to the result of detailed measurements which will be made as soon as possible.

I Certified (1) that the plus quantities of material shown in column 3 of Account II above have actually been brought by the contractor to the site of the work and the contractor has not previously received any advance on their security; (2) that these materials are of an in perishable nature and are all required by the contractor for use of the work in connection with items to which rates for finished work have been agreed upon and (1) that a formal agreement was signed and executed by the contractor in accordance with Paragraph 228 (a) of the Central Public Works Accounts Code is recorded in the Divisional Office.

[Handwritten signature]
 Dated Signature of Officer
 Preparing bill

Sub Divisional Officer
 C & W Sub Division No. 11
 Charsadda

Dated Signature of _____

Dated Signature of Officer
 authorizing the payment

[Handwritten signature]
 Sub Divisional Officer
 C & W Sub Division No. 11
 Charsadda

[Handwritten signature]
 Executive Engineer
 C & W Division
 Charsadda

† These certificates must be signed by the Sub-Divisional or Divisional Officer.
 § This Signature is necessary only when then officer who prepare the bill is not the Officer who authorize the payment.
 In such a case the two signatures are essential.

[Handwritten mark]

17. Memorandum of Payment.

- 1 Total value of work actually measured as per Acct. I - Col. 3 Entry (a)
- 2 Total "Up-to-date" Advance payments for Works actually measured, as per Acct. II - Col. 3 Entry (B)
- 3 Total "Up-to-date" secured advances on security of materials, as per Acct. II - Col. 8 Entry (C)
- 4 Total (items 1+2+3)
- 5 Deduct amount withheld----

Rs.	Ps.
304904	31/-
304904	31/-
404924	31/-
(-)10002018/-	
(-)10002018/-	

Figure of Work Abstract		(A)	(B)
Rs.	Ps.		
		From previous bill as per last Running Account Bill	
		From this bill	
		6 Balance i.e "Up-to-date" payment	
		7 Total amount of payments already made as per Entry (A) of last Running Account Bill No. 20	
		8 Payment now to be made, as detailed below ---	
		By recovery of amounts creditable to this work---	
		By recovery of amounts creditable to other works or heads of accounts.	
		(A)	(B)
		(C) By Cheque	
		Total 4 (b) + 7 (a) (G)	
		Total 8 (b) + (c)	(H)

Rs.	Ps.
	5
	8
	3

Received Rs. = 10002018/- (Rupees Nineteen Ten Million Two Thousand Eighteen only) By Cheque

Received Rs. \$ () As per above memorandum on account of this work (Amount in Vernacular)

Sub-Divisional Officer
C & W Supervision North
Charsadda

Received by
Divisional Officer
Charsadda

Dated the _____
By (Witness) _____ (Full Signature of Contractor)

Paid by me, vide cheque No. _____ dated _____ 20____
Dated initials actually making the payment

- This figure should be tested to see that it agrees with the total of items 7 and 8
- † If the net amount to be paid is less than Rs. 10 and it cannot be included in a cheque the payment should be made in cash, this entry being altered suitably and the alteration attested by dated initials
- † Here specify the net amount payable vide item 7 (c)
- § The payee's acknowledgment should be for the gross amount paid as per item 8 i.e A+B+C
- || Payments should be attested by some known person when the payee's acknowledgment is given by a mark, seal or thumb impression

---Remarks

(The space is reserved for any remarks, which the Disbursing Officer or the Divisional Officer may wish to record in respect of the execution of the work, check of measurement or the state of contractor's account)

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PESHAWAR DEVELOPMENT AUTHORITY
CENTRAL QUALITY CONTROL LABORATORY
(Material & Water Testing)

Lab No. 16-TL/RO/PDA

Date. 15/4/2012

Client Sub Divisional office High Way Dist: Charsadda.

Ref No. _____ Date. _____

Contractor Kaseer Ali Khan & Brothers.

Project Road from Dakki - to - TorDhere Malxano Killa 5.5km

Road Site _____

R.D 5.5 Km.


Test Required Sub/Base. Depth: _____

FIELD DENSITY COMPACTION TEST

S No.	Description	Result		
		Density	% Moisture Contents	% Compaction
	Rd: 00 + 150	2.266	4.2	98.1 %
	Rd: 00 + 700	2.261	4.6	97.9 %
	Rd: 01 + 450	2.268	5.1	98.0 %
	Rd: 02 + 675	2.263	4.5	98.2 %
	Rd: 03 + 550	2.277	5.0	98.6 %

Tested by

Lab Tech


Research Officer
PDA Laboratory
Ph-VI Hayatabad
Peshawar

Research Officer
PDA Laboratory
Ph-VI Hayatabad
Peshawar



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PESHAWAR DEVELOPMENT AUTHORITY
CENTRAL QUALITY CONTROL LABORATORY
(Material & Water Testing)

Lab No. 16-III/RO/PDA

Date. 15/4/2012

Client Sub Divisional Officer Highway Distt: Charsadda.

Ref No. _____

Date. _____

Contractor Rasid Ali Khan & Brothers

Project Road from Darri-10- TorDhore & Walyano Killi (5.5 Km)

Road Site _____

R.D. 5.5 Km.


Test Required Base / coarse Depth: _____

FIELD DENSITY COMPACTION TEST

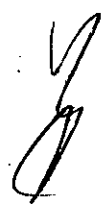
S No.	Description	Result		
		Density	% Moisture Contents	% Compaction
	<u>Rd: 02 + 800</u>	<u>2.321</u>	<u>2.8</u>	<u>99.5</u>
	<u>Rd: 03 + 600</u>	<u>2.326</u>	<u>3.0</u>	<u>99.7</u>
	<u>Rd: 03 + 700</u>	<u>2.195</u>	<u>2.7</u>	<u>99.3</u>
	<u>Rd: 03 + 800</u>	<u>2.326</u>	<u>2.9</u>	<u>99.8</u>

Tested by

Lab Tech


Research Officer
PDA Laboratory
Ph-VI Hayatabad
Peshawar

Research Officer
PDA Laboratory
Ph-VI Hayatabad
Peshawar



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PESHAWAR DEVELOPMENT AUTHORITY
CENTRAL QUALITY CONTROL LABORATORY
(Material & Water Testing)

Lab No. 16-I/RO/PDA

Date. 15/4/2012

Client Sub: Divisional Office Highway Dist. Charsadda

Ref No. _____

Date. _____

Contractor Kasim Ali Khan & Brothers

Project Road from Dakki to Tor-Dhara Malpani Killa (5.5 km)

Road Site _____

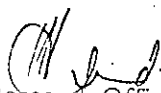
R.D. 5.5 km

Test Required Sub/Grade Depth: _____

FIELD DENSITY COMPACTION TEST

S No.	Description	Result		
		Density	% Moisture Contents	% Compaction
	Rd: 00+250	2.167	9.1	96.0
	Rd: 00+650	2.163	8.9	95.8
	Rd: 01+500	2.158	9.0	95.6
	Rd: 01+900	2.192	10.2	97.1
	Rd: 02+450	2.149	9.5	95.2

Tested by
Lab Tech


Research Officer
PDA Laboratory
Ph-VI Hayatabad
Peshawar

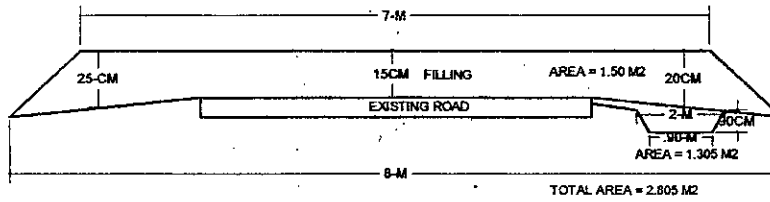
**Research Officer,
PDA Laboratory
Ph-VI Hayatabad
Peshawar**



RESTORATION OF FLOOD DAMAGED ROAD FROM DHAKKI TO TOR DHER MULYANO KILLI (5.50KM)

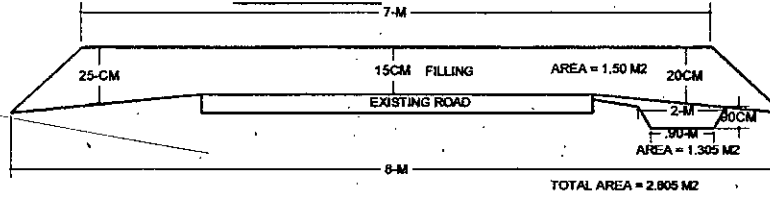
RD 0+000

X-sec.



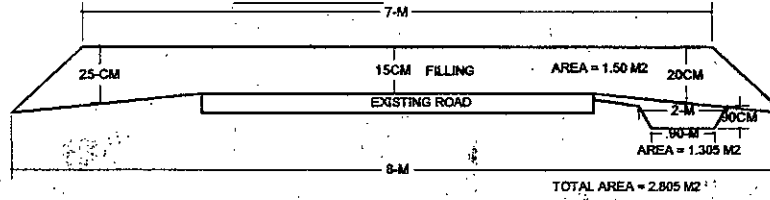
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RD 0+200



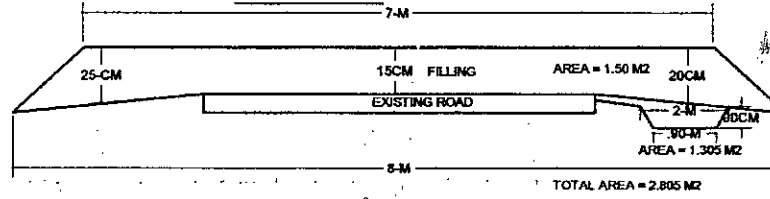
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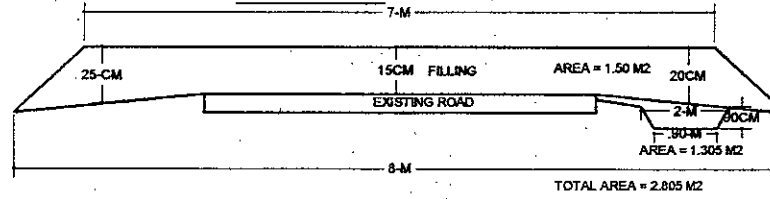
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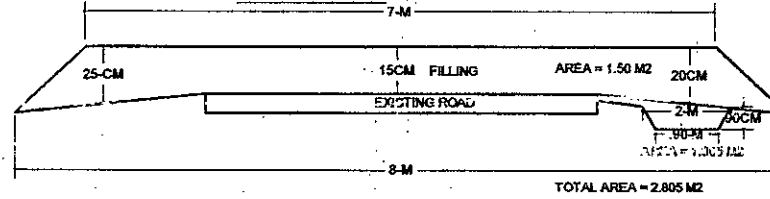
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RD 0+800



X- SECTION OF ROAD

RD 1+000



X- SECTION OF ROAD

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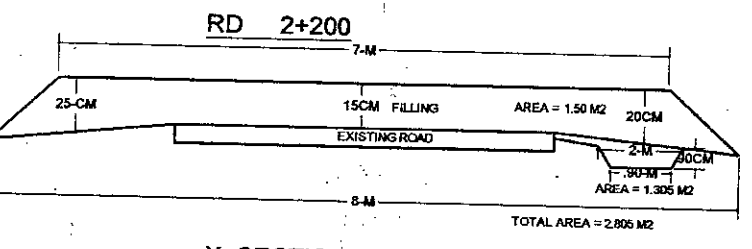
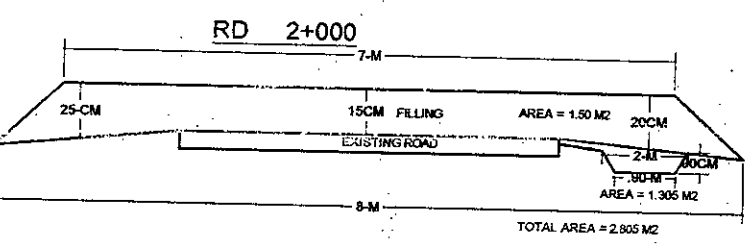
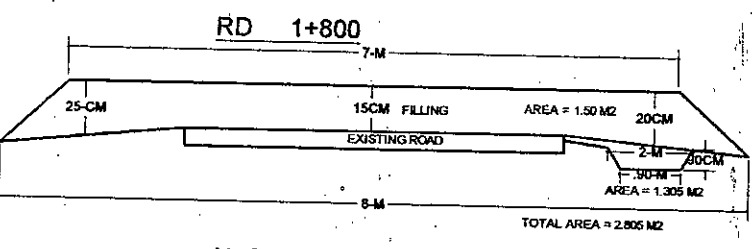
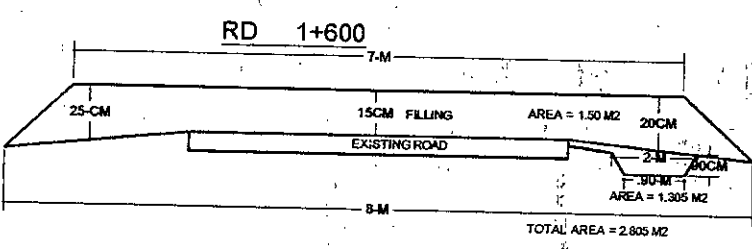
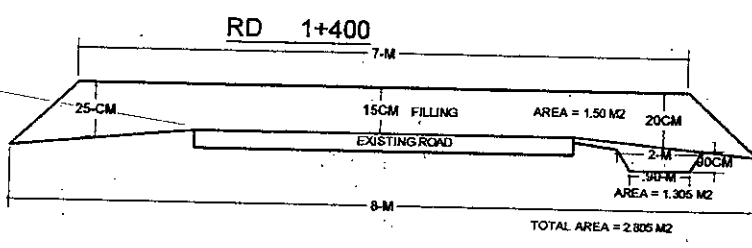
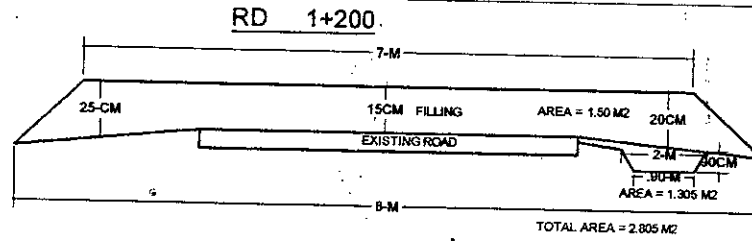
[Handwritten signature]
Sub-Engineer

Sub Divisional Officer
Highway Sub Divisional
Charsadda

[Handwritten signature]
Executive Engineer
C&V Division

(79)

**RESTORATION OF FLOOD DAMAGED ROAD FROM DHAKKI TO TOR DHER MULYANO KILLI
(5.50KM)**



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Sub - Engineer

**Sub Divisional Officer
Highway Sub Divisional
Charsadda**

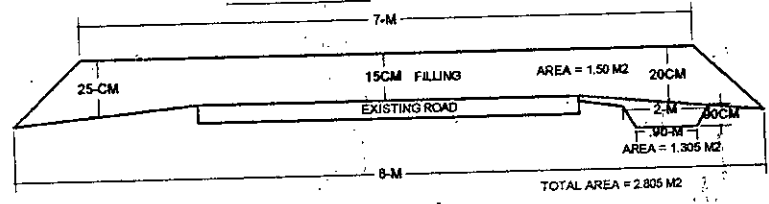
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**Executive Engineer
C&W Division**

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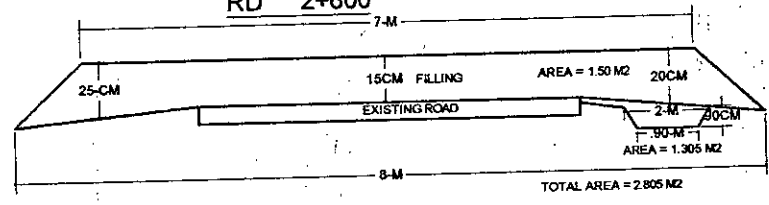
RESTORATION OF FLOOD DAMAGED ROAD FROM DHAKKI TO TOR DHER MULYANO KILLI (5.50KM)

RD 2+400



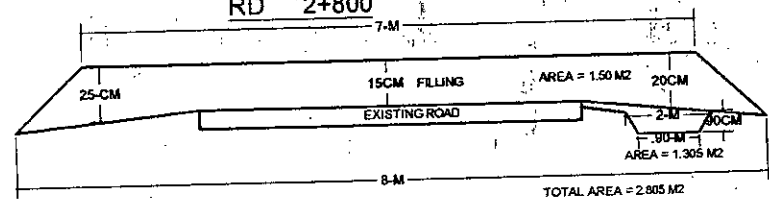
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RD 2+600



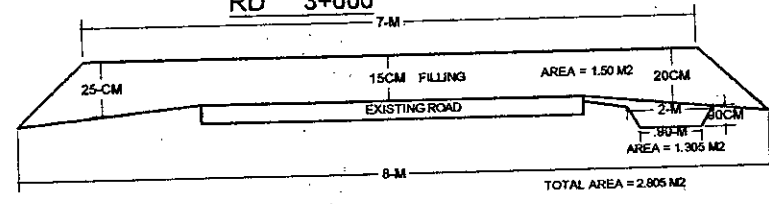
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RD 2+800



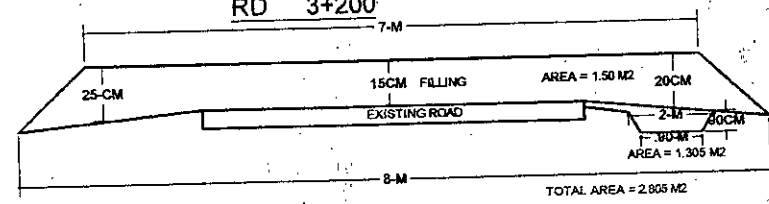
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RD 3+000



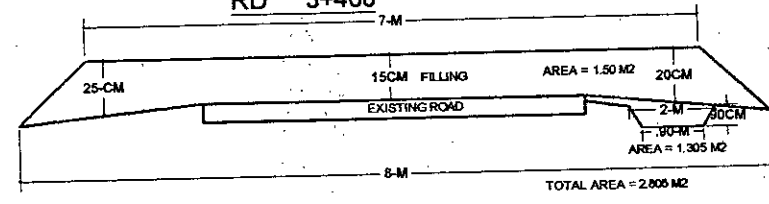
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RD 3+200



X- SECTION OF ROAD

RD 3+400



X- SECTION OF ROAD

Shah
Sub-Engineer

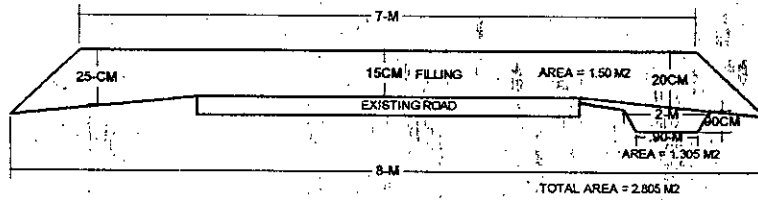
Sub Divisional Officer
Highway Sub Divisional
Charsadda

Executive Engineer
C&W Division
Charsadda

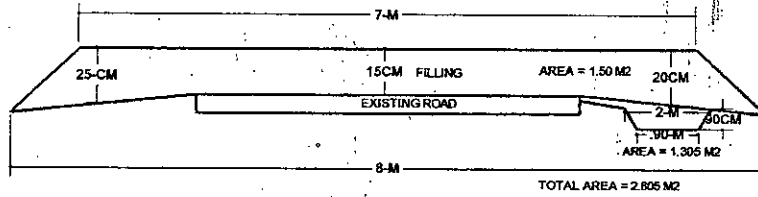
RESTORATION OF FLOOD DAMAGED ROAD FROM DHAKKI TO TOR DHER MULYANO KILLI (5.50KM)

40

RD 3+600

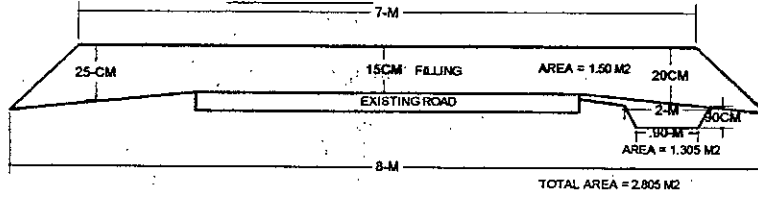


X- SECTION OF ROAD



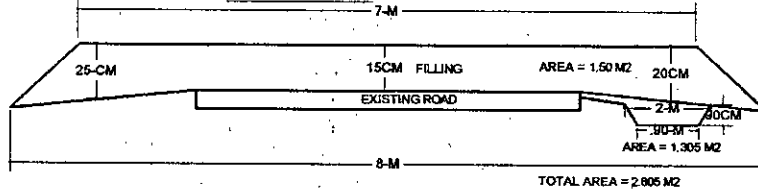
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RD 4+000



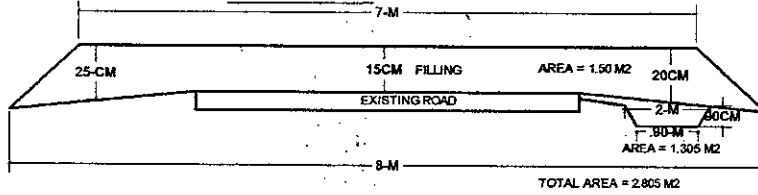
X- SECTION OF ROAD

RD 4+200



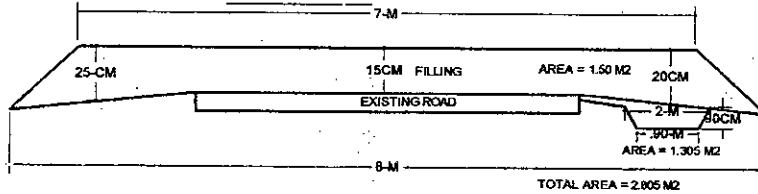
X- SECTION OF ROAD

RD 4+400



X- SECTION OF ROAD

RD 4+600



X- SECTION OF ROAD

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[Handwritten signature]
Sub-Engineer ✓

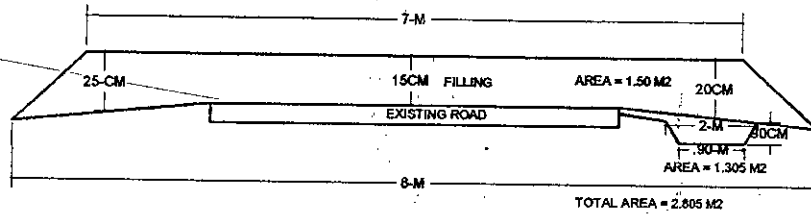
Sub Divisional Officer
Highway Sub Divisional
Charsadda

[Handwritten signature]
Executive Engineer
C&W Division
Charsadda

42

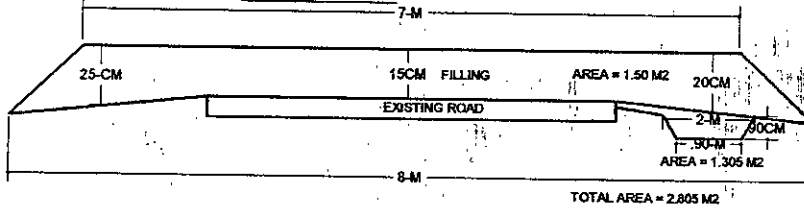
RESTORATION OF FLOOD DAMAGED ROAD FROM DHAKKI TO TOR DHER MULYANO KILLI (5.72KM)

RD 4+800



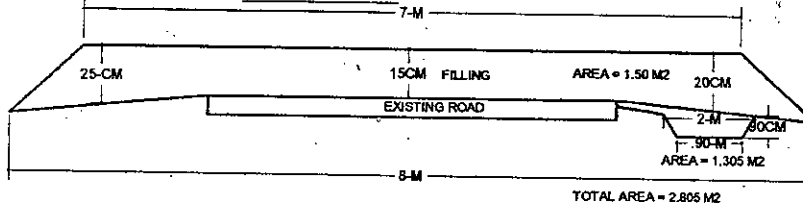
X- SECTION OF ROAD

RD 5+000



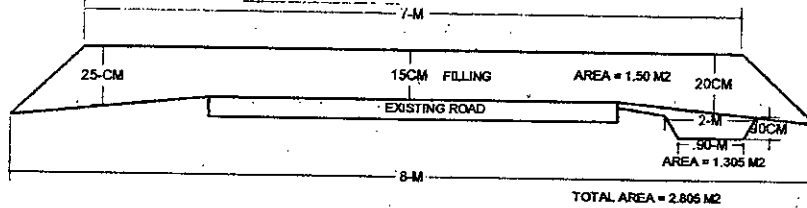
X- SECTION OF ROAD

RD 5+200



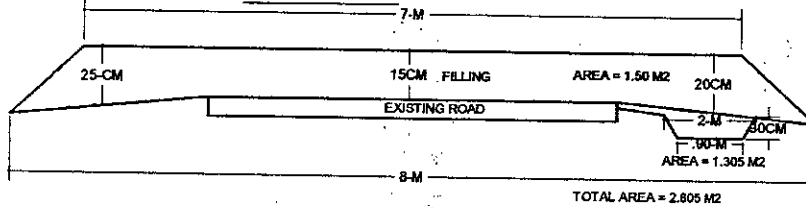
X- SECTION OF ROAD

RD 5+400



X- SECTION OF ROAD

RD 5+500



Sub-Engineer

Sub Divisional Officer,
Highway Sub Divisional
Charsadda

Executive Engineer,
C&W Division
Charsadda

43

NAME OF WORK: RESTORATION OF DAMAGED ROADS, FORMATION DUE TO HEAVY FLOOD DATED 27/7/2010 TO 30/7/2010 IN DISTRICT CHARSAJDA

SUB HEAD:- ROAD FROM DHAKKI TO TOR DHER MULYANO KILL (5.50 KM).

1.	Servisibility terminal Index: (PT)			2.5
2.	Design life (with regular periodic Maintenance)			10 years
3.	Initial ADT			74 Nos
4.	Project ADT for 10 year at 7% growth rate = $\frac{74+1.967}{2}$	=		145 Nos
5.	Average ADT (Both Direction)	$\frac{74+145}{2}$	=	110 Nos
6.	Average ADT in one Direction	= $\frac{110}{2}$	=	55 Nos
7.	CBR of sub Grade		=	8% (Soaked)
8.	Assuming Structural No		=	1.80
9.	Equivalent 18 Kips single axle load per day be Multiplying with equivalent factor = 55×1.8	=		100
10.	Regional factor		=	2
	Now weighted structural no. Sn		=	2.00
	Sub Base = 6" x 0.11	=		0.66
	Base Course = 6" x 0.14	=		0.84
	Now Balance Sn = 2.0-1.50	=		1.50
	Design		=	0.50
	Base course = 6" x 0.14	=		0.84
	TST = 0	=		0.0
	Total Sn: 1 x 1.50 + 0.84	=		2.34

DESIGN:

Sub Base	=	6"	=	15 cm
Base Course	=	6"	=	15 cm

Sub Division Officer
C&W Sub Division No:11
Charsadda

Executive Engineer
C&W Division
Charsadda

Agreement No.

PWD 7A

44

Name of Contractor _____

Name of Work _____

**GOVERNMENT OF N.W.F.P.
COMMUNICATION AND WORKS DEPARTMENT**

Division: _____

Sub-Work: _____

**PERCENTAGE ITEM RATE TENDER AND
CONTRACTOR FOR WORKS**

GENERAL RULES AND DIRECTIONS FOR THE GUIDANCE OF CONTRACTORS.

All works proposed for execution by contract will be notified in a form of invitation to tender pasted on a board hung up in the office of and signed by the Divisional Officer.

1. This form will state that work to be carried out, as well as the date for submitting and opening tenders, and the time allowed for carrying out the work, also the amount of earnest money to be deposited with the tender, and the amount of security deposit to be deposited by the successful tenderer and the percentage, if any to be deducted from bills. Copies of the specifications, designs, and drawings and scheduled rates and any other documents required in connection with the work signed for the purpose of identification by the Divisional Officer shall also be opened for inspection by the contractor at the office of the Divisional Officer during office hours.
2. In the event of the tender being submitted by a firm it must be signed separately by each member thereof, or, in the event of the absence of any partner it must be signed on his behalf by a person holding a power of attorney authorising him to do so.
3. Receipts for payment made on account of work when executed by a firm, must also be signed by the several partners, except where the contractors are described in their tender as a firm, in which case the receipts must be signed in the name of the firm by one of partners, or by some other person having authority to give effectual receipts of the firm.
4. Any person who submits a tender, shall fill up the usual printed form, stating at how much percent above or below the rates specified in Clause 1 he is willing to undertake the work. Only one rate of percentage more or less on all schedule rates shall be named. Tenders, which propose any alteration in the work specified in the said form of invitation to tender or in the time allowed for carrying out the work, or which contain any other conditions of any sort, will be liable to rejection. No single tender shall include more than one work but contractors, who wish to tender for two or more works, shall submit a separate tender for each. Tenders shall have the name and number of the work to which they refer, written outside the envelope.
5. The Divisional Officer should himself open the tenders as far as possible. Tenders which are in the powers of acceptance of Superintending Engineer or Chief Engineer should be opened in the presence of either Superintending Engineer or his representative. The Divisional Officer should keep the Superintending engineer informed accordingly.
6. The officer inviting tenders shall have the right of rejecting all or any of the tenders.
7. The receipt of an accountant or clerk for any money paid by the contractor will not be considered as any acknowledgement of payment to the Divisional Officer and the contractor shall be responsible for seeing that he procures a receipt signed by Divisional Officer.
8. The memorandum of work tendered for and the memorandum of materials to be supplied by the C&W Department and their issue rates shall be filled in and completed in the office of the Divisional Officer before the tender form is issued. If a form is issued to an intending tenderer without having been so filled in and completed he shall request the office to have this done before he completes and delivers his tender.
9. No liability shall be incurred by the C&W Department nor shall the contract be considered binding until the tender has been signed by the contractor and until the acceptance of the tender by the officer competent to accept the tender, has been communicated, in writing to the contractor.
10. No bank deposit receipt other than from the Schedule Bank of Pakistan will be accepted towards security deposit.

Engineer-in-Charge) of such completion, but no such certificate shall be given nor shall the work be considered to be complete until the contractor shall have removed from the premises on which the work shall be executed all scaffolding, huts, godowns, shelters, surplus materials and rubbish, and cleaned off the dirt from all wood-work, doors, window sills, walls, floors, or other parts of any building in, upon or about which the work is to be executed or of which he may have had possession for the purpose of the execution thereof or until the work shall have been measured by the Engineer-in-Charge or by a subordinate at the instance of the Engineer-in-Charge whose measurements shall be binding and conclusive against the contractor. If the contractor shall fail to comply with the requirements of this clause as to removal of scaffolding, huts, godowns, shelters, surplus material and rubbish, and cleaning of dirt on or before the date fixed for the completion of work, the Engineer-in-Charge may at the expense of the contractor, remove such scaffolding, huts, godowns, shelters, surplus materials and rubbish and dispose of the same as he thinks fit and clean of such dirt as aforesaid, and the contractor shall forthwith pay the amount of all expenses so incurred, and shall have no claim in respect of any such scaffolding, huts, godowns, shelters, or surplus materials as aforesaid except for any sum actually realized by the sale thereof.

Payment on intermediate certificate to be regarded as advances

Clause 7. No payments shall be made for works estimated to cost less than rupees one thousand, till after the whole of the works, shall have been completed and a certificate of completion given. But as in the case of work estimated to cost more than rupees one thousand, the contractor shall submitting the bill therefor be entitled to receive a monthly payment proportionate to the part thereof then approved and passed by the Engineer-in-Charge, whose certificate of such approval and passing of the sum so payable shall be final and conclusive against the contractor. But all such intermediate payments shall be regarded as payments by way of advance against the final payment only and not as payments for work actually done and completed and shall not preclude the requiring of bad, unsound and imperfect or re-erected or be considered as an admission of the due performance of the contract, or any part thereof in any respect, or the accruing of any claim, nor shall it conclude, determine or affect in any way the powers of the Engineer-in-Charge under these conditions or any of them as to the final settlement and adjustment of the accounts or otherwise, or in any other way very or affect the contractor. The final bill shall be submitted by the contractor within one month of the date fixed for completion of the work, otherwise the certificate of measurement taken or caused to be taken by the Engineer-in-Charge and of the total amount payable for the work accordingly shall be final and binding on all parties.

Bill to be submitted monthly.

Clause 8. A bill shall be submitted by the contractor each month on or before the date fixed by the Engineer-in-Charge for all works executed in the previous month and the Engineer-in-Charge, shall take or cause to be taken the requisite measurement for the purpose of having the same verified and the claim, as far as admissible, adjusted, if possible before the expiry of ten days from the presentation of the bill. If the contractor does not submit the bill within the time fixed as aforesaid the Engineer-in-Charge may depute a subordinate to measure up the said work in the presence of the contractor, whose countersignature to the measurement list will be sufficient warrant and the Engineer-in-Charge may prepare a bill from such list which shall be binding on the contractor in all respects.

Bill to be on printed forms.

Clause 9. The contractor shall submit all bills on the printed forms to be had on application at the Office of the Engineer-in-Charge and the charges in the bills always be entered at the rates specified in the tender or in the case of any extra work ordered in pursuance of these conditions, as not mentioned or provided for in the tender at the rates hereinafter provided for such work.

Stores supplied by Government.

Clause 10. If the specification or estimate of the work provides for the use of any special description of material to be supplied from the Engineer-in-Charge's stores, or if it is required that the contractor shall use certain stores to be provided by the Engineer-in-Charge, or if special tools and plant are supplied on loan from the Engineer-in-Charge's stores (such materials, stores and special tools and plant, and prices and hire charges to be charged therefor as hereinafter mentioned, being so far as practicable for the convenience of the contractor, but not so as in any way to control the meaning or effect of this contract, specified in any schedules or memorandum hereto annexed) the contractor shall be supplied with such materials, stores and special tools and plant as required from time to time for the purpose of the contract only and the value of the full quantity of materials and stores, so supplied and the hire charges of the special tools and plants and the rates specified in the said schedules or memorandum, may be set off or deduct from any sums due or thereafter become due to the contractor under the contract or otherwise or against or from the security deposit or the proceeds of sale thereof, if the same is held in

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46

DIRECTOR GENERAL
FLOOD DAMAGES RESTORATION DIRECTORATE
COMMUNICATION & WORKS DEPARTMENT
99-A SHAMI ROAD PESHAWAR CANTT:

No. 73 /4-CHD/Charsadda/FDRD
Dated Peshawar the 28 /12/2011

To
The Executive Engineer,
C&W Division Charsadda

Subject: **TECHNICAL SANCTION.**

Reference: Your letter No.253/4-M, dated 26.12.2011.

In exercise of the power conferred upon the Chief Engineer, Communication & Works Department under serial No. 21.1 appearing in page 104-105, the Government of Khyber Pakhtunkhwa Finance Department Delegation of Power under the Financial Rules and the power of Re-appropriation Rules 2001, Technical Sanction is hereby accorded for the work and amount noted below:-

S. No	Name of work	AA Cost	T. S Amount
1.	Restoration of road formation due to heavy flood dated 27.07.2010 to 30.07.2010 in District Charsadda Non-ADP (Flood Related)	Rs. 190,512 (M) 30.11.2011 (Compact)	
	1) SH: Road from Dhakki to Tor Dher Mulyano Killy (5-50-Kms)	Rs. 36,378 (M)	Rs. 40,000 (M) (Rupees Forty Million only).
	2) SH: Road from Munda to Matta via Saddar Ghary (5.50-Kms)	Rs. 36,987 (M)	Rs. 40,685 (M) (Rupees Forty Million, Six Hundred and Eighty-Five Thousand only).

The expenditure involved is chargeable to the relevant budget head.

It may be ensured that the expenditure does not exceed the amount over and above the permissible limit of Administrative Approval.

It is further added that the Executive Engineer Incharge should be responsible for the suitability of design, reasonability of rates and execution of work according to the approved specification and scope of work as per Administrative Approval.

One copy of each sanctioned estimate is returned herewith for further necessary action and record.

Enclosures: As above

Copy to the:-

1. The Accountant General, Khyber Pakhtunkhwa Peshawar.
2. The Circle Head Draftsman (local) alongwith a copy of each T.S Estimate for office record.

Hidayatullah Khan
(Engr: Hidayatullah Khan)
DIRECTOR GENERAL

/
DIRECTOR GENERAL

POWER OF ATTORNEY

In the Court of

Khyber Pakhtunkhwa Service Tribunal Peshawar
Ikramullah

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Sovir of ICAC Etc

} Defendant
} Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

Ijaz Anwar my true and lawful attorney, for me in my name and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____ the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

Ijaz Anwar

Ijaz Anwar

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3 & 4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0333-9107225

Sajid Amin
SAJID AMIN
Advocate
P

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 1366 OF 2014

Mr. Ikramullah Khan
Ex-SDO C&W Sub Division
Charsadda

--- Appellant

Versus

1. Govt of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar --- Respondents
2. Secretary to Govt of Khyber Pakhtunkhwa
C&W Department, Peshawar
3. Chief Engineer (Centre) C&W Peshawar
4. Executive Engineer C&W Division Charsadda

COUNTER AFFIDAVIT

We the respondent hereby affirm and declare that all the contents of the reply
are correct to the best of our knowledge and belief and nothing has been concealed.

Deponent
Secretary to
Govt of Khyber Pakhtunkhwa
C&W Department

0-3
25.02.17

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 1366 OF 2014

Mr. Ikramullah Khan
Ex-SDO C&W Sub-Division
Charsadda

--- Appellant

Versus

1. Govt of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar --- Respondents
2. Secretary to Govt of Khyber Pakhtunkhwa
C&W Department, Peshawar
3. Chief Engineer (Centre) C&W Peshawar
4. Executive Engineer C&W Division Charsadda

Joint Parawise Comments on behalf of Respondents No. 1 to 4

Respectfully Sheweth

Preliminary Objections

1. That the appeal is not maintainable in its present form.
2. That the appellant has not come to this Tribunal with clean hands.
3. That the appellant has no cause of action and locus standi.
4. That the appeal is liable to be rejected on ground of non-joinder and mis-joinder of necessary parties
5. That the appellant is estopped by his own conduct to file the instant appeal

Facts

1. As per record
2. Correct to the extent that on a complaint of NAB Authorities, a formal inquiry regarding "TORDHER Road Tehsil Tangi District Charsadda" was conducted against the officer/official of C&W Department, including the appellant through inquiry committee under Khyber Pakhtunkhwa E&D Rules, 2011. Proper charge sheets/SOAs were served upon the officer/official including the appellant (**Annex-I**). The inquiry committee submitted their report (**Annex-II**), whereby the inquiry committee recommended that since the charges provided in the charge sheet/SOAs are partially proved, a minor penalty of "stoppage of increment for two years" may be imposed on both the officer/official for committing irregularity.
3. Correct to the extent, that the applicant denied from the charges leveled against him, however the inquiry committee did not agree with his stance and clearly mentioned in the conclusion/findings of formal inquiry that charges are proved against him.
4. As explained in paras 2 & 3 above
5. Correct to the extent, that after approval of the competent authority, show cause notices containing tentative minor penalty of "stoppage of annual increments for 02 years" was served upon the responsible officer/official including the appellant through C&W Department letter dated 08.05.2014 with the direction to submit their replies (**Annex-III**).
6. As per record, reply to the show cause of the appellant was properly examined and submitted to Competent Authority (Chief Secretary) for orders with the view that inquiry committee has clearly mentioned in the recommendations that the charges are partially proved for committing irregularity of advance payment, the work has not been completed as per technical sanction/design nor conducted proper quality control test. Besides this, he was given ample chances to defend himself. Moreover, the appellant was also made request in his show cause reply

for personal hearing. Therefore, the Competent Authority was afforded an opportunity for detailed hearing in the presence of C&W Department representative on 20.08.2014. But he did not bring any fact or point of law afresh. After the referred personal hearing, the Competent Authority imposed major penalty of "Dismissal from Service" upon the appellant and accordingly the C&W Department notified the order on 02.09.2014 (**Annex-IV**).

7. As per record his departmental appeal processed and submitted to Competent Authority (Chief Minister) for order, who rejected his departmental appeal and accordingly informed the appellant on 10.11.2014 (**Annex-V**).
8. Incorrect, as explained in para 2 & 6 above
9. No comments
10. Incorrect, the impugned order is in accordance with law

Grounds

- A. Incorrect, that the impugned order is in accordance with law and rules.
- B. Incorrect, the charges leveled against the appellant were properly inquired and were proved against him as per inquiry report of the inquiry committee.
- C. Incorrect, both accused officer/official including the appellant were called for personal hearing on 20.08.2014, opportunity of detailed personal hearing was given to the applicant as per rules/procedure.
- D. Incorrect, the appellant is involved in the irregularity as per instant inquiry and all the matters were carried out in accordance with relevant rules and law, and with the approval of the Competent Authority.
- E. Incorrect, as explained in paras mentioned above.
- F. Incorrect, all relevant rules have been followed and action taken is within the prescribed law as explained in paras mentioned above.
- G. Incorrect, as explained in Para-F of the grounds.
- H. Incorrect. The Competent Authority is not bound to the recommendations of inquiry committee.
- I. Incorrect, as per paras mentioned above
- J. Incorrect, as per paras mentioned above
- K. Incorrect.
- L. The Respondents would like to seek permission of this Hon'able Tribunal to produce more grounds during the time of arguments.

In view of the above, it is humbly prayed that the instant appeal may kindly be dismissed with cost.

Secretary to Govt of
Khyber Pakhtunkhwa
C&W Department
(Respondents No. 1 & 2)

Chief Engineer (Centre)
C&W Peshawar
(Respondent No. 3)

Executive Engineer
C&W Division Charsadda
(Respondent No. 4)



ANNEX-1

CHARGE SHEET /

Whereas, I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, charge you, Ikramullah, Assistant Engineer (BS-17) C&W Department, presently working as SDO C&W Sub Division Charsadda.

That you while posted, as SDO C&W Sub Division Charsadda committed the following irregularities in the work "Tor Dher Road Tehsil Tangi, District Charsadda":

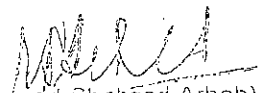
- i. You made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- ii. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. You have not carried the quality control tests during the execution of work

2. By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 ibid.

3. You are, therefore, required to submit your written defence within ten (10) days of the receipt of this charge sheet to the Inquiry Officer/Committee, as the case may be.

4. Your written defence, if any, should reach the Inquiry Officer/ Committee within specified period, failing which it shall be presumed that you have no defence to make and in that case exparte action shall be taken against you.

5. The Statement of Allegations is enclosed.


(Muhammad Shahzad Arbab)
Chief Secretary
Khyber Pakhtunkhwa

_____/01/2014



Amara B^o

DISCIPLINARY ACTION

I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Ikramullah, Assistant Engineer (BS-17) C&W Department, presently working as SDO C&W Sub Division Charsadda 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 & Disciplinary) Rules, 2011:

STATEMENT OF ALLEGATIONS

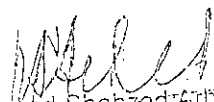
"That he while posted, as SDO C&W Sub Division Chasadda committed the following irregularities in the work "Tor Dher Road Tehsil Tangi, District Charsadda":

- i. He made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
 - ii. He has not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
 - iii. He has not carried the quality control tests during the execution of work
2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/inquiry committee, consisting of the following, is constituted under rule 10(1)(a) of the ibid rules:-

- i. Ahmad Jan Azidi, ADC, Peshawar.
- ii. Inq. Mohammad Dnyas Sheh, Div. PK #1

3. The Inquiry Officer/Inquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the Department shall join the proceedings on the date, time and place fixed by the Inquiry Officer/ Inquiry Committee.


(Muhammad Shahzad Arbab)
Chief Secretary
Khyber Pakhtunkhwa

___/01/2014

INQUIRY REPORT



ANNEX-III

Subject: TOR DHER ROAD TEHSIL TANGI DISTRICT CHARSADDA

AUTHORITY

Vide Secretary to Government of Khyber Pakhtunkhwa, C&W Department Peshawar letter No. SOE/C&WD/8-27/2013 dated 17th February, 2014, an inquiry committee consisting of we, the undersigned, (Mr. Ahmad Jan Afridi PCS EG BS-18 Additional Deputy Commissioner Peshawar) and (Engr Syed Muhammad Ilyas Shah BS-19, Director Maintenance PKHA Peshawar) was appointed by the competent authority (Chief Secretary) to conduct formal enquiry under Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules 2011 against the following officer/official of C&W Department on ground of mis-conduct (Annexure-A) in the subject cited case :

- i. Mr. Ikramullah SDO C&W Sub Division Charsadda.
- ii. Mr. Shafat Ullah Sub Engineer C&W Division Charsadda.

Charge – Sheet and statement of allegation (Annexure-B) were served upon them from the competent authority (Chief Secretary). Each of the above officer/official was charged as under:-

"That you (both) while posted, as SDO C&W Sub Division Charsadda and Sub Engineer C&W Division Charsadda respectively, committed the following irregularities in the work "Tor Dher Road Tehsil Tangi, District Charsadda".

- i. You made an advance payment amounting to Rs. 10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works, for this act of omission, it was presumed to be a huge corruption and loss to the government exchequer.
- ii. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. You have not carried out the quality control tests during execution of work.

PROCEEDINGS

Subsequent to the appointment as inquiry committee, the Chief Engineer (Center) C&W Department was requested to nominate a focal person for the subject enquiry and to



Direct the official concerned to provide all the relevant record required by the enquiry committee (Annexure-C).

The accused officer/official were directed to appear before the enquiry committee on 25th of February 2014 at the office of one of the committee members at Bacha Khan Chowk Peshawar along with written reply in light of charge sheet (Annexure-D). The officer/official appeared before the inquiry committee in the office of Additional Deputy Commissioner on 25th of February. They requested some time space for submission of their written reply, as such, they were directed to submit their replies on or before 3rd of March 2014. In their defense, they submitted written replies on 2nd of March 2014 which also contained copies of relevant page of contract agreement with the excerpt highlighted, X-sections at every 200 meters, a single page long section, a calculation sheet based on the X-sections, a single page Design Sheet and three pages showing test results for compaction of base course, sub-base course and subgrade along with some photographs and copy of TEO for recovery of Rs. 10002018/-.

The following records were also provided by the office of the focal person i.e Executive Engineer C&W Division Charsadda (nominated as focal person by the Chief Engineer Center C&W Department).

- Copy of TEO for recovery of Rs. 10002018/-
- Copy of 7th Running Bill (minus bill for the above mentioned amount)
- Copy of Contract Agreement
- Copy of Work Order
- Copy of Comparative Statement
- Copy of Revised Administrative Approval
- Copy of NIT
- Copy of Technical Sanction Estimate
- Copies of 1st, 2nd, 3rd, 4th, 5th and 6th running bills
- Copies of relevant pages of MBs (Measurement Books)

After receipt of the replies/written statement of the officer/official, and record from the office of the focal person, a number of meetings were held attended by the accused officer/official, together with site visit of the committee on 17/4/2014 in presence of Mr. Ikramullah SDO and Mr. Shafaat Ullah Sub Engineer. The visit however had to be brought to an end incomplete due to rainfall. Subsequently the site was visited by the committee on 31/3/2014 for visual inspection of the road in subject. Photographs of the damaged portions were taken for perusal and record. (Annexure-E)



3. COMMENTS ON THE REPLIES/RECORD

The X-sections, long section and calculation sheet showing the quantity of 15967.5 M3 seem to be not based on actual survey, as all the 29 X-sections show exactly the same area. Further, there is no copy of level book attached.

The point that due to rush of work on the laboratory staff of PKHA and wait for several weeks to get Field Density Tests (FDTs) and other sample testing has no material standing.

4. FINDINGS:

In view of the replies/written statements and record provided to the Inquiry Committee, the findings are as under:-

Clause-7 of the contract agreement has not been appropriately applied. After detailed re-measurement the quantum of excess work paid but not done, should have been completed as per technical sanction. In the instant case thicknesses of base and sub-base have not been provided according to the Technical Sanction/design.

All the 29 X-sections provided, are of stereo type, the long section is also not representative of the existing road profile, more over there is no field book available in support, the authenticity of the X-sections and long section is doubtful

The test results provided are not supported by the required back-up data and calculation which makes its authenticity disbelieving.

During visual inspection, cracks and minor settlements were witnessed in various areas of the finished surface. The cracks / distresses developed are may be due to poor quality of TST wearing course and poor compaction of the underlying layers. Some dumper trucks were also seen to be plying on the road during the visit. These dumper trucks are further a cause of rapid expansion of the cracks and earlier failure of the road constructed to a poor quality and lesser thicknesses. Due to the cracked surface the rain water penetrates down into the pavement making the pavement structure moist which may also cause expansion of the cracks and failure thereof.

5. CONCLUSION

Although such advance payments is an irregularity but as mentioned in the charge sheet, the advance payments amounting to Rs. 10,002,017/- were recovered through TEO, as such there remains no loss to the government but the work has not been completed as per Technical sanction/design.

10

Joint survey was not conducted to ascertain the actual NSL to work out the earthwork and other quantities. However, in such like works, where consultants are not engaged, in view of limited equipment the quantities may be worked out, based on experience, preliminary surveys, typical cross-sections and per meter cost of drains, pipe culverts, retaining walls etc. The thicknesses can be obtained by making cores at specific intervals and measurement recorded.

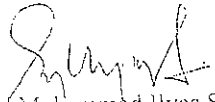
The required quality control tests, were not carried out during construction which puts the quality of work in doubt, as such, beneficial use of public money has not been warranted.

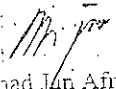
In view of the above, the allegations framed are partly proved.

6- RECOMMENDATION

Based on the above facts and conclusions, the inquiry committee in its wisdom recommends the following actions;

- i. Since the charges provided in the charge sheet/statement of allegations are partly proved, a minor penalty of stopping of increment for two year be imposed on both the officer/official for committing irregularity and not ensuring proper quality control.
- ii. The cracked/distressed areas developed due to poor quality control be dismantled and the areas redone with proper quality control and seal coats be provided in the areas where cracks have been initiated to control the ingress of water, so that beneficial use of public money is realized.


Engr. Syed Muhammad Ilyas Shah
Director Maintenance PKHA
Peshawar


Ahmad Jan Afridi
Additional Deputy Commissioner
Peshawar



ANNEX-III

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-27/2013
Dated Peshawar, the May 08, 2014

TO

Mr. Ikramullah
SDO C&W Sub Division
Charsadda

Subject: TOR DHER ROAD TEHSIL TANGI, DISTRICT CHARSADDA

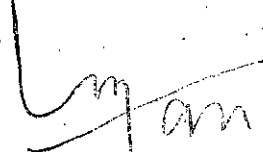
I am directed to refer to the subject noted above and to enclose herewith two copies of the show cause Notice containing tentative minor penalty of "stoppage of annual increment for two years" alongwith inquiry report conducted by inquiry committee comprising of Mr. Ahmad Jan Afridi (PCS EG BS-18) Additional Deputy Commissioner Peshawar and Engr. Syed Muhammad Ilyas Shah (BS-19) Director (Maintenance) PKHA Peshawar and to state that the 2ND copy of the show cause Notice may be returned to this Department after having signed as a token of receipt immediately.

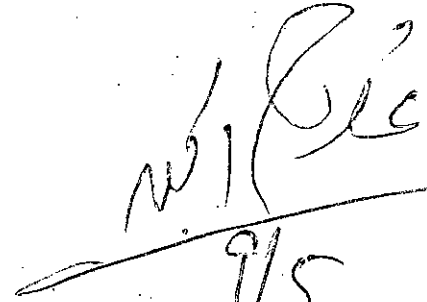
2. You are directed to submit your reply, if any, **within 7 days of the delivery of this letter**, otherwise, it will be presumed that you have nothing to put in your defence and ex-party action will follow.
3. You are further directed to intimate whether you desire to be heard in person or otherwise.


(USMAN JAN)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar


SECTION OFFICER (Estb)


9/5

(B) *Amjad Ali Khan*

SHOW CAUSE NOTICE

I, Amjad Ali Khan Chief Secretary Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Ikramullah, Assistant Engineer (BS-17) C&W Department; presently working as SDO C&W Sub Division Charsadda as follows.

- i. That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide dated 25.02.2014; and
- ii. On going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee;

I am satisfied that you while posted as SDO C&W Sub Division Charsadda committed the following act/omissions in the scheme "For Dher Road Tehsil Tangi, District Charsadda", specified in Rule 3 of the said rules:

- i. You made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- ii. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. You have not carried the quality control tests during the execution of work

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of "stoppage of annual increment for two years" under Rule 4 of the said rules

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 (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry committee is enclosed.

Amjad Ali Khan
(Amjad Ali Khan)
Chief Secretary
Khyber Pakhtunkhwa

5/10/2014



ANNEX-IV

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the September 02, 2014

ORDER:

MS/EGC&WD/6-27/2013: WHEREAS, the following officer/official were proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 for the alleged irregularities in the scheme "Tor Dher Road Tehsil Tangi, District Charsadda".

- i. Mr. Ikramullah the then SDO C&W Sub Division Charsadda now posted as SDO C&W Sub Division Booni, Chitral
- ii. Mr. Saif-ud-Din Sub Engineer C&W Division Charsadda

AND WHEREAS, for the said act of misconduct they were served charge sheet/ statement of allegations.

AND WHEREAS, an inquiry committee comprising of Mr. Ahmad Jan Afridi (PCS EG BS-13) Additional Deputy Commissioner Peshawar and Engr. Syed Muhammad Ilyas Shah (ES-19) Director (Maintenance) PKHA Peshawar was appointed, who submitted the inquiry report.

NOW THEREFORE, the Competent Authority after having considered the charges, material on record, inquiry report of the inquiry committee, explanation of the officer/official concerned, in exercise of the powers under Rule-14(5)(ii) of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose the major penalty of "Dismissal from Service" upon the aforementioned officer/official.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

Copy of order, number and date

Copy is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. All Administrative Secretaries Govt of Khyber Pakhtunkhwa Peshawar
3. Secretary Admn, Infrastructure & Coord Deptt, FATA Sectt Warsak Road, Peshawar
4. All Chief Engineers, C&W Peshawar
5. Chief Engineer EQAA Abbottabad
6. Managing Director PKHA Peshawar
7. Superintending Engineer C&W Circle, Peshawar/Dir Lower
8. Project Director PMU C&W Peshawar
9. Executive Engineer C&W Division Charsadda/Chitral
10. PS to Chief Secretary Punjab, Sindh and Baluchistan
11. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
12. District Accounts Officer Charsadda/Chitral
13. Section Officer (PAC) C&W Department, Peshawar
14. Managing Printing Press for publication
15. PS to Secretary, C&W Peshawar
16. Officer/Official concerned
17. Office order File/Personal File

(USMAN JAN)
SECTION OFFICER (Estb)

ANNEX-V

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. No. SOE/C&WD/8-27/2013
Dated Peshawar, the Nov 10, 2014

TO

Mr. Ikramullah
The then SDO
C&W Division Charsadda
(Now dismissed from Service)

Subject: Appeal against "Dismissal from Service" ordered by Secretary C&W Department Khyber Pakhtunkhwa in respect of response to the orders and directions of the Chief Secretary Khyber Pakhtunkhwa

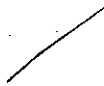
I am directed to refer your appeal/representation dated 16.09.2014 and the same was examined and submitted to the Competent Authority (Chief Minister). The Competent Authority has rejected.

2. You are hereby informed accordingly.


(USMAN JAN)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar


SECTION OFFICER (Estb)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 1366 OF 2014

Mr. Ikramullah Khan
Ex-SDO C&W Sub Division
Charsadda

--- Appellant

Versus

- | | |
|--|-----------------|
| 1. Govt of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar | --- Respondents |
| 2. Secretary to Govt of Khyber Pakhtunkhwa
C&W Department, Peshawar | |
| 3. Chief Engineer (Centre) C&W Peshawar | |
| 4. Executive Engineer C&W Division Charsadda | |

Joint Parawise Comments on behalf of Respondents No. 1 to 4

Respectfully Sheweth

Preliminary Objections

1. That the appeal is not maintainable in its present form.
2. That the appellant has not come to this Tribunal with clean hands.
3. That the appellant has no cause of action and locus standi.
4. That the appeal is liable to be rejected on ground of non-joinder and mis-joinder of necessary parties
5. That the appellant is estopped by his own conduct to file the instant appeal.

Facts

1. As per record
2. Correct to the extent that on a complaint of NAB Authorities, a formal inquiry regarding "TORDHER Road Tehsil Tangi District Charsadda" was conducted against the officer/official of C&W Department, including the appellant through inquiry committee under Khyber Pakhtunkhwa E&D Rules, 2011. Proper charge sheets/SOAs were served upon the officer/official including the appellant (**Annex-I**). The inquiry committee submitted their report (**Annex-II**), whereby the inquiry committee recommended that since the charges provided in the charge sheet/SOAs are partially proved, a minor penalty of "stoppage of increment for two years" may be imposed on both the officer/official for committing irregularity.
3. Correct to the extent, that the applicant denied from the charges leveled against him, however the inquiry committee did not agree with his stance and clearly mentioned in the conclusion/findings of formal inquiry that charges are proved against him.
4. As explained in paras 2 & 3 above.
5. Correct to the extent, that after approval of the competent authority, show cause notices containing tentative minor penalty of "stoppage of annual increments for 02 years" was served upon the responsible officer/official including the appellant through C&W Department letter dated 08.05.2014 with the direction to submit their replies (**Annex-III**).
6. As per record, reply to the show cause of the appellant was properly examined and submitted to Competent Authority (Chief Secretary) for orders with the view that inquiry committee has clearly mentioned in the recommendations that the charges are partially proved for committing irregularity of advance payment, the work has not been completed as per technical sanction/design nor conducted proper quality control test. Besides this, he was given ample chances to defend himself. Moreover, the appellant was also made request in his show cause reply

for personal hearing. Therefore, the Competent Authority was afforded an opportunity for detailed hearing in the presence of C&W Department representative on 20.08.2014. But he did not bring any fact or point of law afresh. After the referred personal hearing, the Competent Authority imposed major penalty of "Dismissal from Service" upon the appellant and accordingly the C&W Department notified the order on 02.09.2014 (**Annex-IV**).

7. As per record his departmental appeal processed and submitted to Competent Authority (Chief Minister) for order, who rejected his departmental appeal and accordingly informed the appellant on 10.11.2014 (**Annex-V**).
8. Incorrect, as explained in para 2 & 6 above
9. No comments
10. Incorrect, the impugned order is in accordance with law

Grounds

- A. Incorrect, that the impugned order is in accordance with law and rules
- B. Incorrect, the charges leveled against the appellant were properly inquired and were proved against him as per inquiry report of the inquiry committee.
- C. Incorrect, both accused officer/official including the appellant were called for personal hearing on 20.08.2014, opportunity of detailed personal hearing was given to the applicant as per rules/procedure.
- D. Incorrect, the appellant is involved in the irregularity as per instant inquiry and all the matters were carried out in accordance with relevant rules and law, and with the approval of the Competent Authority.
- E. Incorrect, as explained in paras mentioned above.
- F. Incorrect, all relevant rules have been followed and action taken is within the prescribed law as explained in paras mentioned above.
- G. Incorrect, as explained in Para-F of the grounds.
- H. Incorrect. The Competent Authority is not bound to the recommendations of inquiry committee.
- I. Incorrect, as per paras mentioned above
- J. Incorrect, as per paras mentioned above
- K. Incorrect.
- L. The Respondents would like to seek permission of this Hon'able Tribunal to produce more grounds during the time of arguments.

In view of the above, it is humbly prayed that the instant appeal may kindly be dismissed with cost.

Secretary to Govt of
Khyber Pakhtunkhwa
C&W Department
(Respondents No. 1 & 2)

Chief Engineer (Centre)
C&W Peshawar
(Respondent No. 3)

Executive Engineer
C&W Division Charsadda
(Respondent No. 4)

ANNEX-1

CHARGE SHEET /

Whereas, I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, charge you, Ikramullah, Assistant Engineer (BS-17) C&W Department, presently working as SDO C&W Sub Division Charsadda.

That you while posted, as SDO C&W Sub Division Charsadda committed the following irregularities in the work "Tor Dher Road Tehsil Tangi, District Charsadda":

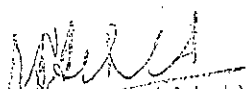
- i. You made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- ii. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. You have not carried the quality control tests during the execution of work.

2. By reason of the above, you appear to be guilty of misconduct under Para-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 ibid.

3. You are, therefore, required to submit your written defence within ten (10) days of the receipt of this charge sheet to the Inquiry Officer/Committee, as the case may be.

4. Your written defence, if any, should reach the Inquiry Officer/ Committee within specified period, failing which it shall be presumed that you have no defence to make and in that case ex parte action shall be taken against you.

5. The Statement of Allegations is enclosed.


(Muhammad-Shahzad Arbab)
Chief Secretary
Khyber Pakhtunkhwa

___/01/2014

DISCIPLINARY ACTION

Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Ikramullah, Assistant Engineer (BS-17) C&W Department, presently working as SDO C&W Sub Division Charsadda has rendered himself liable to be proceeded against, as he committed the following transgressions, within the meaning of rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011:

STATEMENT OF ALLEGATIONS

That he while posted, as SDO C&W Sub Division Chasadda committed the following irregularities in the work "Tor Dher Road Tehsil Tangi, District Charsadda":


- i. He made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- ii. He has not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. He has not carried the quality control tests during the execution of work

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

- i. Ahmad Jan Azizi, ADE, Peshawar
- ii. Inqas Mohammad Diyas Shah, Div. PK

3. The Inquiry Officer/Inquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of receipt of this order, recommendations as to punishment or other appropriate action against the accused

4. The accused and a well conversant representative of the Department shall join the proceedings on the date, time and place fixed by the Inquiry Officer/ Inquiry Committee.


(Muhammad Shahzad Arbab)
Chief Secretary
Khyber Pakhtunkhwa

___/01/2014

INQUIRY REPORT

ANNEX-II

FOR OTHER ROAD TEHSIL TANGI DISTRICT CHARSADDA

AUTHORITY

Chief Secretary to Government of Khyber Pakhtunkhwa, C&W Department Peshawar letter no. SCE/C&W/18-27/2013 dated 17th February, 2014, an inquiry committee consisting of the undersigned, (Mr. Ahmad Jan Afridi PCS EG BS-18 Additional Deputy Commissioner Peshawar) and (Engr Syed Muhammad Ilyas Shah BS-19, Director Maintenance P&MA Peshawar) was appointed by the competent authority (Chief Secretary) to conduct formal enquiry under Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules 2011 against the following officer/official of C&W Department on grounds of mis-conduct (Annexure-A) in the subject cited case :

- i. Mr. Iqbalullah SDO C&W Sub Division Charsadda.
- ii. Mr. Shafiq Ullah Sub Engineer C&W Division Charsadda.

Charge sheet and statement of allegation (Annexure-B) were served upon them from the competent authority (Chief Secretary). Each of the above officer/official was charged as under:

"That you (both), while posted, as SDO C&W Sub Division Charsadda and Sub Engineer C&W Division Charsadda respectively, committed the following irregularities in the work "Other Road Tehsil Tangi, District Charsadda".

- i. You made an advance payment amounting to Rs. 10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works. For this act of omission, it was presumed to be a huge corruption and loss to the government exchequer.
- ii. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. You have not carried out the quality control tests during execution of work.

PROCEEDINGS

Subsequent to the appointment as inquiry committee, the Chief Engineer (Center) C&W Department was requested to nominate a focal person for the subject enquiry and to

the concerned official concerned to provide all the relevant record required by the enquiry committee (Annexure-C).

The accused officer/official were directed to appear before the enquiry committee on 25th of February 2014 at the office of one of the committee members at Bacha Khan Chowk, Peshawar along with written reply in light of charge sheet (Annexure-D). The accused official appeared before the inquiry committee in the office of Additional Deputy Commissioner on 25th of February. They requested some time space for submission of their written reply, as such, they were directed to submit their replies on or before 3rd of March 2014. In their defence, they submitted written replies on 2nd of March 2014 which also contained copies of relevant page of contract agreement with the excerpt highlighted, 1-sections of every 200 meter, a single page long section, 1-calculation sheet based on the 1-sections, a single page Design Sheet and three pages showing test results for compaction of base course, sub-base course and subgrade along with some photographs and copy of TEO for recovery of Rs. 10002018/-.

The following records was also provided by the office of the focal person i.e Executive Engineer C&W Division Charsadda (nominated as focal person by the Chief Engineer Center C&W Department).

- * Copy of TEO for recovery of Rs. 10002018/-
- * Copy of 7th Running Bill (minus bill for the above mentioned amount)
- * Copy of Contract Agreement
- * Copy of Work Order
- * Copy of Comparative Statement
- * Copy of Revised Administrative Approval
- * Copy of NIT
- * Copy of Technical Sanction Estimate
- * Copies of 1st, 2nd, 3rd, 4th, 5th and 6th running bills
- * Copies of relevant pages of MBs (Measurement Books)

After receipt of the replies/written statement of the officer/official, and record from the office of the focal person, a number of meetings were held attended by the accused officer/official, together with site visit of the committee on 17/4/2014 in presence of Mr. Ikramullah SDO and Mr. Shafaat Ullah Sub Engineer. The visit however had to be brought to an end incomplete due to rainfall. Subsequently the site was visited by the committee on 5/5/2014 for visual inspection of the road in subject. Photographs of the damaged portions were taken for perusal and record. (Annexure-E)

DEFICIENCIES ON THE REPLIES/RECORD

The X-sections, long section and calculation sheet showing the quantity of 15967.5 M3 seem to be not based on actual survey, as all the 29 X-sections show exactly the same area. Further, there is no copy of level book attached.

It is noted that due to rush of work on the laboratory staff of PKHA and wait for several months to get Field Density Tests (FDTs) and other sample testing has no material standing.

REMARKS:

None of the replies/written statements and record provided to the Inquiry Committee, the charges are as under:-

None of the contract agreement has not been appropriately applied. After detailed re-assessment the quantum of excess work paid but not done, should have been completed as per technical sanction. In the instant case thicknesses of base and sub-base have not been provided according to the Technical Sanction/design.

All the 29 X-sections provided, are of stereo type, the long section is also not representative of the existing road profile, more over there is no field book available in support, the authenticity of the X-sections and long section is doubtful.

The test results provided are not supported by the required back-up data and calculation which makes its authenticity disbelieving.

During visual inspection, cracks and minor settlements were witnessed in various areas of the finished surface. The cracks / distresses developed are may be due to poor quality of WBT wearing course and poor compaction of the underlying layers. Some dumper trucks were also seen to be plying on the road during the visit. These dumper trucks are further a cause of rapid expansion of the cracks and earlier failure of the road constructed to a poor quality and lesser thicknesses. Due to the cracked surface the rain water penetrates down into the pavement making the pavement structure moist which may also cause expansion of the cracks and failure thereof.

CONCLUSION

Large amount advance payments is an irregularity but as mentioned in the charge sheet, the advance payments amounting to Rs. 10,002,017/- were recovered through TEO, as such there remains no loss to the government but the work has not been completed as per Technical sanction/design.

part survey was not conducted to ascertain the actual NSL to work out the earthwork and other quantities. However, in such like works, where consultants are not engaged, in view of limited equipment the quantities may be worked out, based on experience, preliminary surveys, typical cross-sections and per meter cost of drains, pipe culverts, retaining walls etc. The thicknesses can be obtained by making cores at specific intervals and measurement recorded.

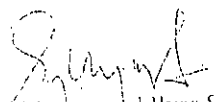
The required quality control tests, were not carried out during construction which puts the quality of work in doubt, as such, beneficial use of public money has not been warranted.

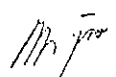
In view of the above, the allegations framed are partly proved.

3. RECOMMENDATION

Based on the above facts and conclusions, the inquiry committee in its wisdom recommends the following actions;

1. Since the charges provided in the charge sheet/statement of allegations are partly proved, a minor penalty of stopping of increment for two year be imposed on both the officer/official for committing irregularity and not ensuring proper quality control.
2. The cracked/distressed areas developed due to poor quality control be dismantled and the areas redone with proper quality control and seal coats be provided in the areas where cracks have been initiated to control the ingress of water, so that beneficial use of public money is realized.


Engr. Syed Muhammad Hyas Shah
Director Maintenance PKHA
Peshawar


Ahmad Jan Afridi
Additional Deputy Commissioner
Peshawar



ANNEX-III
GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-27/2013
Dated Peshawar, the May 08, 2014

TO

Mr. Ikramullah
SDO C&W Sub Division
Charsadda

Subject: TOR DHER ROAD TEHSIL TANGI, DISTRICT CHARSADDA

I am directed to refer to the subject noted above and to enclose herewith two copies of the show cause Notice containing tentative minor penalty of "stoppage of annual increment for two years" alongwith inquiry report conducted by inquiry committee comprising of Mr. Ahmad Jan Afridi (PCS EG BS-18) Additional Deputy Commissioner Peshawar and Engr. Syed Muhammad Ilyas Shah (BS-19) Director (Maintenance) PKHA Peshawar and to state that the 2ND copy of the show cause Notice may be returned to this Department after having signed as a token of receipt immediately.

2. You are directed to submit your reply, if any, **within 7 days of the delivery of this letter**, otherwise, it will be presumed that you have nothing to put in your defence and ex-party action will follow.
3. You are further directed to intimate whether you desire to be heard in person or otherwise.

Uman Jan
(USMAN JAN)

SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar

Uman Jan
SECTION OFFICER (Estb)

Mr. Ikramullah
9/5

SHOW CAUSE NOTICE

Mr. Amjad Ali Khan, Chief Secretary Khyber Pakhtunkhwa as Competent Authority under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Ikramullah, Assistant Engineer (S-17) C&W Department, presently working as SDO C&W Sub Division Charsadda as follows.

That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide dated 25.02.2014; and

On going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee;

I am satisfied that you while posted as SDO C&W Sub Division Charsadda committed the following accommodations in the scheme "For Dher Road Tehsil Tangi, District Charsadda", specified in Rule 3 of the said rules.

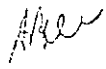
- I You made an advance payments amounting to Rs.10,002,017/- (which were recovered through TED) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- II You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- III You have not carried the quality control tests during the execution of work

As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of "Stoppage of Annual Increment for two years" under Rule 4 of the said rules.

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.

If no reply to this notice is received within seven (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no reference to put in and in that case an ex-parte action shall be taken against you.

A copy of the findings of the inquiry committee is enclosed.


(Amjad Ali Khan)
Chief Secretary
Khyber Pakhtunkhwa

5/10/2014

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the September 02, 2014

REF:

1. GOVERNMENT ORDER WHEREAS, the following officer/official were proceeded against Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 for the irregularities in the scheme "Tor Dher Road Tehsil Tangi, District Charsadda":

Mr. Aramullah the then SDO C&W Sub Division Charsadda now posted as SDO C&W Sub Division Soori, Chitral

Mr. Saifas, Utah Sub Engineer C&W Division Charsadda.

2. WHEREAS, for the said act of misconduct they were served charge sheet/ notice of allegations

3. WHEREAS, an inquiry committee comprising of Mr. Ahmad Jan Afqdi (PCS EG Additional Deputy Commissioner Peshawar and Engr. Syed Muhammad Ilyas Shah (Inspector (Maintenance) PKHA Peshawar was appointed, who submitted the inquiry report.

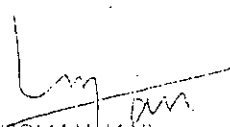
4. WHEREFORE the Competent Authority after having considered the charges, the record, inquiry report of the inquiry committee, explanation of the officer/official in exercise of the powers under Rule-14(5)(ii) of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011 has been pleased to impose the major penalty of "debar from Services" upon the aforementioned officer/official

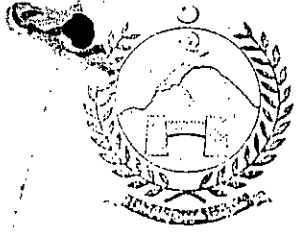
SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

FOR INFORMATION AND ACTION

is forwarded to the:-

- 1. Chairman, General, Khyber Pakhtunkhwa, Peshawar
- 2. Administrative Secretaries Govt. of Khyber Pakhtunkhwa Peshawar
- 3. Primary Admin, Infrastructure & Coord Deptt, FATA Sectt Warsak Road, Peshawar
- 4. Chief Engineers, C&W Peshawar
- 5. Chief Engineer EQAA Abbottabad
- 6. Managing Director PKHA Peshawar
- 7. Jointtending Engineer C&W Circle, Peshawar/Dir Lower
- 8. Jointt Director PMU C&W Peshawar
- 9. Executive Engineer C&W Division Charsadda/Chitral
- 10. Secy Chief Secretary Punjab, Sindh and Baluchistan
- 11. Secy Chief Secretary Khyber Pakhtunkhwa, Peshawar
- 12. Jointt Accounts Officer Charsadda/Chitral
- 13. Jointt Officer (PAC) C&W Department, Peshawar
- 14. Printing Press for publication
- 15. Secy Secretary C&W Peshawar
- 16. Other Officer concerned
- 17. For record P. or Personal File


(USMAN JAN)
SECTION OFFICER (Estb)



ANNEX-V

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. No. SOE/C&WD/8-27/2013
Dated Peshawar, the Nov 10, 2014


TO

Mr. Ikramullah
The then SDO
C&W Division Charsadda
(Now dismissed from Service)

Subject: Appeal against "Dismissal from Service" ordered by Secretary C&W Department Khyber Pakhtunkhwa in respect of response to the orders and directions of the Chief Secretary Khyber Pakhtunkhwa

I am directed to refer your appeal/representation dated 16.09.2014 and the same was examined and submitted to the Competent Authority (Chief Minister). The Competent Authority has rejected.

2. You are hereby informed accordingly.


(USMAN JAN)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar


SECTION OFFICER (Estb)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 1366 OF 2014

Mr. Ikramullah Khan
Ex-SDO C&W Sub Division
Charsadda

--- Appellant

Versus

- | | | |
|--|-----|-------------|
| 1. Govt of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar | --- | Respondents |
| 2. Secretary to Govt of Khyber Pakhtunkhwa
C&W Department, Peshawar | | |
| 3. Chief Engineer (Centre) C&W Peshawar | | |
| 4. Executive Engineer C&W Division Charsadda | | |

Joint Parawise Comments on behalf of Respondents No. 1 to 4

Respectfully Sheweth

Preliminary Objections

1. That the appeal is not maintainable in its present form.
2. That the appellant has not come to this Tribunal with clean hands.
3. That the appellant has no cause of action and locus standi.
4. That the appeal is liable to be rejected on ground of non-joinder and mis-joinder of necessary parties
5. That the appellant is estopped by his own conduct to file the instant appeal.

Facts

1. As per record
2. Correct to the extent that on a complaint of NAB Authorities, a formal inquiry regarding "TORDHER Road Tehsil Tangi District Charsadda" was conducted against the officer/official of C&W Department, including the appellant through inquiry committee under Khyber Pakhtunkhwa E&D Rules, 2011. Proper charge sheets/SOAs were served upon the officer/official including the appellant (**Annex-I**). The inquiry committee submitted their report (**Annex-II**), whereby the inquiry committee recommended that since the charges provided in the charge sheet/SOAs are partially proved, a minor penalty of "stoppage of increment for two years" may be imposed on both the officer/official for committing irregularity.
3. Correct to the extent, that the applicant denied from the charges leveled against him, however the inquiry committee did not agree with his stance and clearly mentioned in the conclusion/findings of formal inquiry that charges are proved against him.
4. As explained in paras 2 & 3 above.
5. Correct to the extent, that after approval of the competent authority, show cause notices containing tentative minor penalty of "stoppage of annual increments for 02 years" was served upon the responsible officer/official including the appellant through C&W Department letter dated 08.05.2014 with the direction to submit their replies (**Annex-III**).
6. As per record, reply to the show cause of the appellant was properly examined and submitted to Competent Authority (Chief Secretary) for orders with the view that inquiry committee has clearly mentioned in the recommendations that the charges are partially proved for committing irregularity of advance payment, the work has not been completed as per technical sanction/design nor conducted proper quality control test. Besides this, he was given ample chances to defend himself. Moreover, the appellant was also made request in his show cause reply

for personal hearing. Therefore, the Competent Authority was afforded an opportunity for detailed hearing in the presence of C&W Department representative on 20.08.2014. But he did not bring any fact or point of law afresh. After the referred personal hearing, the Competent Authority imposed major penalty of "Dismissal from Service" upon the appellant and accordingly the C&W Department notified the order on 02.09.2014 (Annex-IV).

7. As per record his departmental appeal processed and submitted to Competent Authority (Chief Minister) for order, who rejected his departmental appeal and accordingly informed the appellant on 10.11.2014 (Annex-V).
8. Incorrect, as explained in para 2 & 6 above
9. No comments
10. Incorrect, the impugned order is in accordance with law

Grounds

- A. Incorrect, that the impugned order is in accordance with law and rules
- B. Incorrect, the charges leveled against the appellant were properly inquired and were proved against him as per inquiry report of the inquiry committee.
- C. Incorrect, both accused officer/official including the appellant were called for personal hearing on 20.08.2014, opportunity of detailed personal hearing was given to the applicant as per rules/procedure.
- D. Incorrect, the appellant is involved in the irregularity as per instant inquiry and all the matters were carried out in accordance with relevant rules and law, and with the approval of the Competent Authority.
- E. Incorrect, as explained in paras mentioned above.
- F. Incorrect, all relevant rules have been followed and action taken is within the prescribed law as explained in paras mentioned above.
- G. Incorrect, as explained in Para-F of the grounds.
- H. Incorrect. The Competent Authority is not bound to the recommendations of inquiry committee.
- I. Incorrect, as per paras mentioned above
- J. Incorrect, as per paras mentioned above
- K. Incorrect.
- L. The Respondents would like to seek permission of this Hon'able Tribunal to produce more grounds during the time of arguments.

In view of the above, it is humbly prayed that the instant appeal may kindly be dismissed with cost.

Secretary to Govt of
Khyber Pakhtunkhwa
C&W Department
(Respondents No. 1 & 2)

Chief Engineer (Centre)
C&W Peshawar
(Respondent No. 3)

Executive Engineer
C&W Division Charsadda
(Respondent No. 4)

CHARGE SHEET

Whereas, I. Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, charge you, Ikramullah, Assistant Engineer (BS-17) C&W Department, presently working as SDO C&W Sub Division Charsadda.

That you while posted, as SDO C&W Sub Division Charsadda committed the following irregularities in the work "Tor Dher Road Tehsil Tangi, District Charsadda"


- i. You made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- ii. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. You have not carried the quality control tests during the execution of work

1. By reason of the above, you appear to be guilty of misconduct under Rule-2 of the Khyber Pakhtunkhwa Government's Servants (Efficiency & Disciplinary) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 ibid.

2. You are, therefore, required to submit your written defence within ten (10) days of the receipt of this charge sheet to the Inquiry Officer/Committee, as the case may be.

3. Your written defence, if any, should reach the Inquiry Officer/ Committee within specified period, failing which it shall be presumed that you have no defence to make and in that case ex parte action shall be taken against you.

5. The Statement of Allegations is enclosed.


(Muhammad Shahzad Arbab)
Chief Secretary
Khyber Pakhtunkhwa

___/01/2014

DISCIPLINARY ACTION

1. Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Ikramullah, Assistant Engineer (BS-17) C&W Department, presently working as SDO C&W Sub Division Charsadda 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 & Disciplinary) Rules, 2011:

STATEMENT OF ALLEGATIONS

"That he while posted, as SDO C&W Sub Division Chasadda committed the following irregularities, in the work "Tor Dher Road Tehsil Tangi, District Charsadda":


- i. He made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- ii. He has not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. He has not carried the quality control tests during the execution of work

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

- i. Ahmad Jan Azidi, AOE, Peshawar.
- ii. Engr. Mohammad Ilyas Sheh, Div. PK HW.

3. The Inquiry Officer/Inquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the Department shall join the proceedings on the date, time and place fixed by the Inquiry Officer/ Inquiry Committee.


(Muhammad Shahzad Arbab)
Chief Secretary
Khyber Pakhtunkhwa

___/01/2014

ANNEX-II

INQUIRY REPORT

FOR PHEER ROAD PESHAWAR DISTRICT CHARASADDA

AUTHORITY

The Secretary to Government of Khyber Pakhtunkhwa, C&W Department Peshawar letter no. SOE/C&W/D/S-27/2013 dated 17th February, 2014, an inquiry committee consisting of Mr. Ahmad Jan Afridi PCS EG BS-18 Additional Deputy Commissioner Peshawar and Engr. Syed Muhammad Ilyas Shah BS-19, Director Commission Peshawar was appointed by the competent authority (Chief Secretary) and Government Peshawar under Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules 2011 against the following officer/official of C&W Department on ground of mis-conduct (Annexure-A) in the subject cited case:

Mr. Kamranullah SDO C&W Sub Division Charasadda
Mr. Shahid Ullah Sub Engineer C&W Division Charasadda.

The sheet and statement of allegation (Annexure-B) were served upon them from the competent authority (Chief Secretary). Each of the above officer/official was charged as follows:

1. That you (both) while posted, as SDO C&W Sub Division Charasadda and Sub Engineer C&W Division Charasadda respectively, committed the following irregularities in the work of Pheer Road Peshawar Tehsil Tangi, District Charasadda:

1. You made an advance payment amounting to Rs. 10,002,017/- (which were recovered through FBO) to the contractor without execution of road and structure works, for this act of omission, it was presumed to be a huge corruption and loss to the government exchequer.

2. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work on the earth work and other quantities.

3. You have not carried out the quality control tests during execution of work.

PROCEEDINGS

Subsequent to the appointment as inquiry committee, the Chief Engineer (Center) C&W Department was requested to nominate a local person for the subject enquiry and to

and the official concerned to provide all the relevant record required by the enquiry committee (Annexure-C)

The accused officer/official were directed to appear before the enquiry committee on 25th of February 2014 at the office of one of the committee members at Bacha Khan Chowk Ashanur along with written reply in light of charge sheet (Annexure-D). The accused official appeared before the inquiry committee in the office of Additional Deputy Commissioner on 25th of February. They requested some time space for submission of their written reply. As such, they were directed to submit their replies on or before 3rd of March 2014. In their defense, they submitted written replies on 2nd of March 2014 which also contained copies of relevant page of contract agreement with the excerpt highlighted, cross-sections at every 200 meters, a single page long section, a calculation sheet based on the cross-sections, a single page Design Sheet and three pages showing test results for compaction of base course, sub-base course and subgrade along with some photographs and copy of TEO for recovery of Rs. 10002018/-.

The following records were also provided by the office of the focal person i.e Executive Engineer C&W Division Charsadda (nominated as focal person by the Chief Engineer C&W Department).

- * Copy of TEO for recovery of Rs. 10002018/-
- * Copy of 7th Running Bill (minus bill for the above mentioned amount)
- * Copy of Contract Agreement
- * Copy of Work Order
- * Copy of Comparative Statement
- * Copy of Revised Administrative Approval
- * Copy of NIT
- * Copy of Technical Sanction Estimate
- * Copies of 1st, 2nd, 3rd, 4th, 5th and 6th running bills
- * Copies of relevant pages of MIBs (Measurement Books)

After receipt of the replies/written statement of the officer/official, and record from the office of the focal person, a number of meetings were held attended by the accused officer/official, together with site visit of the committee on 17/4/2014 in presence of Mr. Khan Mullah SDO and Mr. Shafaat Ullah Sub Engineer. The visit however had to be brought to an end incomplete due to rainfall. Subsequently the site was visited by the committee on 30/3/2014 for visual inspection of the road in subject. Photographs of the damaged portions were taken for perusal and record. (Annexure-E)

CONTENTS OF THE REPLY/RECORD

29 X-sections, long section and calculation sheet showing the quantity of 15957.5 M3
to be not based on actual survey, as all the 29 X-sections show exactly the same area.
From these I have made copy of level book attached.

It is noted that due to rush of work on the laboratory staff of PKHA and wait for several
days to get the Density Tests (D/Ts) and other sample testing has no material standing.

ANNEXURE

A copy of an affidavit statements and record provided to the Inquiry Committee, the
minutes and so on are as follows:-

Part of the contract agreement has not been appropriately applied. After detailed re-
view, it is found that the quantity of excess work paid but not done, should have been completed
as per technical sanction. In the instant case thicknesses of base and sub-base have not been
provided according to the Technical Sanction/design.

All the 29 X-sections provided, are of stereo type, the long section is also not representative
of the existing road profile, more over there is no field book available in support, the
accuracy of the X-sections and long section is doubtful.

The test results provided are not supported by the required back-up data and calculation
which makes its authenticity disbelieving.

During visual inspection, cracks and minor settlements were witnessed in various areas of
the finished surface. The cracks / distresses developed are may be due to poor quality of
the wearing course and poor compaction of the underlying layers. Some dumper trucks were
also seen to be plying on the road during the visit. These dumper trucks are further a
cause of rapid expansion of the cracks and earlier failure of the road constructed to a poor
quality and lesser thickness. Due to the cracked surface the rain water penetrates down
into the pavement making the pavement structure moist which may also cause expansion of
the cracks and dilate thereof.

CONCLUSION

It is noted that the advance payments in an irregularity but as mentioned in the charge sheet,
the advance payments amounting to Rs. 10,002,617/- were recovered through TBO, as such
the advance payments no loss to the government but the work has not been completed as per
Technical sanction/design.

Alhadi bin Alhadi
Additional Deputy Commissioner
Deshwar

Engr. Syed Muhammad Iqbal Shah
Director Maintenance PKHA
Peshawar

Since the charges provided in the charge sheet/statement of allegations are partly proved, a minor penalty of stopping of increment for two years be imposed on both the official for committing irregularity and not ensuring proper quality control. The affected/disputed areas developed due to poor quality control be dismantled and the areas redone with proper quality control and soil tests be provided in the areas where cracks have been initiated to control the ingress of water, so that beneficial use of public money is realized.

In view of the above, the allegations framed are partly proved. It is recommended the following actions:

RECOMMENDATION

In view of the above, the allegations framed are partly proved. The required quality control tests, were not carried out during construction which puts the quality of work in doubt, as such, beneficial use of public money has not been warranted. The thicknesses can be obtained by making cores at specific intervals and measurement every vertical cross-sections and per-meter cast of drains, pipe culverts, retaining walls of limited dimension the quantities may be worked out, based on experience, preliminary quantities. However, in such the works, where consultants are not engaged, in view of the survey was not conducted to ascertain the actual NSL to work out the earthwork and



ANNEX-III

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-27/2013
Dated Peshawar, the May 08, 2014

TO

Mr. Ikramullah
SDO C&W Sub Division
Charsadda

Subject: TOR DHER ROAD TEHSIL TANGI, DISTRICT CHARSADDA

I am directed to refer to the subject noted above and to enclose herewith two copies of the show cause Notice containing tentative minor penalty of "stoppage of annual increment for two years" alongwith inquiry report conducted by inquiry committee comprising of Mr. Ahmad Jan Afridi (PCS EG BS-18) Additional Deputy Commissioner Peshawar and Engr. Syed Muhammad Ilyas Shah (BS-19) Director (Maintenance) PKHA Peshawar and to state that the 2ND copy of the show cause Notice may be returned to this Department after having signed as a token of receipt immediately.

2. You are directed to submit your reply, if any, **within 7 days of the delivery of this letter**, otherwise, it will be presumed that you have nothing to put in your defence and ex-party action will follow.
3. You are further directed to intimate whether you desire to be heard in person or otherwise.

(USMAN JAN)

SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar

SECTION OFFICER (Estb)

W/IC
9/5

SHOW CAUSE NOTICE

I, Mr. Amjad Ali Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Ikramullah, Assistant Engineer (Civil), C&W Department, presently working as SDO C&W Sub Division Charsadda as follows.

That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide dated 25.02.2014; and

- a. On going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee;

I am satisfied that you while posted as SDO C&W Sub Division Charsadda committed the following acts/omissions in the scheme "For Cher Road Tehsil Tangi, District Charsadda", specified in Rule 3 of the said rules.

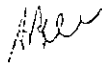
- i. You made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- ii. You have not conducted joint survey to ascertain the actual Natural Surface Level (NSL) for work out the earth work and other quantities.
- iii. You have not carried the quality control tests during the execution of work.

As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of " forfeiture of annual increment for two years " under Rule 4 of the said rules.

2. 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.

3. If no reply to this notice is received within seven (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

4. A copy of the findings of the inquiry committee is enclosed.


(Amjad Ali Khan)
Chief Secretary
Khyber Pakhtunkhwa

5/10/2014

ANNEX-IV

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the September 02, 2014

WHEREAS, the following officer/official were proceeded against
in Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 for
the irregularities in the scheme "Tor Dher Road Tehsil Tangi, District Charsadda":

1. Aramullah the then SDO C&W Sub Division Charsadda now posted as SDO
C&W Sub Division Soori, Chitral
2. Shafiq Ullah Sub Engineer C&W Division Charsadda.

AND WHEREAS, for the said act of misconduct they were served charge sheet/
list of allegations

AND WHEREAS, an inquiry committee comprising of Mr. Ahmad Jan Afridi (PCS EG
Senior Deputy Commissioner Peshawar and Engr. Syed Muhammad Ilyas Shah
Senior Engineer (Maintenance) PKHA Peshawar was appointed, who submitted the inquiry

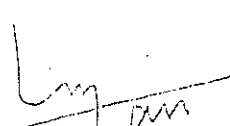
AND THEREFORE the Competent Authority after having considered the charges,
the inquiry report of the inquiry committee, explanation of the officer/official
and in exercise of the powers under Rule-14(5)(ii) of Khyber Pakhtunkhwa Civil Servants
(Efficiency & Discipline) Rules, 2011, has been pleased to impose the major penalty of
"Suspension from Service" upon the aforementioned officer/official.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

FOR THE SECRETARY

Forwarded to the -

1. Assistant General, Khyber Pakhtunkhwa, Peshawar
2. Administrative Secretaries Govt of Khyber Pakhtunkhwa Peshawar
3. Deputy Admn, Infrastructure & Coord Dept, FATA Sect Warsak Road, Peshawar
4. Chief Engineers, C&W Peshawar
5. Chief Engineer EQAA Abbottabad
6. Managing Director PKHA Peshawar
7. Asst. Chief Engineer C&W Circle, Peshawar/Dir Lower
8. Asst. Chief Engineer PMU C&W Peshawar
9. Asst. Chief Engineer C&W Division Charsadda/Chitral
10. Chief Secretary Punjab, Sindh and Baluchistan
11. Chief Secretary Khyber Pakhtunkhwa, Peshawar
12. Chief Accounts Officer Charsadda/Chitral
13. Chief Officer (PAC) C&W Department, Peshawar
14. Printing Press for publication
15. Secretary, C&W Peshawar
16. Officer concerned
17. Officer HR/Personal File


(USMAN JAN)
SECTION OFFICER (Estb)

ANNEX-V

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. No. SOE/C&WD/8-27/2013
Dated Peshawar, the Nov 10, 2014

TO

Mr. Ikramullah
The then SDO
C&W Division Charsadda
(Now dismissed from Service)

Subject: Appeal against "Dismissal from Service" ordered by Secretary C&W Department Khyber Pakhtunkhwa in respect of response to the orders and directions of the Chief Secretary Khyber Pakhtunkhwa

I am directed to refer your appeal/representation dated 16.09.2014 and the same was examined and submitted to the Competent Authority (Chief Minister). The Competent Authority has rejected.

2. You are hereby informed accordingly.


(USMAN JAN)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar


SECTION OFFICER (Estb)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 590 /ST

Dated 23 / 04 / 2015

To

The Secretary, C & W Department Govt of KPK Peshawar.

Subject: - APPEAL NO. 1366 & 1367 OF 2014, IKRAM ULLAH KHAN & SHAFAT ULLAH VS CHIEF SECRETARY GOVT OF KPK PESHAWAR AND OTHERS.

I am directed to forward herewith a certified copy of Judgement dated 08.04.2015 passed by this Tribunal on subject appeal for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.