

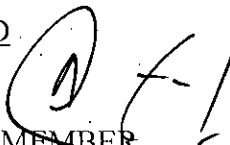
1367/14

08.04.2015

Appellant with counsel (Mr. Ijaz Anwar, advocate) and Mr. Muhammad Jan, GP with Saleem Shah, Supdt. for the respondents present. Arguments heard. Record perused. Vide our detailed judgment of to-day in connected Service Appeal No. 1366/2014, titled " Ikram Ullah Khan Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Sectt. Peshawar etc.", this appeal is also decided as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

08.04.2015


MEMBER


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

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

Appeal No. 1367/2014

Shafaat ullah Ex Sub Engineer C&W Division Charsadda
.....(Appellant)

VERSUS

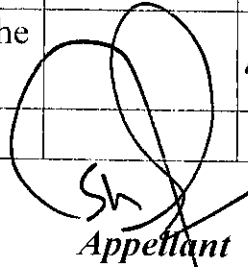
Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber
Pakhtunkhwa Civil Secretariat Peshawar and others.

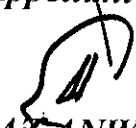
(Respondents)

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Through


Shafaat
Appellant


IJAZ ANWAR
Advocate Peshawar

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

Appeal No. 1367/2014

1399
28/11/2014

Shafaat ullah Ex Sub Engineer C&W 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.


28/11/14
Respectfully Submitted:

1. That the appellant was working as Sub Engineer in the respondent department, and was lastly posted as Sub Engineer 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 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 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 lost 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 :

GROUNDS 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 knowledge corruption and loss to the Govt Exchequer as

That the amount 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

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

Sh
Appellant

Ijaz Anwar
IJAZ ANWAR

Advocate Peshawar

&

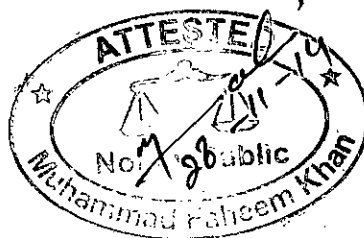
Sajid Amin
SAJID AMIN

Advocate, Peshawar

AFFIDAVIT

I, Shafaat ullah Ex. Sub Engineer C&W 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.

Shafaat Ullah
Deponent



7

ANNEX - "A"

CHARGE SHEET

Whereas, I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, charge you, Shafaat Ullah, Sub Engineer (BS-11) C&W Department, presently working as Sub Engineer C&W Division Charsadda.

"That you while posted, as Sub Engineer C&W 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



DISCIPLINARY ACTION

I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Shafaat Ullah, Sub Engineer (BS-11) C&W Department, presently working as Sub Engineer C&W 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 Sub Engineer C&W 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 Afridi, AEC, Peshawar.
- ii. Engr. Mohammad Iqbal Sheh, Dir. PKSA.

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

(9)
ANNEXURE "C"

INQUIRY REPORT

Subject: TOR DHER ROAD TEHSIL TANGI DISTRICT CHARSADDA

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.

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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.

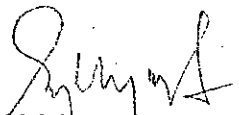
The required quality control tests, were not carried out during construction which puts the quality of work in doubt, as such, beneficial use of public money has not been warranted.

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



(13)

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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 CHARSADDA

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).

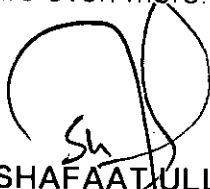
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3. It is a matter of fact that we have limited material testing laboratories in the province. Most of our Circle Labs are abundant and we are compelled to depend upon the lonely (Road & Testing Laboratory of PKHA) which caters for whole of the province. 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.


(SHAFATULLAH)
Sub Engineer
C&W Sub Division
Charsadda



- (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. Shafaatullah, Sub Engineer (BS-11) C&W Department; presently working as Sub Engineer O/O XEN C&W 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 Sub Engineer O/O XEN C&W 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:

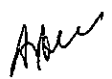
- i. You made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- ii. You have not conducted joint survey 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.


(Amjad Ali Khan)
Chief Secretary
Khyber Pakhtunkhwa

5/04/2014



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The Chief Secretary,
Khyber Pakhtunkhwa,
Peshawar.

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

Dear Sir,

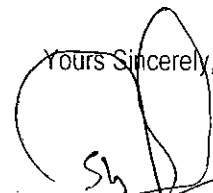
I have been served with a show cause notice vide Section Officer (Establishment), Communication & Works Department letter No.SOE/C&WD/8-27/2013 dated 8/5/2014. Containing minor penalty of "Stoppage of Annual Increments for two years", my reply to the show cause notice may be considered as under:-

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,



(SHAFFATULLAH)
Sub-Engineer

C&W Division Charsadda.



17

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)



ANNEX "F" | 1

(18)

APPEAL

My Reference No. S-I.....
Dated: September 16th, 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 Engineer in the Govt. of Khyber Pakhtunkhwa
C&W department and was posted as Sub Engineer, C&W division, Charsadda..

(2) I executed a scheme "Tor Dher Road Tehsil Tangi, district Charsadda"
in the capacity of Sub Engineer along with the S.D.O. 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 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.



[Handwritten signature]

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'.

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

- "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 test results for compaction of base course, subbase course and upgrade with some photographs". (ENQUIRY REPORT - PARA 2 - PROCEEDINGS, ANNEXURE 'C'). 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.
- "Subsequently, the site was visited by the committee on 31.3.2014" (ENQUIRY REPORT - PARA 2 - PROCEEDINGS, ANNEXURE 'C')

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

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

Thus the 'Charge (ii)' in the 'Show Cause Notice' stands quashed.
Charge 2:- The main thrust of the charge in the 'Show Cause Notice' was that the joint survey (of the consultants and C&W dept. 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.

Charge 1:- The advance payment of Rs. 10,002,017/- has been fully recovered through a transfer 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. exchanged as mentioned in the 'Show Cause Notice' is false, baseless and legally handicapped.

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:-

[Handwritten number 19]

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>- <u>It is an extraneous issue neither raised in the charge sheet nor show cause notice. Hence legally, it should never be considered for any 'penalty' on me in the light of the decision made by the 'August Civil Courts' in such like service – cases (hereinafter described under Para IV).</u></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 Annexure 'D' 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>

5/12

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

(18)

S.No	Issues in the Inquiry Report	Reply / Explanation.
3.	Joint survey not carried out.	<p>mis-statement, hence carries no legal importance.</p> <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></p> <p><u>"Joint survey was not conducted to ascertain the actual NSL to work out the earthworks and other quantities. 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></p> <p><u>"They submitted X-sections at every 200 meter, a single page long section, a calculation sheet based on X-sections"</u></p> <p>- <u>The inquiry committee did'nt practically check the submitted</u></p>



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) .

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 23 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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25

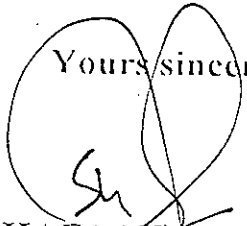
Quote:- "Misconduct. Civil servant charged with misconduct. Evidence exonerating him before enquiry officer ignored. Extraneous factors taken into consideration. Civil servant punished with censure and stoppage of three increments. Order being conjectural and against solid evidence set aside."

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,

(SHAFIQULLAH)
Sub Engineer
S/o

Sahibzada Amanullah
Ahmadabad College Road Tangi
Tehsil Tangi District Charsadda
Cell #345-0952254

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



26 ANNEX "G"



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

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

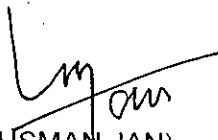
TO

Mr. Shafatullah
The then Sub Engineer
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)



27

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 CHARSADDA

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

Encl. As above

(USMAN JAN)
SECTION OFFICER (ESTT)

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)

28

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

No. 2209/Pkha-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.*

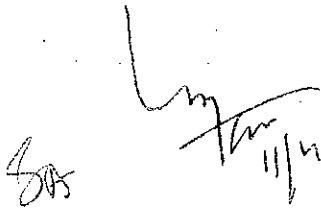
The Inquiry Report on the above cited subject prepared by the Inquiry Committee is submitted herewith along with the relevant documents (**Annexure – A to E**) for further necessary action please.


DIRECTOR (MAINTENANCE)

C.C:-

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

DIRECTOR (MAINTENANCE)







Regdn

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

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

TO

Mr. Shafaatullah
Sub Engineer
C&W 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)



T.F. NO. _____

FOR THE MONTH OF 30 / 2013

S. NO.	PARTICULARS	Debit	Credit	Remarks
1	A sum of Rs. 10002018/- recovered from M/S Kausar Ali & brothers Government Contractor for the work restoration of road formation damaged due to heavy flood dated 27/7/2010 to 30/7/2010 at District Charsadda SH: road from Dhakki to Tor Dher. Mulayene Killi road 5.5 Km vide VR No. 88-R Dated 25/6/2012 is wasted as per contra.	P.W. Deposit-II Item No. 111/295 900000/- do- 463/342 2900000/- do- 222/995 1000000/- do- 611/1127 4600000/- do- 252/536 200000/- do- 396/754 202018/- do- 357/784 200000/- Total Rs. 10002018/-	C-027 Community Service Receipt C-02715 Other Receipt	
	Difference	Total Rs. 10002018/-	Total Rs. 10002018/-	

Transfer made vide D.O. No. 10002018/13

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

Divisional Accounts Officer
C&W Division Charsadda

District Accounts Officer
Charsadda

Executive Engineer
C&W Division Charsadda

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

[Handwritten signature]

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

(31)

C.A.W.A.-20

(1)

SECTION OFFICER

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

RUNNING ACCOUNT BILL A.

Central P.W.A Code. paragraphs 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 12/3/2011
 Date of written order to commence work.....
 Date of actual completion of work.....

1-----Accounts of Work executed.

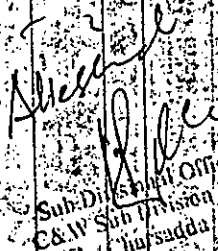
Advance payment for work not yet measured			Item of work (grouped under Sub-head and Sub-works of estimates)	Unit	Rate	Quantity executed up-to-date, as per Measurement Book	Payment on the basis of actual measurements		Remarks (with reasons for delay in adjusting payment shown in column 1)
Total as previous 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	400/16	16959.91	6854517/22	(-)	72764/78
			2) P/L Sub base of Pit Run gravel as specified.	"	634/02	2128.44	1349473/52	(-)	841033/87
			3) P/L Base course of water bound macadam as spfd:	"	995/75	2413.48	2403222/71	(-)	441067/29
			4) P/L TST to road surface.	PM2	339/82	19189.60	6521009/87	(-)	28215/13
							17128223/32	(-)	1383081/07
SH:-2) Structure work.									
			1) Excavation as in foundation in ordinary soil as spfd:	PM3	105/10	1298.49	136471/29	(-)	238725/20
			2) P/L PCC(1;4;8) as spfd:	"	2840/30	787.37	2275562/09	(-)	973828/78
			3) P/L Mass concrete using 50% boulders & 50% PCC (1;3;6) as specified.	"	2211/-	1814.60	4012080/60	(-)	4678674/99
			4) Erecting & removing form work vertical as spfd:	PM2	306/59	4612.56	1414164/77	(-)	124944/62
			5) S/F of RCC pipes as spfd:	PM	913/-	497.36	454039/68	(-)	42199/75
			(i) 18" dia.	"	5 /-	74.20	43253/60	(-)	11508/42
			(ii) 12" dia.	"	1 /-	32.91	44362/68	(-)	30397/32
			(iii) 24" dia.	"	1 /-	55.93	25727/80	(-)	19011/80
			(iv) 9" dia.	"	1 /-	965.52	3357315/79	(-)	1053073/05
			6) P/L PCC(1;3;6) as specified.	PM3	177/21	222.10	923473/39	(-)	932002/37
			7) P/L PCC(1;2;4) as spfd:	"	4176/42				
			8) S/Fabrication of mild steel reinforcement	P/Tn	82234/55	6.289	517133/08	(-)	47120/40

Wherever there is an entry in column 9 on the actual measurement, the whole of the amount 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 come Nil

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

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Sub-Division Officer
 Charsadda

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.	7.	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	-	3423293/22	(-)	362608/31		
<u>General Abstract.</u>											
			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/-		
							 Sub-Divisional Officer C&W Sub-Division No.11 Choursadda				
							Total Value of works done to date (A) 30490413/-				
							(-) 40492431/- Deduct---value of works shown in previous bill				
							(-) 10002018/- Net value of work since previous bill (F)				
							Figure (F) in works--- Rupees				

32

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

Quantity outstanding in previous Bill	Quantity of materials brought to site previous Bill	Quantity outstanding in this Bill (Quantity brought to site previous Bill)	Full rates as assessed by the Divisional Officer	Description of Material	Unit	Contract 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
1.	2.	3.	4. Rs. Ps.	5.	6.	7. Rs. Ps.	8. Rs.	9. No. Date	10.

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 authorized, 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 column 8 show the money values of the total quantities outstanding as per column.

Shafaatullah S/E

II---Certificate and Signature
 The measurement on which are based the entries in columns 4, 5, 6, 7 of Account I were made by _____ on _____
 and are recorded at page 162-203 of Measurement Book No. 308
 That in addition to and quantities of work valued at Rs. 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.

† 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-pensurable 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 (3) that a formal agreement has been signed and executed by the contractor in accordance with Paragraph 226 (a) of the Central Public Works Accounts Code is recorded in the Divisional Office.

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

Signature
 Sub-Divisional Officer
 C&W Sub Division No:11
 Charsadda
 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

Signature

IV. Memorandum of Payment.

1	Total value of work actually measured as per Acct. I-Col. 3 Entry (a)	Rs.	Ps.
2	Total "Up-to-date" advance payments for Works actually measured, as per Acct. II-Col. 3 Entry (B)	304904	13/-
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---		

Figure of Works Abstract Rs.	Ps.	(A) From previous bill as per last Running Account Bill	Rs.	Ps.
		(B) From this bill		
		6. Balance, i.e. "Up-to-date" payment		
		7. Total amount of payments already made as per Entry (k) of last Running Account Bill No. of ... forwarded with Account No. 20	(Item 4 + 5 (K))	
		8. Payment now to be made, as detailed below		
		(i) By recovery of amounts creditable to this work:--		
		(A)		
Total 4 (b) + 7 (a) (G)				
		By recovery of amounts creditable to other works or heads of accounts.		
		(A)		
		(C) By Cheque		
Total 8 (b)+(c)		(H)		

Pass of Rs. 10002018/- (Rupees Ten Million Two Thousand and eighteen only) By Cheque

Received Rs. \$ ()

As per above memorandum on account of this work (Amount in Vernacular)

Sub Divisional Officer
C & W Survey Division
Charsadda

Dated the

II (Witness) (Full Signature of Contractor)

Paid by me, vide cheque No. dated

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)

Agreement No.

PWD 7A

33

Name of Contractor _____

Name of Work _____

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

Division: _____

Sub-Division: _____

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 the 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 for 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 Rule 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 State 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 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 Intermediary 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 vary 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 store (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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RESTORATION OF FLOOD DAMAGED ROAD FROM DHAKKI TO TOR DHER MULYANO KILLI

(5.50)

35

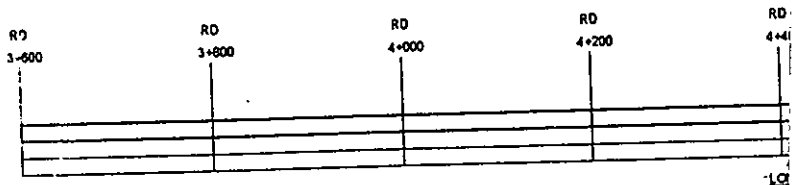
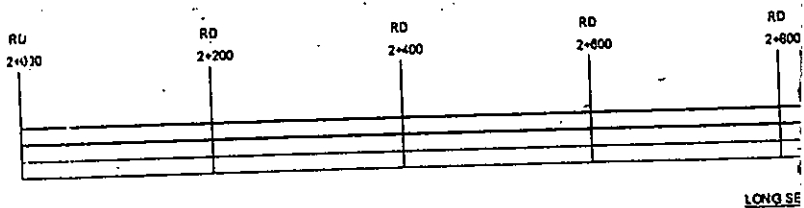
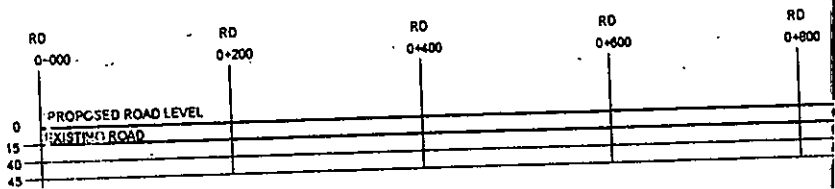
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0+600	200	2.805	2.805	561M3
0+800	200	2.805	2.805	561M3
1+000	200	2.805	2.805	561M3
1+200	200	2.805	2.805	561M3
1+400	200	2.805	2.805	561M3
1+600	200	2.805	2.805	561M3
1+800	200	2.805	2.805	561M3
2+000	200	2.805	2.805	561M3
2+200	200	2.805	2.805	561M3
2+400	200	2.805	2.805	561M3
2+600	200	2.805	2.805	561M3
2+800	200	2.805	2.805	561M3
3+000	200	2.805	2.805	561M3
3+200	200	2.805	2.805	561M3
3+400	200	2.805	2.805	561M3
3+600	200	2.805	2.805	561M3
3+800	200	2.805	2.805	561M3
4+000	200	2.805	2.805	561M3
4+200	200	2.805	2.805	561M3
4+400	200	2.805	2.805	561M3
4+600	200	2.805	2.805	561M3
4+800	200	2.805	2.805	561M3
5+000	200	2.805	2.805	561M3
5+200	200	2.805	2.805	561M3
5+400	200	2.805	2.805	561M3
5+500	100	2.805	2.805	280.5M3
TOTAL =				15967.5M3

Sub-Engineer

Sub Divisional Officer
Highway Sub Divisional
Charsadda

Executive Engineer
C&W Division
Charsadda

RESTORATION OF FLOOD DAMAGED ROAD FROM DH.



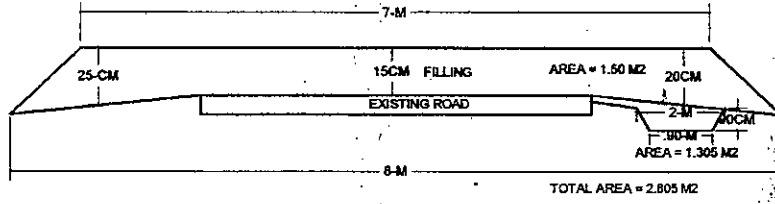
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RESTORATION OF FLOOD DAMAGED ROAD FROM DHAKKI TO TOR DHER MULYANO KILLI (3.50KM)

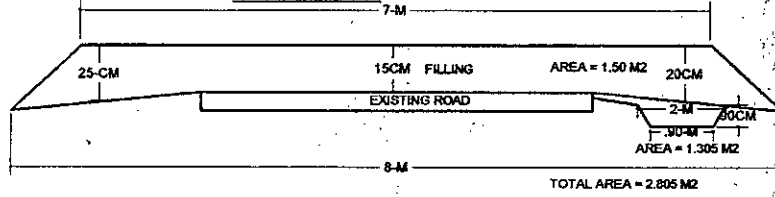
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X-Section



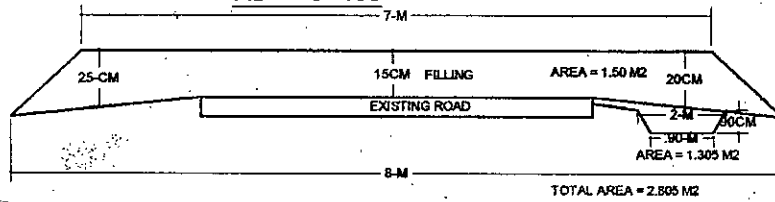
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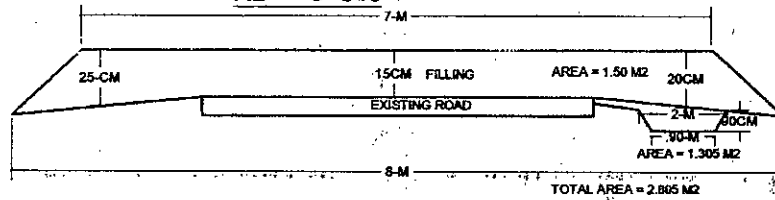
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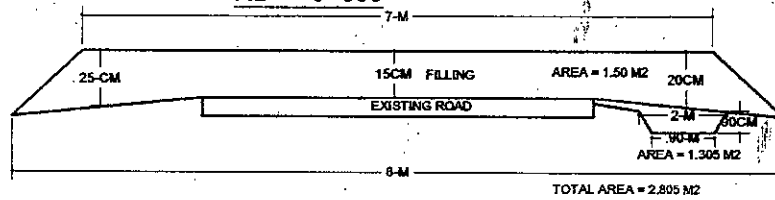
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RD 0+600



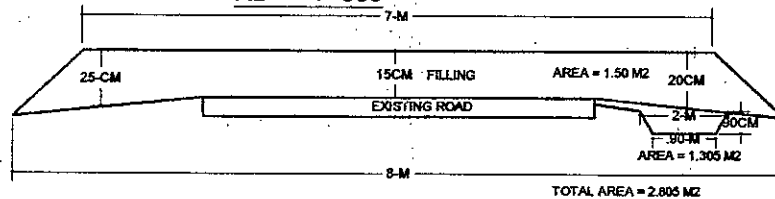
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RD 0+800



X- SECTION OF ROAD

RD 1+000



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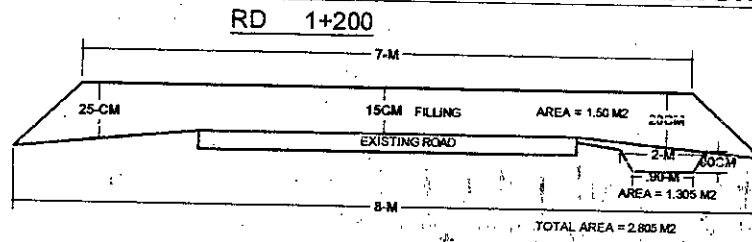
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Handwritten signature and text: Sub Engineer.

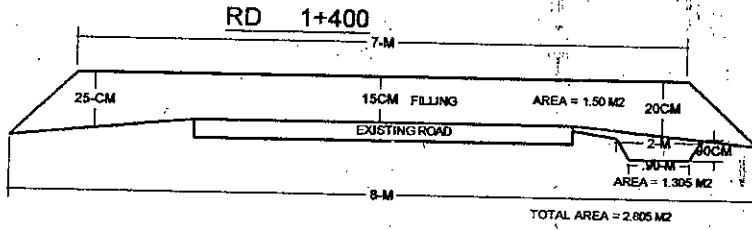
Sub Divisional Officer
Highway Sub Divisional
Charsadda

Executive Engineer
C&V Division

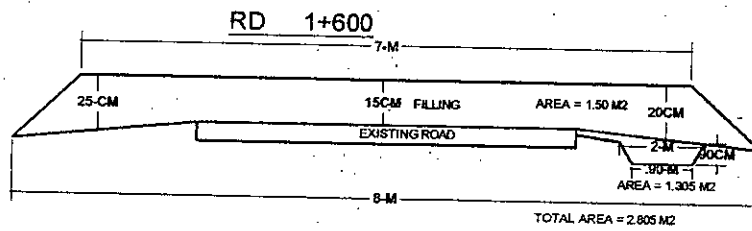
RESTORATION OF FLOOD DAMAGED ROAD FROM DHAKKI TO TOR DHER MULYANG KILLI (5.50KM)



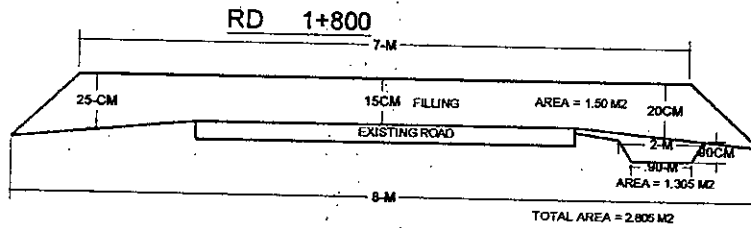
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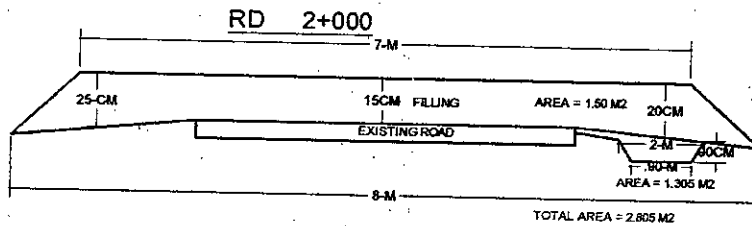
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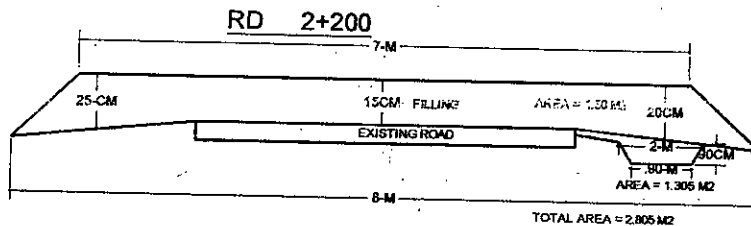
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X- SECTION OF ROAD



X- SECTION OF ROAD

Sub-Engineer

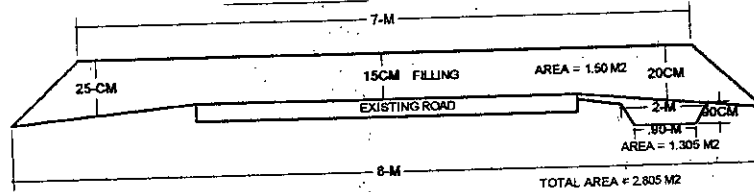
Sub Divisional Officer
Highway Sub Divisional,
Charsadda

Executive Engineer
C&W Division

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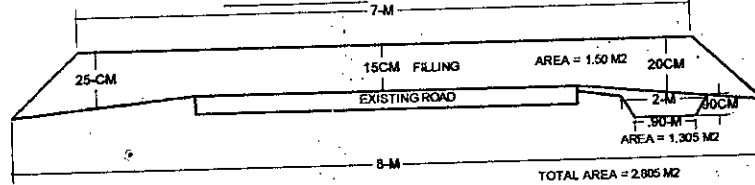
RESTORATION OF FLOOD DAMAGED ROAD FROM DHAKKI TO TOR DHER MULYANO KILLI (5.50KM)

RD 2+400



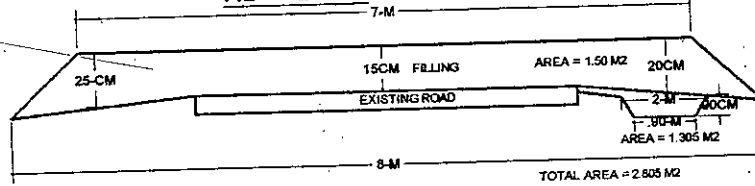
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RD 2+600



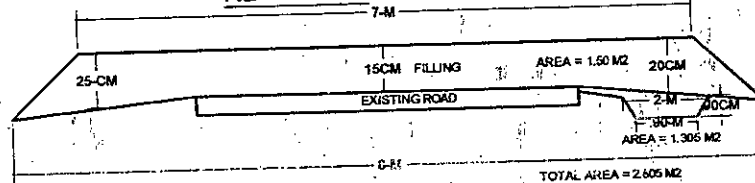
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RD 2+800



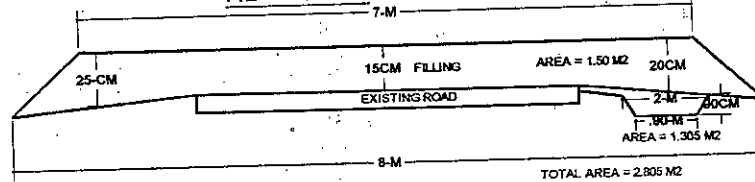
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RD 3+000



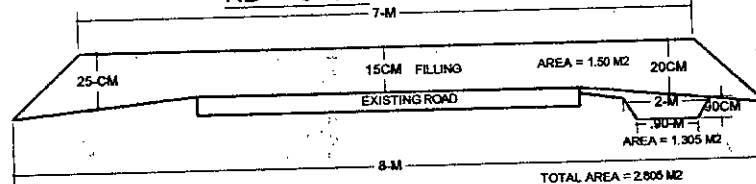
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RD 3+200



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RD 3+400



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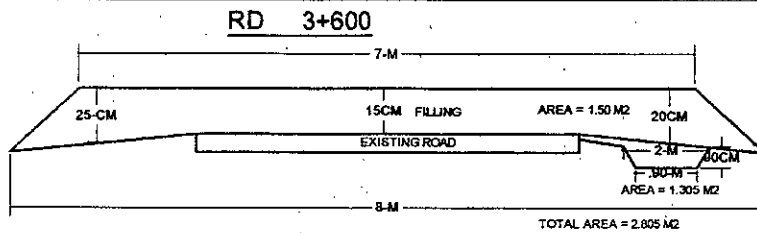
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Sub-Engineer

Sub Divisional Officer
Highway Sub Divisional
Charsadda

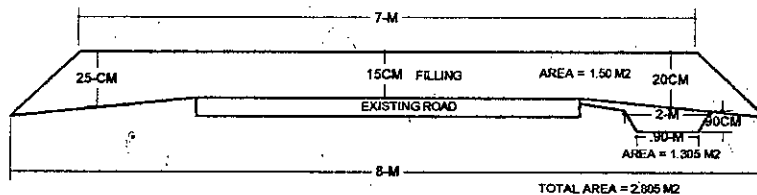
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Executive Engineer
C&W Division
Charsadda

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

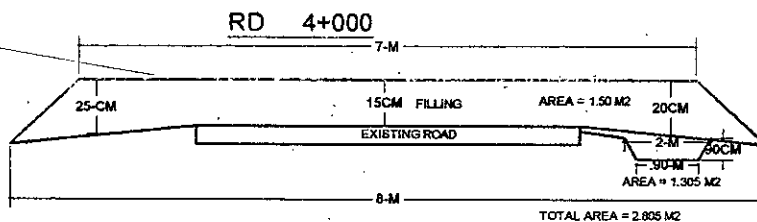
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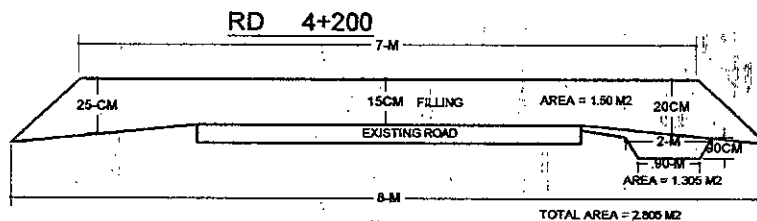
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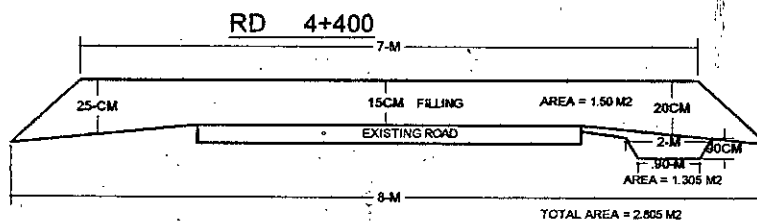
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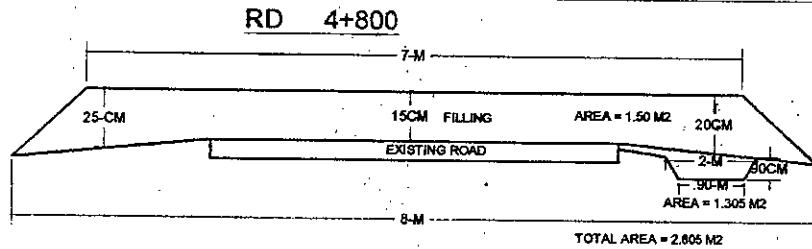
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Sub-Engineer ✓

Sub Divisional Officer
Highway Sub Divisional
Charsadda

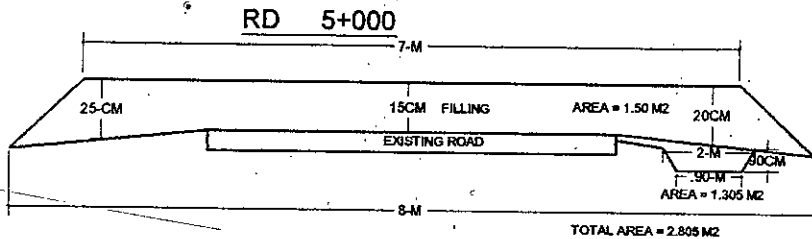
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Executive Engineer
C&W Division
Charsadda

41

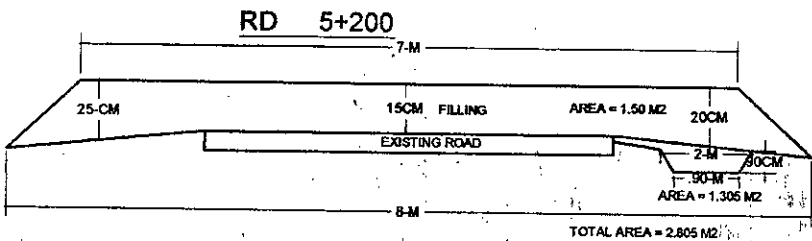
RESTORATION OF FLOOD DAMAGED ROAD FROM DHAKKI TO TOR DHER MULYANO KILLI (5.70KM)



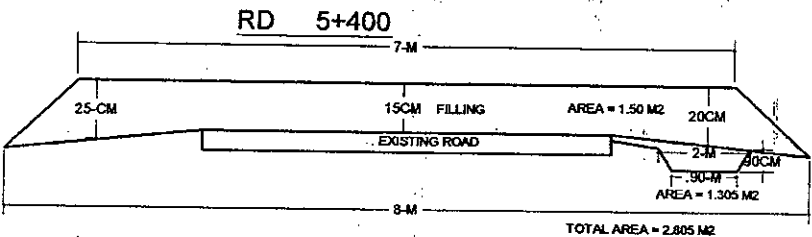
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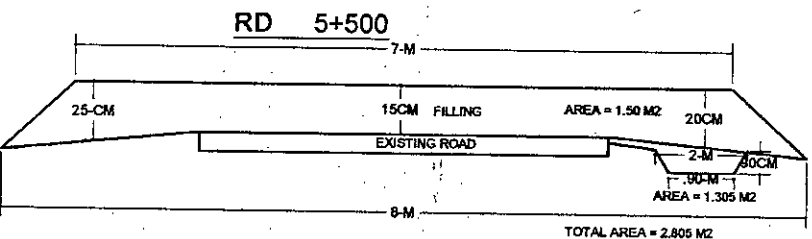
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X- SECTION OF ROAD



[Handwritten signature]

[Handwritten signature]
Sub-Engineer

[Handwritten signature]
Sub Divisional Officer,
Highway Sub Divisional,
Charsadda

[Handwritten signature]
Executive Engineer,
C&W Division,
Charsadda

42

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

SUB HEAD:- ROAD FROM DHAKKI TO TOR DHER MULYANO KILLY (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
			=	1.50
	Now Balance Sn = 2.0-1.50		=	0.50
	Design			
	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 North
Charsadda

Executive Engineer
C&W Division
Charsadda

53

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

Lab No. 16-TL1RO/PDA

Date. 15/4/2012

Client Sub Divisional Office Highway Dist. Charsadda

Ref No. _____

Date. _____

Contractor Kaseer Ali Khan & Brothers

Project Road from Dalkki - to - TorDhere Malyano Killa 5.5km

Road Site _____

R.D 5.5 KM

Test Required Slab/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 Dist: Charsadda

Ref No. _____

Date. _____

Contractor Kasim Ali Khan G. Boddhars

Project Road from Dakki-10 - TorDhara Malyano 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 Kasir Ali Khan & Brothers

Project Road from Dakri to Tor-Dheri Malpana Killi (5.5 Km)

Road Site _____

R.D. 5.5 Km

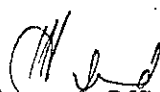
Test Required Sub/Grade

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**



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

666

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:-

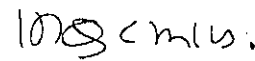
S. No	Name of work	AA Cost	T. S Amount
1.	Restoration of road formation due to heavy flood dated 27.07.2010 to 30.07.2010 in District Charsadda Non-ADP (Flood Related)	Rs. 190.512 (M) 30.11.2011 (Compact)	
	1) SH: Road from Dhakki to Tor Dher Mulyano Killy (5.50-Kms)	Rs. 36.378 (M)	Rs. 40.000 (M) (Rupees Forty Million only).
	2) SH: Road from Munda to Malta 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.


(Engr: Hidayatullah Khan)
DIRECTOR GENERAL

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.



DIRECTOR GENERAL

[Handwritten signature]

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 the security deposit to be deposited by the successful tenderer and the percentage of the amount 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 contractor is described in their tender as a firm, in which case the receipt must be signed in the name of the firm by one of partners, or by some other person having authority to give official receipts for the firm.
4. Any person who submits a tender, shall fill up the usual printed form, stating at how much one rate of percentage more or less on all schedule rates shall be handed. 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 concern 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 his representative. The Divisional Officer should 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 account or clerk for any money paid by the contractor will not be considered as any acknowledgment 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 individual contractor without having been so filled in and completed he shall require the office to have this done before the 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 State Bank of Pakistan will be accepted towards security deposit.

GENERAL RULES AND DIRECTIONS FOR THE GUIDANCE OF CONTRACTORS

PERCENTAGE ITEM RATE TENDER AND CONTRACTOR FOR WORKS

Division: _____
 Sub-Division: _____
 GOVERNMENT OF N.W.F.P.
 COMMUNICATION AND WORKS DEPARTMENT
 Name of Contractor: _____
 Name of Work: _____

PWD 7A

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Sen. Divisional Officer
 C&W Section
 Division No. II
 Channabada

[Handwritten signature]

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, windows, 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 realised 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, verify or affect the contractor's bill. 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, in 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.

Attested
Sub Divisional Officer
C & W Division No. 10
Muzaffargarh
Bill on printed form

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 any special tools and plant are supplied on loan from the Engineer-in-Charge's store (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

ATG

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 1367 OF 2014

Mr. Shafaatullah
Ex-Sub Engineer C&W 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
25.02.15

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 1367 OF 2014

Mr. Shafaatullah --- Appellant
Ex-Sub Engineer C&W Division
Charsadda

Versus

1. Govt of Khyber Pakhtunkhwa through --- Respondents
Chief Secretary, Peshawar
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

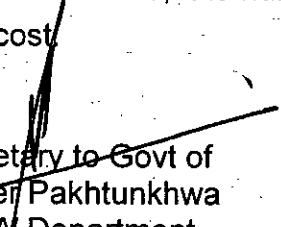
for personal hearing. Therefore, the Competent Authority was afforded an opportunity for detailed hearing in the presence of C&W Department representative on 20.08.2014. But he did not bring any fact or point of law afresh. After the referred personal hearing, the Competent Authority imposed major penalty 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

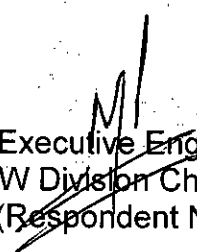
Grounds

- 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-1A

CHARGE SHEET

Whereas, I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, charge you, Shafaat Ullah, Sub Engineer (BS-11) C&W Department, presently working as Sub Engineer C&W Division Charsadda.

"That you while posted, as Sub Engineer C&W 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

(B) ANNEX-B

DISCIPLINARY ACTION

I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Shafaat Ullah, Sub Engineer (BS-11) C&W Department, presently working as Sub Engineer C&W 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 Sub Engineer C&W 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 Aridi, ADC, Peshawar.
- ii. Engs. Mohammad Iqbal Sheh, Dir. PKWA.

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-11

Subject: TOR DHER ROAD TEHSIL TANGI DISTRICT CHARSADDA

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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(12)

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.

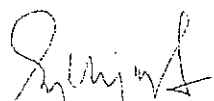
The required quality control tests, were not carried out during construction which puts the quality of work in doubt, as such, beneficial use of public money has not been warranted.

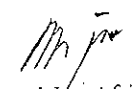
In view of the above, the allegations framed are partly proved.

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

ANNEX-III

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

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



TO

Mr. Shafaatullah
Sub Engineer
C&W 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.

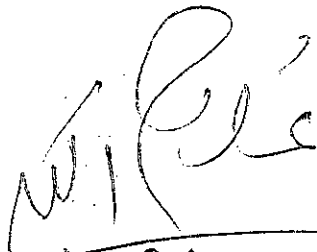
2. You are directed to submit your reply, if any, **within 7 days of the delivery of this letter**, otherwise, it will be presumed that you have nothing to put in your defence and ex-party action will follow.
3. You are further directed to intimate whether you desire to be heard in person or otherwise.


(USMAN JAN)
SECTION OFFICER (Estb)

Endst even No. & date

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


SECTION OFFICER (Estb)



9/5

17

(15) AMEX-10

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. Shafaatullah, Sub Engineer (BS-11) C&W Department; presently working as Sub Engineer O/O XEN C&W 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 Sub Engineer O/O XEN C&W 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.

Amjad
(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:

No. SOE/C&WD/18-27/2013: 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

End 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 IZAN)

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. Shafatullah
The then Sub Engineer
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. 1367 OF 2014

Mr. Shafaatullah --- Appellant
Ex-Sub Engineer C&W Division
Charsadda

Versus

1. Govt of Khyber Pakhtunkhwa through --- Respondents
Chief Secretary, Peshawar
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

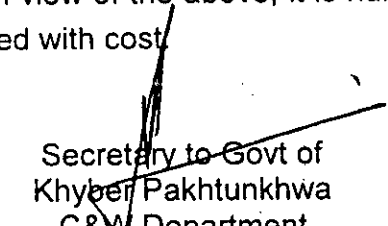
for personal hearing. Therefore, the Competent Authority was afforded an opportunity for detailed hearing in the presence of C&W Department representative on 20.08.2014. But he did not bring any fact or point of law afresh. After the referred personal hearing, the Competent Authority imposed major penalty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

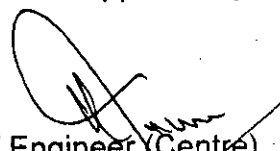
7. As per record his departmental appeal processed and submitted to Competent Authority (Chief Minister) for order, who rejected his departmental appeal and accordingly informed the appellant on 10.11.2014 (Annex-V).
8. Incorrect, as explained in para 2 & 6 above
9. No comments
10. Incorrect, the impugned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

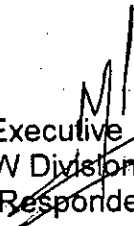
Grounds

- 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)

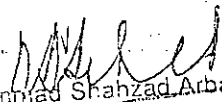
ANNEX-I

CHARGE SHEET

Whereas, I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, charge you, Shafaat Ullah, Sub Engineer (BS-11) C&W Department, presently working as Sub Engineer C&W Division Charsadda.

"That you while posted, as Sub Engineer C&W 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

DISCIPLINARY ACTION

I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Shafaat Ullah, Sub Engineer (BS-11) C&W Department, presently working as Sub Engineer C&W 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 Sub Engineer C&W Division Chasadda committed the following irregularities in the work "Tor Dher Road Tehsil Tangi, District Charsadda":

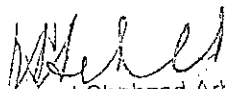
- i. He made an advance payments amounting to Rs.10,002,017/- (which were recovered through TEO) to the contractor without execution of road and structure works for this act of omission it was presumed to be a huge corruption and loss to the government exchequer.
- ii. He has not conducted joint survey 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. Amjad Tan Afridi, ADC, Peshawar.
- ii. Engr. Mohammad Iqbal Sheh, Div. PKWA.

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

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 me, 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

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 31/5/2014 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.

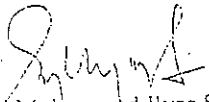
The required quality control tests, were not carried out during construction which puts the quality of work in doubt, as such, beneficial use of public money has not been warranted.


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



ANNEX-III

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

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

TO

Mr. Shafaatullah
Sub Engineer
C&W 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-parte 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

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. Shafaatullah, Sub Engineer (BS-11) C&W Department; presently working as Sub Engineer O/O XEN C&W 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 Sub Engineer O/O XEN C&W 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.


(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:

No.SOE/C&WD/18-27/2013: 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. Iqbalullah 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

End 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 KHAN)
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. Shafatullah
The then Sub Engineer
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)