

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	13.04.2017	<p style="text-align: center;"><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Appeal No. 81/2014</p> <p style="text-align: center;">Nadir Khan Versus The Chief Minister, Khyber Pakhtunkhwa, Peshawar and three other.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>AHMAD HASSAN, MEMBER:-</u> Counsel for the appellant and Mr. Ziaullah, Government Pleader alongwith Mr. Sultan Shah, Assistant for respondents present.</p> <p>2. Nadir Khan, hereinafter referred to as the appellant has preferred the instant service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 read with Rule-19 of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 against the order/notification no. SO(E-I)E&AD/9-128/2013 dated 21.11.2013 vide which major penalty of "Compulsory Retirement from service" was imposed on the appellant and subsequently his review petition filed under Rule-17 of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 was also dismissed vide letter dated 06.01.214.</p> <p>3. Brief facts of the case giving rise to the instant appeal are that the</p>

appellant was appointed as Care Taker (BPS-16) in defunct Frontier House Islamabad now Khyber Pakhtunkhwa House, Islamabad in 1994 and was subsequently appointed as Comptroller(BPS-17) vide order dated 07.11.1996. He was promoted to BPS-18 vide notification dated 28.0.2004. On account of unauthorized allotment of room to Mr. Waqar Khan disciplinary proceedings were initiated against him which culminated in imposition of major penalty of compulsory retirement from service on the appellant, against which he preferred departmental appeal which was rejected vide letter dated 06.01.2014, hence the instant service appeal on 16.01.2014.

4. Learned counsel for the appellant argued that on 30.04.2005 the then Chief Minister, Khyber Pakhtunkhwa, Mr. Akram Khan Durani verbally directed the appellant to make arrangements for stay of son in law/ nephew of senator Baz Muhammad Khan, working as Sub Engineer in Capital Development Authority, Islamabad in defunct Frontier House Islamabad, now Khyber Pakhtunkhwa House. Directions of the Chief Minister were conveyed on the same day to Mr. Liaqat, Junior Clerk, Estate Office, Administration Department, who reserved Room No.12 Old Block for the above guest. Mr. Waqar Khan stayed in the room for 850 days w.e.f 01.06.2005 to 28.08.2007 and 10.03.2008 to 10.07.2008. When the new Government came in the then Chief Minister, Mr. Amir Haider Khan Hoti called the appellant and verbally directed him that a room may be reserved for Mr. Waqar Khan. Again these orders were communicated to the Estate Officer and Room No. 21 was reserved and compliance report was submitted to the Chief Minister. He stayed there for 123 days. Mr. Rahim Khan, the then Deputy Secretary/Additional Secretary, Administration Department taking notice of long stay of the above guest wrote a letter to him to immediately vacate the room and clear all dues. He vacated the room but did not clear the outstanding dues. The Estate Officer was fully aware of the allotment of this room and it was never allotted to any other guest

during the aforementioned period. This issue was also discussed in the Departmental Accounts Committee meeting chaired by the Secretary Administration Department and Estate Officer was directed to write a letter to the Capital Development Authority for recovery of dues outstanding against Mr. Waqar Khan. That Estate Officer remained silent but the appellant approached the Deputy Director, Road Division-V C.D.A, Islamabad vide letter dated 01.08.2009 for recovery of outstanding dues. A letter was also sent to Member Administration C.D.A, Islamabad wherein relevant record pertaining to his stay was also provided, so as to compel him to make payment. He also requested the high ups of the Administration Department to allow him to lodge a criminal case against Mr. Waqar Khan but permission was not granted. He also sent a letter to the PSO to the Chief Minister on 27.09.2012 for recovery of outstanding dues but in return was informed that the said room was declared as Sub Camp Office of the Chief Minister and was used for holding meetings regarding repair work being carried out in the Chief Minister's Annexe. As Waqar Khan was helping in the carrying out repair work while staying in the room so he should not be asked to pay the room rent/dues. In the last Public Accounts Committee held on 01.10.2012, the Secretary Administration was directed to lodge FIR against the defaulter for recovery of outstanding dues but needful was not done. Learned counsel for the appellant also highlighted personal grudges of Mr. Hifz-ur-Rehman, former Secretary Administration against the appellant which have already been explained in detail in the written reply of the appellant to the Charge Sheet and Statement of Allegations served on him. The appellant in his written defence raised pertinent points about the performance of the then Secretary Administration but it was quite strange that his statement was not recorded by the inquiry committee constituted to probe this case, hence, ends of justice were not met. Similarly Mr. Qaiser Alam directed him to make sure that the stay of the aforementioned remained comfortable but his statement was also not recorded by the enquiry committee.

In the enquiry report Mr. Liaqat Ali, Junior Clerk, Estate office in his statement admitted that Room no. 12 Old Block were reserved on the verbal directions of the former Chief Minister received through the appellant. The statement of Mr. Liaqat Ali that the record of reservation including room allotted to Mr. Waqar Khan had already been weeded out, being an old one was just a lame excuse, to save his skin and hush up the case. Inquiry committee should have probed this point, whether instructions for weeding out old were followed and any proof in black and white was available on record? Allotment of room in the Pakhtunkhwa House Islamabad was the responsibility Estate Officer. In the recommendations given by the enquiry committee action was required to be taken against the Estate Officer and other staff but no action whatsoever was taken against them. As such it amounts to discrimination and violation of Article-25 of the Constitution of Islamic Republic of Pakistan, 1973. The competent authority while disposing off his departmental appeal dated 28.11.2013 failed to pass speaking order in contravention of Sec-24-A of the General Clauses Act, 1897. Reliance was placed on 1991 SCMR 2330, 2002 YLR 2209 Peshawar.

5. Learned Government Pleader, on the contrary argued before the Tribunal that the appellant never denied that he had allowed Mr. Waqar Khan to stay in Khyber Pakhtunkhwa House Islamabad. All codal formalities before imposition of penalty were adopted. The appellant was rightly awarded major penalty of compulsory retirement. He stated that the appeal being devoid of any merits may be dismissed.

6. We have heard arguments of learned counsel for the appellant and learned Additional Advocate General for the respondents and have gone through the record available on file.

7. Having gone through the record it transpired that on the verbal directions of two former Chief Ministers, Khyber Pakhtunkhwa, Mr. Akram Khan Durrani and Mr. Amir Haider Hoti a room was provided in defunct Frontier House, now Khyber Pakhtunkhwa House, Islamabad to Mr. Waqar Khan, Sub-Engineer Capital Development Authority Islamabad, who also happened to be the Son-in-law/Nephew of Senator Baz Muhammad Khan. The appellant conveyed directions of the Chief minister to Mr. Liaqat, Junior clerk, Estate Officer Administration Department, who reserved Room no. 12 Old Block and Room no.21 for the said guest. He stayed there for 850 days w.e.f 1-6-2005 to 28-8-2007 and 10-3-2008 to 10-7-2008. It is clear beyond doubt that the Estate office was fully in picture and this fact is further substantiated that the room in question was never allotted to any other guest during the aforementioned period. The issue also came under discussion in the meeting of the Departmental Accounts Committee held under the Chairmanship of Secretary Administration, it was decided that the Estate Officer should write a letter to the Capital Development Authority, Islamabad for recovery of dues outstanding against Mr. Waqar. The Estate Officer kept mum over it, rather it was the appellant who wrote a letter to the Deputy Director, ROAD Division-V, Islamabad vide letter dated 1-8-2009 for recovery of dues. A letter was also sent to the Member Administration CDA Islamabad for the same purpose. The appellant also sought permission for registering a criminal case against the above mentioned person but was not allowed by the high ups of the department.

8. A letter was also sent by the appellant to the PSO to the Chief Minister on 27-9-2012 for recovery of outstanding dues, but was informed that said room was declared as Sub-Camp Office of the Chief Minister and was used for holding meetings regarding repair work being carried out in the annexe of the Chief minister. As Mr. Waqar Khan was helping in carrying out the repair work while staying in the room so he should not be asked to pay the dues. In the

Public Accounts Committee meeting held on 1-10-2012, the then Secretary Administration was directed to lodge and FIR against the defaulter for recovery of Government dues but no FIR was lodged. Hence, the former Secretary owes an explanation for defying orders of the august forum of Provincial Assembly.

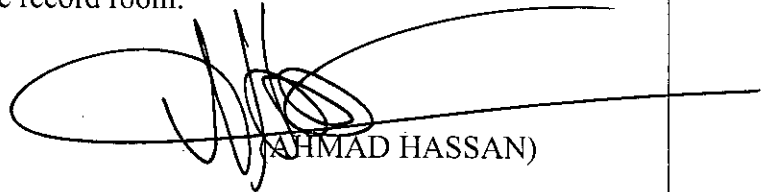
9. The appellant in his written defence before the enquiry committee not only gave a complete background but also vividly highlighted instances of personal grudges of Mr. Hifz-ur-Rehman, former Secretary Administration against him. Numerous allegations of irregularities committed by him were leveled but for reasons best known to the enquiry committee, his statement was not recorded. In his statement, Mr. Liaqat Junior Clerk Junior, Estate Office admitted that Room no. 12 old block was reserved on the verbal directions of the Chief Minister received through the appellant for Mr. Waqar Khan. When confronted on the point of producing record of reservation, he pointed out that it was weeded out being quite old. It was a naïve attempt on the part of the official to save his skin and hush up the matter. The enquiry committee should have asked for providing approval given by the competent authority for destruction/weeding out old record. Meaningful silence of the inquiry committee on this score has given rise to many questions for which inquiry committee owe an explanation. Despite the fact that allotment of room in Pakhtunkhwa House, Islamabad was the responsibility of the Estate officer, as per Government Khyber Pakhtunkhwa Rules of Business, however, despite recommendations of the enquiry committee no action was taken against the Estate officer and his staff. As such it tantamount to discrimination and is against the spirit of Article-25 of the 1973 constitution.

10. Attention is also invited to para-11 of the enquiry report, wherein it is mentioned that documentary proof of allotment of room number 21 old block on the directions of the PSO to Chief Minister and its declaration as Sub Office

of the CM was not available on record. However, letter number PSO/CM/KP/1-37/2011 dated 27-9-2012 is available on record. As such findings of the enquiry committee were not fair. Glaring contradictions in the findings of the enquiry report were noticed. In Para-F the enquiry committee held that Estate officers posted during this period did not have the courage to raise this issue and obtain orders of the competent authority. They remained tight lipped. They went on to say that the Estate officers committed criminal negligence and were "hand in glove" to cover up and accommodate blue eyed people. Similarly, in Para-i they also conceded that it was not the first incident of prolong stay of its kind but countless cases were brushed under the carpet in the past. While weighing these observations of the enquiry committee, we have no hesitation in saying that serious charges were leveled against the Estate Officer and sub ordinate staff but they were not brought to justice, which made the entire saga questionable and against the principles of natural justice. We also failed to comprehend that despite best efforts of the appellant for recovery of outstanding dues the enquiry committee in Para-j of the findings opined that the charge of loss of Rs. 850000/- caused to the public exchequer was established/proved against Mr. Nadir khan(appellant). To highlight the contradictory stance of the enquiry committee attention is invited to para-H, wherein it was mentioned that directions of Public Accounts Committee were not taken seriously and the accused officer was left alone to write to the Capital Development Authority Islamabad for the recovery of room rent outstanding against Mr. Waqar khan. They went on to say that basically it was the responsibility of the Principal Accounting Officer to have written and taken up the issue at senior level with the Capital Development Authority, Islamabad. Our counter observation would be, did anybody tie the hands of the then Secretary Administration from taking up this issue with the quarters concerned? The record is sufficient to prove that he deliberately avoided taking appropriate action, despite directions of the Public Accounts Committee.

Silence of the enquiry committee on this important aspect of the case and letting the Secretary Administration off the hook, gives a loud message about their conduct, mode and manner in which enquiry proceedings were conducted, as a whole.

11. In view of the foregoing, we are constrained to set-aside the impugned order dated 21.11.2013 and 06.01.2014 and reinstate the appellant in service from the date of dismissal. The respondents are directed to conduct de-novo inquiry strictly in the mode and manner prescribed in the rules and conclude the inquiry within three months from the date of receipt of this judgment. Issue of payment of back benefits may be decided in the light of the findings of the de-novo inquiry. In case inquiry proceedings are not concluded within the stipulated period, the appellant shall be deemed to have been reinstated into the service from the date of dismissal. Parties are, however, left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)

MEMBER



(MUHAMMAD AMIN KHAN KUNDI)

MEMBER

ANNOUNCED

13.04.2017

18.08.2016

Counsel for the appellant and Mr. Sultan Shah, Supdt. alongwith Mr. Ziaullah, GP for respondents present. Learned GP requested for adjournment. To come up for arguments on 24.10.2016.


Member


Member

24.10.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Requested for adjournment. To come up for arguments on 29.12.2016 before D.B.


Member


Chairman

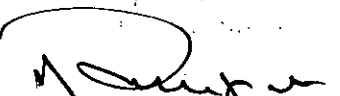
29.12.2016

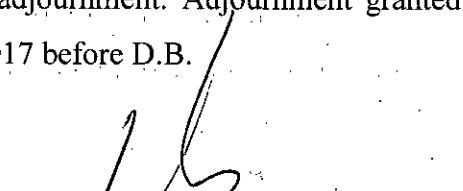
Counsel for the appellant and Mr. Murad Khan, Supdt. alongwith Addl. AG for respondents present. Arguments could not be heard due to incomplete bench. Case adjourned to 02.03.2017 for arguments before D.B.


Chairman

02.03.2017

Appellant with counsel and Mr. Sultan Shah, Assistant alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Learned counsel for appellant seeks adjournment. Adjournment granted. To come up for arguments on 13.04.2017 before D.B.


(ASHFAQUE TAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER


02.02.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. The learned member (Executive) is on official tour to Swat. Therefore, the case is adjourned to 13.4.16 for arguments.


MEMBER


~~13~~ 04.2016


Appellant with counsel and Mr. Sultan Shah, Assistant alongwith Mr. Muhammad Jan, GP for respondents present. Due to shortage of time therefore, arguments could not be heard. To come up for arguments on 7.6.2016.



Member


Member

07.06.2016

 Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Learned GP requested for adjournment. Last opportunity is given for arguments. To come up for arguments on 18.8.2016.


Member


Member

8.05.2015

Appellant with counsel and Mr. Sultan Shah, Assistant alongwith Assistant AG for respondents present. Written reply submitted, copy whereof is handed over to the learned counsel for the appellant. To come up for rejoinder and arguments on 17.9.2015.


Member

17.09.2015

Appellant with counsel and Mr. Ziaullah, GP for respondents present. Learned counsel for the appellant stated that respondent-department may be directed to produce the Daily Reservation Chart of KPK house Islamabad for the period from 2005 to 2008. To come up for said record on 30-10-15.


MEMBER


MEMBER

30.10.2015

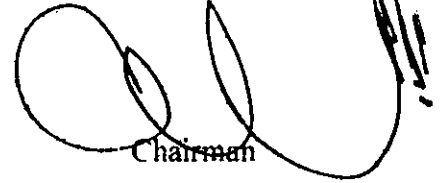
Appellant with counsel and Mr. Sultan Shah, Assistant alongwith Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to paucity of time. To come up for arguments and record on 2-2-16.


Member


Member

8.9.2014

Appellant in person and Mr Sultan Shah, Assistant on behalf of respondents with Mr Ziaullah, GP present. Written reply has not been received, and representative of the respondents requested for further time. Another chance is given for written reply/comments on 2.1.2015.



Chairman

02.01.2015

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for written reply/comments on 27.02.2015.



Reader.

27.02.2015

Appellant in person and Mr. Zulfiqar Ali Khan, Addl. Secretary on behalf of respondents No. 2 to 4 along with Addl. A.G for respondents present. Requested for adjournment. Last opportunity is granted for written reply/comments. Adjourned to 8.5.2015 before S.B.



Chairman



3.

11.03.2014

Appellant Deposited
Security & Process Fee
Rs. 2000/- Bank
Receipt is Attached with File.

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the order dated 21.11.2013, he filed departmental appeal on 28.11.2013 which has been rejected on 03.01.2014, hence the instant appeal on 16.01.2014. He further contended that the impugned rejection order dated 03.01.2014 is not a speaking order and no reason has been given. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents for submission of written reply/comments on 28.05.2014.

Member

4.

11.03.2014

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

Chairman

28.5.2014



Appellant in person and Mr. Sultan Shah, Assistant for respondents with AAG present. Mr. Muhammad Asif Yousafzai, Advocate filed fresh Wakalat Nama on behalf of the appellant. Written reply has not been received on behalf of the respondents, and request for further time made on their behalf. To come up for written reply/comments, positively, on 8.9.2014.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 81/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	16/01/2014	<p>The appeal of Mr. Nadir Khan presented today by Mr. Waseem-ud-Din Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	21-1-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>11-3-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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

Service Appeal No 81 /2014

Nadir Khan-----Appellant

Versus

The Chief Minister & others-----Respondents

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Nadir Khan (Appellant)

Through



Wasseem-ud-Din Khattak

Advocate Supreme Court of Pakistan
Office: Qissa Khwani Bazaar, Peshawar.
0333-9400366, 091-213728

Dated: 15-01-2014

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

Service Appeal No 81 /2014

Nadir Khan S/O Syed Afzal Khan
(Ex: Comptroller BPS-18, KPK House, Islamabad)

P.W. J. Peshawar
No. 81
Date 16-01-2014

R/O Sukar, Tehsil & District Charsadda-----**Appellant**

Versus

1. The Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. The Govt of KPK through Chief Secretary, Peshawar
3. The Secretary (Admin) Govt of Khyber Pakhtunkhwa, Peshawar
4. The Secretary (Estab) Govt of Khyber Pakhtunkhwa, Peshawar

-----**Respondents**

APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL
ACT, 1974 R/W RULE-19 OF KPK GOVERNMENT
SERVANTS (E&D) RULES, 2011 AGAINST THE
ORDER/NOTIFICATION NO. SO(E-I)E&AD/9-128/2013
DATED 21-11-2013 VIDE WHICH MAJOR PENALTY OF
"COMPULSORY RETIREMENT FROM SERVICE" HAS
BEEN IMPOSED ON THE APPELLANT AND
SUBSEQUENTLY HIS REVIEW FILED UNDER RULE-17 OF
KPK GOVERNMENT SERVANTS (E&D) RULES, 2011 HAS
BEEN DISMISSED VIDE LETTER DATED 06-01-2014

LSO
16/1/2014

Respectfully Sheweth:

The appellant humbly submits;

- A. That, the Appellant was appointed as Care Taker (BPS-16) on 24th July, 1994, purely, for Frontier House, Islamabad (now called as Khyber Pakhtunkhwa House) vide notification No. SO(E) C&W/1-9/94, copy of which is annexed-"A" at page-18.

- B.** That, on 7th November, 1996, after rendering satisfactory service, the competent authority after due approval of the Departmental Selection Committee promoted/appointed the appellant as Comptroller (BPS-17), KPK House, Islamabad vide notification No. SOS-II (S&GAD)8(160) 96-P.II, copy of which is annexed-**"B"** at page-19.
- C.** That, on 28th April, 2004 as a reward for best service and efficiency, the competent authority after consultation/approval of the provincial selection Board, promoted the appellant to BPS-18 (as personal to him) vides Notification No. E&A(AD)4(104)/2004, copy of which is annexed-**"C"** at page-20.
- D.** That, the appellant was served with Charge Sheet & statement of allegations issued vide No. SOB(AD)15(34)PAC/2009-10/Vol-II dated 19-06-2013 and consequently disciplinary action was initiated by constituting an enquiry committee. Copies of both the aforementioned documents are annexed-**"D"** & **"E"** respectively at page-21 & 22.
- E.** That, in response of the above, the appellant submitted his reply to the enquiry committee, copy of which is annexed-**"F"** at page-23 to 30.
- F.** That, the enquiry committee submitted its report to the Competent Authority with the recommendation of effecting recovery from the delinquent officer namely Mr. Waqar Khan, lodging of FIR and initiating of disciplinary action against him and others posted at Estate Office, while imposing of Major Penalty of **"Compulsory Retirement"** was recommended against the appellant. Copy of enquiry report is annexed-**"G"** at page-31 to 35.
- G.** That, upon the recommendation of the enquiry committee, the appellant was served with Show Cause Notice, copy of which is annexed-**"H"** at page-36.

H. That, the appellant furnished his reply to the Competent Authority i.e. the Hon'ble CM, copy of which is annexed-"I" at page-37 to 46.

I. That, thereafter the competent authority recommended imposing of Major Penalty of "Compulsory Retirement" on the appellant. Copy of the impugned notification No.SO(E-1)E&AD/9-128/2013 is annexed-"J" at page 47.

J. That, the appellant preferred Review/appeal under Rule 17 to the competent authority, copy of which is annexed-"K" at page-48 to 60

K. That, the competent authority dismissed the Review/appeal of the appellant vide notification, copy of which is annexed-"L" at page-61.

HISTORY:

I) That, on 30-04-2005 the then Chief Executive/Chief Minister KPK Mr. Akram Khan Durrani verbally directed the appellant to make arrangement for the stay of the son-in-law/Nephew of Senator Baaz Muhammad Khan namely Mr. Waqar who was an employee (sub-engineer) of CDA, Islamabad.

II) That, the appellant, having no domain over the reservation/allotment of rooms/accommodation to any one, telephonically communicated the directives of the then CM on the same day to Mr. Liaqat, who gave feedback to the appellant that Room No 12, old block had been reserved for the said Mr. Waqar, guest of the then Hon'ble CM.

III) That, the appellant communicated the compliance report to the then CM that the Estate office had reserved Room No.12 old block for his (CM's) guest and then on 01-05-2005 Mr. Waqar arrived.

IV) That, the Audit Party during the course of audit for the year 2007-08 pointed out that an amount of Rs. 1,23,000/- be recovered from the

said Mr. Waqar on account of his stay for the period w.e.from 10-03-2008 to 10-07-2008 (123 days) @ Rs.1000/- per night. Copy of the relevant Audit Para is annexed-"M" at page-62.

V) That, for affecting the said recovery, the appellant wrote a letter to the PSO of the then Hon'ble CM, copy of which is annexed-"N" at page-63.

VI) That, in response of the above letter the appellant was restrained from affecting any recovery from Mr. Waqar with the observation that *"the said room was declared as sub camp office of the Hon'ble CM w.e.from 10-03-2008 to 10-07-2008 as some repair work was being carried out in CM annex. The room was used for holding meetings and consultations. The same room was in custody of Waqar Khan, Sub-Engineer for upkeep and cleanliness"* Copy of the said letter is annexed-"O" at page-64.

VII) That, in the DAC (Departmental Account Committee) meeting, Chaired by Arbab Shah Rukh Khan, the then Secretary Administration, directed the Estate officer to write a letter to Capital Development Authority (employer of the said Waqar Khan) for the recovery of dues against Waqar Khan, but no one exhausted this responsibility, for reasons best known to him/them, rather the appellant approached the immediate boss of the said Mr. Waqar i.e. to the Deputy Director, Road Division-V, CDA, Islamabad vide letter No. **Comt (FH)/2009** for the recovery of the subject dues and in reply to the above the said Deputy Director conveyed written statement/letter of Mr. Waqar in which he (Mr. Waqar) denied any stay at KPK House, Islamabad. Copies of both the letters are annexed-"P" at page-65 & 66.

VIII) That, thereafter the appellant again approached the said Deputy Director CDA for the said recovery by communicating the decision taken by the DAC meeting dated 06-01-2010 and had also written a letter to the Member Administration & Establishment (CDA)

vide letters, copies of which are annexed-"Q" at page-67 to 70, followed by reminders, copies of which are annexed-"R" at page-71 & 72.

- IX) That, as mentioned earlier, that knowledge of the Estate Office and other responsible personnel about the stay of Mr. Waqar Khan at KPK House, Islamabad is evident from the fact that during his stay, the room occupied by the delinquent official (Mr. Waqar) was never ever allotted to any other occupant during the under reference period i.e. w.e.from 01-05-2005 to 28-08-2007 (850 days) and again w.e.from 10-03-2008 to 10-7-2008 (123 days).
- X) That, the appellant, time and again, in a chain of letters requested the Estate office and Administration for taking disciplinary, civil and criminal proceedings against the said Mr. Waqar, but none from the responsible initiated the same. For ready reference a self-explanatory letter of the appellant is annexed-"S" at page- 73 to 75.
- XI) That, the appellant through written communication requested his high-ups for granting authorization to initiate criminal proceedings against the delinquent official (Mr. Waqar), but to the utmost surprise, till date the same has not been granted and even Mr. Hifz-ur-Rehman, the then Secretary Administration, failed to take step in this regard, being politically motivated. Copy of the said letter is annexed-"T" at page-76.
- XII) That, in the last Public Account Committee (PAC) meeting chaired by Mr. Zameen Khan, the then MPA, held on 1-10-2012, the then Secretary administration, Mr. Hifz-ur-Rehman was asked to lodge an FIR against the defaulter (Mr. Waqar) for the said recovery but Mr. Hifz-ur-Rehman was reluctant and failed to proceed legally against him (Mr. Waqar) for the recovery of dues despite the express direction of the PAC.

XIII) That, as mentioned above that the said Mr. Waqar flatly denied any stay at KPK House and it was the appellant who proved his stay by different records like, telephones records register, which shows his telephone communications with his family and friends during his stay at KPK House, Islamabad, copies of which are annexed-"U" at page-77 to 87.

XIV) That, the appellant has also further proved stay of the said Mr. Waqar by getting sworn affidavits of the concerned staffs (supervisory as well as telephone operators and waiters) on judicial stamp papers, confirming his (Mr. Waqar Khan) stay at KPK House, Islamabad, copies of which are annexed-"V" at page-88 to 99.

BACKGROUND:

In order to show the mal-treatment, hostile posture and discrimination at the hands of high-ups/real culprits, the appellant wants to humbly submit the background and facts of the case;

1. That, the present charge sheet is actuated by the personal grudge and vengeance of Mr. Hifz-ur-Rehman, the then Secretary Administration. On April 21, 2012 the Assistant Comptroller KPK House Islamabad namely Muhammad Razaq Khan informed the appellant that Mr. Habibullah, PS to Ex: Chief Secretary wants to waive-off the outstanding dues of Rs. 50,000 against Mr Zulfiqar Ali Shah for using different rooms in the KPK house, Islamabad for which the appellant did not agree and wrote a letter on 21-4-2012 to the Estate officer (Admin) for guidance and instructions in the matter and sent a copy of the letter to the said Mr. Hifz-ur-Rehman, the Secretary Administration. When the above mentioned Zulfiqar Ali Shah checked out without clearing the dues of Rs. 50,000 and in this regard the appellant again wrote a letter to the Estate officer (Admin), the concerned authority, requesting there in, for clearing of the said outstanding dues, or the case be put up to the competent authority for its writing-off so that audit objection be removed/avoided and the copy of the letter, too; was sent to

Mr. Hifz-ur-Rehman, the Secretary Administration. Copies of both letters are annexed-"W" at page-100 & 101.

2. That, the appellant's insistence and pursuance for recovery of government dues was not liked by Mr. Hifz-ur-Rehman, the then Secretary Administration and he got annoyed with the appellant and with heavy heart he asked Mr. Abid, cashier Administration Department to make payment of Rs. 50,000 out of his own pocket and later on get his self compensated while making purchase for KPK House Islamabad which he accordingly did. An amount of Rs 2.2 million was drawn from the Treasury for purchase of various items like blankets, bed sheets, utensils etc for the KPK House, Islamabad but the total purchasing hardly exceeds Rs 800,000 and rest of the money was embezzled and pocketed by the then "honest" Secretary Administration (Mr. Hifz-ur-Rehman), which need a separate inquiry and probe.
3. That, due to the above mentioned facts, Mr. Hifz-ur-Rehman developed a personal grudge against the Appellant and in retaliation on 16th April, 2013 Mr. Hifz-ur-Rehman put-up a summary, with some speculative/perverse allegations, to the then Hon'ble Caretaker Chief Minister, KPK, for transfer of the appellant, which was returned by the Hon'ble Chief Minister un-approved with certain remarks, attested copy of which is annexed-"X" at page-102.
4. That, on 14th June, 2013, Mr. Hifz-ur-Rehman by overriding the order/remarks of the then Hon'ble Caretaker Chief Minister, issued transfer order of the appellant vides Notification No. E&A(AD)3(82)/2013, attested copy of which is annexed-"Y" at page-103 to 104.
5. That, when, Mr. Hifz-ur-Rehman was confronted by the appellant with the gross illegality of having overridden the remarks/order of the then Hon'ble Care Taker Chief Minister, he put-up the same old

summary dated 16th April, 2013 with new print/copy to the incumbent CM by keeping him in the dark and took his approval on 17th June, 2013, attested copy of which is annexed-"Z" at page-105.

6. That, it is pertinent to mention here that the above mentioned summary was shown to be put-up on 16th April, 2013 to the incumbent CM but strangely enough, at that time even the General election had not been held, let alone the appointment of the incumbent CM.
7. That, to unearth that Mr. Hifz-ur-Rehman issued transfer order of the appellant on 14th June, 2013, prior to the so-called approval of the incumbent CM which was allegedly obtained on 17th June, 2013.
8. That, as Section 10 of The Civil Servants Act, 1973, dealing with Posting and Transfer of Civil servants, does not even apply to the case of the Appellants - as per proviso-1 to Section 10, it is explicitly stated that *"nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region"*, even then the appellant obeyed the order and submitted his arrival and thereafter the appellant being aggrieved approached the august Peshawar High Court vide Writ petition No. 1765-P/2013, which was forwarded by the Hon'ble bench to the Chief Secretary *for decision in accordance with law* vide order dated 05-07-2013, copy of arrival report and High Court order are annexed-"AA" at page-106 & annexed-"BB" at page-107 to 108 respectively.
9. That, Mr. Hifz-ur-Rehman was imminently poised to disgrace, defame and demean the Appellant, apparently, just for quenching his personal ego and on receiving the above mentioned order of the august High Court, he, Mr. Hifz-ur-Rehman got annoyed and started backbiting and by poisoning the high-ups' ears, he started the instant proceedings against the appellant.

The appellant being aggrieved from the impugned proceedings, enquiry and orders, seek indulgence of this Hon'ble forum inter-alia on the following grounds;

GROUND:

- A) That, the impugned proceeding, enquiry and orders are against the law, facts and circumstances, hence, liable to be set-aside.
- B) That, no proper enquiry is conducted, even the so-called enquiry has not considered the material placed before it by the appellant.
- C) That, keeping in view the facts and circumstances adumbrated above, room reservation was not the job/domain/duty/responsibility of the appellant and as such the recovery of rent is/was, too; the responsibility of the allotting authority, especially in case of long stay.
- D) That, all the proceedings are conducting in hasty manner.
- E) That, it is on board that the KPK House, Islamabad cannot accommodate any person even for a single day without the prior allotment/booking/permission/knowledge of the Estate office as the room occupancy is regularly monitored on daily basis by the Estate office/Administration.
- F) That, the competent authority has not given the right of personal hearing in accordance with law.
- G) That, initiating of the proceedings was based on the malafide intention, animosity and revengeful action of Mr. Hifz-ur-Rehman, and he kept all the Administration including the CM in dark by getting his favorable recommendation for quenching his own ego.

- H) That, efficiency of the appellant is very much clear and evident from the above struggle/communication of the appellant. Only the struggle and record of the appellant made able the audit party to point out the recovery because the Estate office and Administration Department have trashed the record pertaining to stay of Mr. Waqar. Destroying the relevant record by the Estate office and the Admin Department speaks openly regarding their guilty mind/intention and involvement and the same fact finds support from the evidence that they never ever made any efforts for the vacation of the room as well as of the recovery of room rent.
- I) That, it was the appellant who detected, highlighted and proved the stay of Mr. Waqar Khan (Sub-Engineer, CDA) who was also son-in-law/nephew of Senator Baaz Muhammad Khan, at KPK House Islamabad through documentary evidence and by keeping the record but, regretfully, instead of rewarding him for his efficiency and honesty, he was arraigned as accused and recommendation for awarding major penalty was imposed on him while on the other hand the actual responsible personnel i.e. the then Secretary Admin/Principal Accounting Officer, Mr. Hifz-ur-Rehman and the Estate Officer etc have been let scot free, who destroyed the record pertaining to stay of Mr. Waqar, with pre-planned objectives.
- J) That, due to the indifference, coldness, apathy and compromising posture of the Estate office, Principal Accounting Officer and the Administration department, Mr. Waqar Khan paid deaf ear to my letters by terming the same as my personal matter and all my efforts for the recovery of the said room rent became futile.
- K) That, it is pertinent to mention here that this fact has been admitted by the enquiry committee in its findings at **Para-H** that ***"the accused officer was left alone to write to CDA for realization of room rent outstanding against Mr. Waqar Khan. This was basically the responsibility of Principal Accounting Officer to have written and***

taken up the issue at senior level with CDA". Similarly it has been admitted by Mr. Qasim Jan, the Estate Officer in his statement before the enquiry committee that "the comptroller (undersigned) has made several communications for affecting the recovery, but no fruitful result came out".

- L) That, as evident from **(annexed-N, page-63)** that initially the Audit party took the Para only for RS. 1,23,000/- for the period of **10-03-2008 to 10-07-2008 (123 days)**, for which too; the appellant was debarred from the recovery as mentioned in the letter issued from CM Secretariat **(annexed-O, page-64)**, but the written communications and record/guest register maintained by the appellant enabled the audit party to bring on record the real figures regarding the recovery of room rent of previous period of 850 days (from 01-05-2005 to 28-08-2007), because the department have already washed out the relevant record.
- M) That, the Audit party in its Draft Para and also the worthy enquiry committee in its report have categorically stated that *"communication/recovery is the duty/ responsibility of the Departmental Controlling Officer/Principal Accounting Officer i.e. the then Secretary Admin, Mr. Hifz-ur-Rehman"*, but the appellant has been made a scape goat by letting the real culprits go scot free, which is against the justice and the divine law enunciated by the Holy Qur'an and Sunnah. It is pertinent to mention here that the same observation was revealed by the worthy Secretary Establishment during the course of personal hearing of the appellant.
- N) That, impartiality and validity of the enquiry committee was also questioned/objected by the appellant during the enquiry proceedings, in his Show Cause reply and in review petition for the reason that one member of the said enquiry committee namely Mr. Atta-ur-Rehman, Additional Secretary (LG&RD) was the subordinate of the main character/the most responsible person of

this episode i.e. Mr. Hifz-ur-Rehman, and adopting of hostile posture against the appellant due to his influence cannot be ruled out.

- O)** That, in his show cause reply the appellant opted/desired to be heard in person to clarify his position and unearth the real facts and faces of the culprits before the CM (competent authority), as required in Rule-15 of the Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011, but the hostile elements, in order to keep the competent authority (CM) unaware of the real facts, did not provide the opportunity of personal hearing to him and just for fulfilling of the stereotype formality, scheduled the appellant's personal hearing before the Secretary Establishment, who is not the COMPETENT AUTHORITY in my case, hence, Rule-15 of the under reference Rule has been clearly violated. Copy of letter regarding personal hearing bearing No. SO(E-I)E&AD/9-128/2013 dated 21-09-2013 is annexed-"CC" at page-109.
- P)** That, discrimination is evident from the record that the appellant has been awarded major penalty for non-recovery of an amount of 8,50,000/- although that was not even his responsibility, but on the other hand an amount of 13,69,000/- has not been recovered from the occupant who stayed at Shahi Mehmana Khana, Peshawar and the same issue was also taken in the PAC meeting but none were held responsible by any one. Copy of the minutes of the PAC meeting pertains to KPK House is annexed-"DD" at page-110 to 112, while in case of Shahi Mehmankhana is annexed-"EE" at page-113 to 115.
- Q)** That, as, submitted above, the appellant had never ever allotted or allowed Mr. Waqar Khan to stay in KPK House, Islamabad, nor did the same fall in his domain; rather, it was the Estate office which allowed him stay, being guest of Mr. Akram Khan Durrani, the former Chief Executive/CM of the Province. It is established/admitted fact that reservation of room is not the job/responsibility of the appellant and he cannot accommodate a person even for a single day, hence,

the first charge levelled against the appellant regarding allowing of Mr. Waqar for stay, is baseless, unjustified, not supported by any material evidence and is prompted by malice.

- R)** That, it is to pinpoint here that it has been admitted by the enquiry committee in its findings at *Para-A* that "**stay of Mr. Waqar was the result of political influence**" and at *Para-C* that "**Mr. Waqar stayed on the verbal orders of the then Chief Executive of the Province**" hence, how the undersigned, being a civil servant, dare to disobey or deny such like orders of the Chief Executive of the Province, albeit the fact that the said room was already reserved by the Estate office for him and the same was extended by the Estate office on daily basis via telephonic reservation. This very fact is established from the circumstances that during the stay of Mr. Waqar Khan the said room was never allotted to anybody else by the Estate office.
- S)** That, the enquiry committee in its report at *Para-7* has categorically admitted that "**the Estate officer also relied on the statement of Mr. Liaqat Ali Junior Clerk (the then Reservation Incharge) Estate office, that room at KPK House, Islamabad had been reserved for Mr. Waqar Khan on the verbal directions of former Chief Minister**" and the same fact is reflected in statements of Mr. Liaqat Ali Junior clerk (the then Reservation Incharge) Estate Office which is available on the *enquiry file as annex-VI, page-52*. Likewise in the statement of Mr. Qasim Jan, the Estate officer, available on the *enquiry file as annex-V, page51*, that "**the room was reserved on the verbal directives of the then CM**". It is further admitted there that "**reservation/permit issuance is the job of Estate office**".
- T)** That, in the PAC meeting held on 18-04-2012 it was admitted by the department, represented by Mr. Hifz-ur-Rehman & Mr. Qaiser Alam that "**the room to Mr. Waqar was allotted on the verbal directives of the higher authority and he could keep the room free of charge**", then how in the ambient circumstances, the appellant has been made a scapegoat by turning him solely responsible for the

same. Furthermore, in the said meeting the department was directed to ensure the recovery of said amount through CDA, but the department not moved a bit, rather the appellant's struggle is evident through documentary proof. Copy of the minutes of the PAC meeting already annexed as "CC" at page-109 to 111.

- U)** That, the recovery of room rent in the particular case (long stay cases) was the exclusive job/responsibility of the Estate office and Principal Accounting Officer and not of the appellant. None of other formation including the Estate office has made any efforts to recover the said room rent from Mr. Waqar Khan, rather, it was the appellant who initiated and made efforts by highlighting the matter at each and every forum including a chain of communication to responsible personnel of CDA, hence, in this scenario the 2nd charge, too; crumbles to the ground, being not substantiated.
- V)** That, the enquiry committee also recommended the registration of FIR against the delinquent officer Mr. Waqar and also initiation the disciplinary proceedings against him and other responsible of the Estate office and Administration department, but strangely enough the appellant has been made a scapegoat and all the other real culprits have been set free.
- W)** That, it is pertinent to mention here that due to the false, groundless, malicious, derogatory, defamatory and frivolous allegation of the Respondents, the appellant has suffered irreparable and irrevocable loss in reputation and honor, besides, being resulted to sever mental anguish of the appellant and his entire family being put all of them to the hilt of mental & moral torture and expose them to hatred and derision. Similarly the same caused great set-back to the academic career of the children of the appellant as the same has exposed them to abhorrence and ridicule.
- X)** That, anyhow the imposing of major penalty is harsh, against the facts and circumstances and the impugned order is liable to be set-aside.

PRAYER:

It is most humbly prayed that on acceptance of this appeal;

- a) The appellant may graciously be exonerated from all the charges, being baseless, false, maneuvered, against the law, facts and circumstances and based on malafide intentions and he may kindly be re-instated to his post along with all back benefits and by the impugned order dated 21-11-2013 may please be declared illegal, against the law, facts justice and may kindly be set aside.
- b) The competent authority may graciously be directed to post the appellant at his original place of posting i.e. KPK House, Islamabad.
- c) Any other remedy deemed fit by this Hon'ble bench may kindly be granted.

Nadir Khan (Appellant)

Through

1. Waseem-ud-Din Khattak

2. Shabbir Hussain Gigyani

3. Ibrahim Noor Mughal

Advocates, Peshawar

Dated: 15-01-2014

Certificate:

- Appeal in hand is the first one on the subject issue before this Hon'ble Tribunal by or on behalf of the appellant.
- The instant appeal consists of (15) pages along with the annexed documents of (111) pages {Total=116 pages}

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

Service Appeal No _____/2014

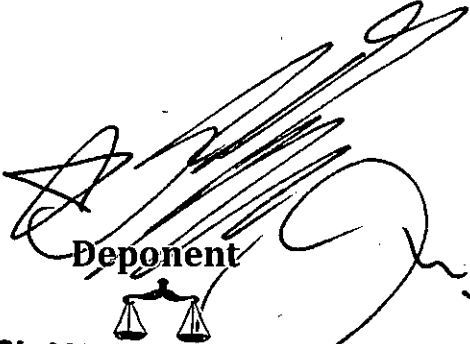

Nadir Khan-----**Appellant**

Versus

The Chief Minister, KPK & others-----**Respondents**

AFFIDAVIT

I, Shabbir Hussain Gigyani, Advocate Peshawar, do here by solemnly affirm and declare that as per instruction of my client, all the contents of the accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent

Shabbir Hussain-Gigyani
Advocate High Court

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

Service Appeal No. _____/2014

Nadir Khan-----**Appellant**

Versus

The Chief Minister, KPK & others-----**Respondents**

ADDRESSES OF PARTIES

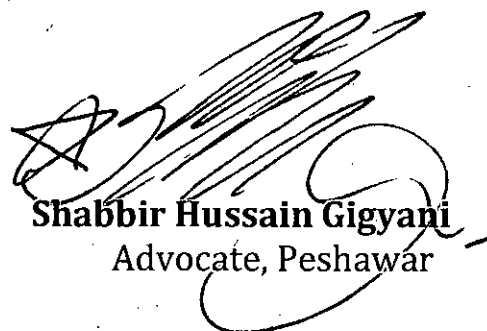
Address of the petitioner:

Nadir Khan S/O Syed Afzal Khan R/O Sukar, Tehsil & District Charsadda
(Ex: Comptroller BPS-18, KPK House, Islamabad)

Addresses of the Respondent:

1. The Chief Minister, Khyber Pakhtunkhwa, CM Secretariat, Peshawar.
2. The Govt: of Khyber Pakhtunkhwa, through its Chief Secretary, Civil Secretariat, Peshawar.
3. The Secretary Administration to Govt of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary Establishment to Govt of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar

Through Nadir Khan (Appellant)


Shabbir Hussain Gigyani
Advocate, Peshawar

Dated: 15-01-2014

annexed-A
1st appointment (BPS-16)

GOVERNMENT OF NWFP
COMMUNICATION & WORKS DEPARTMENT

Annex-A

Dated Peshawar, the 24th July, 1994

NOTIFICATION

NO.SO(E)C&W/1-9/94. The Provincial Government is pleased to appoint Mr.Nader Khan as Care Taker, Frontier House, Islamabad on contract basis in (BPS-16) at Rs.2535/- P.M (fixed) plus other allowances as admissible under the rules for a period of one year, with immediate effect, on the terms and conditions as laid down in the offer of appointment and agreement duly executed by him.


2. This appointment will not confer on him any right of claiming seniority or regularization in service.

ABDUL HAMID KHAN
SECRETARY TO GOVT. OF NWFP
COMMUNICATION & WORKS DEPARTMENT

ENDST.NO.SO(E)C&W/1-9/94 Dated Peshawar, the 24th July, 1994.

A copy is forwarded to the :-

- 1) Secretary to Governor, N.W.F.Province.
- 2) Secretary to Chief Minister, N.W.F.Province.
- 3) P.S. to Chief Secretary, N.W.F.Province.
- 4) P.S. to Minister C&W, N.W.F.Province.
- 5) P.S. to Secretary, C&W Department, NWFP.
- 6) Accountant General, N.W.F.Province, Peshawar.
- 7) Chief Engineer, C&W Department, NWFP Peshawar.
- 8) Superintending Engineer, Building Circle, Peshawar.
- 9) Executive Engineer, Building Maintenance Division, Peshawar.
- 10) Mr.Nader Khan S/O Syed Afzal Khan, Village Suker, P.O. Ambadher, Tehsil and District Charsadda.
- 11) O/O File/Personal File.


(MUHAMMAD YOUNIS JAVED)
SECTION OFFICER (E)

ATTESTED

annexed-B
appointment in BPS-17

GOVERNMENT OF N.W.F.P.
SERVICES & GENL:ADMN:DEPARTMENT
(SERVICES WING)

DATED PWSHAWAR THE 7.11.1996.

NOTIFICATION

No.SOS-II(S&GAD)8(160)96-P.II:- The competent authority in consultation with the Departmental Selection Committee is pleased to appoint Mr.Nadir Khan as Comptroller Frontier House, Islamabad(BPS-17) with immediate effect on regular basis.

CHIEF SECRETARY NWFP

Endst.No.SOS-II(S&GAD)8(160)96-P.II. Dated 7.11.1996.

A copy is forwarded to:-

1. Accountant General, NWFP, Peshawar.
2. Deputy Secretary (Admn:) S&GAD.
3. Section Officer (General) S&GAD.
4. Estate Officer, S&GAD.
5. P.S. to Chief Secretary NWFP.
6. Officer concerned.
7. PS to Secretary S&GAD.
8. PA to DS(S) S&GAD.
9. Office order file.

ATTESTED

Bismillah Shah
(BISMILLAH SHAH)
SECTION OFFICER(SERVICES-II)

Annex-C

GOVERNMENT OF N.-W.F.P.
ADMINISTRATION DEPARTMENT

Annexed-C
promotion to BPS-18

DATED PESHAWAR THE 28.04.2004

NOTIFICATION.

Page - 20/116

NO.E&A(A.D)4(104)/2004. Consequent upon, upgradation of the post of Comptroller, Frontier House, Islamabad to BS-18 vide Finance Department's letter No.BOIV/FD/2-4/2003-04 dated 14.02.2004 as personal to him, the competent authority in consultation with the Provincial Selection Board is pleased to approve the promotion of Mr. Nadir Khan, Comptroller, Frontier House, Islamabad from BS-17 to BS-18 with immediate effect.

2. The officer will be on probation for a period of one year in terms of Section-6(2) of N-WFP Civil Servants Act, 1973 read with Rule-15(1) of N-WFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.
3. The post of Comptroller, Frontier House, Islamabad shall stand automatically down graded as and when vacated by Mr. Nadir Khan, Comptroller, Frontier House, Islamabad.

CHIEF SECRETARY,
NORTH-WEST FRONTIER PROVINCE

ENDST: NO. & DATE EVEN.

Copy forwarded to:-

- 1) All Administrative Secretaries to Govt: of N-WFP.
- 2) Secretary to Governor, N.-W.F. Province.
- 3) Secretary to Chief Minister, N.-W.F. Province.
- 4) Accountant General, N-WFP, Peshawar.
- 5) P.S to Chief Secretary, N-WFP.
- 6) P.S to Secretary, Admn: Department.
- 7) P.S to Secretary, Estab: Department.
- 8) P.As to All Addl: Secretaries/Dy. Secretaries in E&A Deptt.
- 9) Officers concerned.
- 10) All Section Officers/ Estate Officer/ Protocol Officers/ Librarian/ Programmer, Computer Cell, E&A Department.
- 11) Personal file of the officer concerned.
- 12) Controller, Govt: Printing Press, Peshawar for publication in Govt: Gazette.

RECEIVED

Abdullah Khan

Page-2/116

Annex-D



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

CHARGE SHEET

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Nadir Khan as follows:

That you, while posted as Comptroller, Khyber Pakhtunkhwa House Islamabad committed the following acts:

- You allowed Mr. Waqar Khan, Sub-Engineer, Capital Development Authority, Islamabad to stay in Pakhtunkhwa House, Islamabad with effect from 01.05.2005 to 28.08.2007 (850 days) and with effect from 10.03.2008 to 10.07.2008 (123 days) without any permit from the Estate Office, Administration Department, Peshawar; and
- You failed to recover room rent from the said Mr. Waqar Khan for his 973 days stay in Pakhtunkhwa House, Islamabad and thereby caused a loss of Rs.850,000/- to the public exchequer.

2. For the above mentioned reasons, you appear to be guilty of misconduct under Section-3 of the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Rules ibid.

3. You are, therefore, required to submit your written defence within seven (07) days of the receipt of this Charge Sheet to the enquiry officer/committee.

4. Your written defence, if any, should reach the enquiry officer/committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5. You are also directed to intimate whether you want to be heard in person.

6. The Statement of Allegations is enclosed.

Pervez Khattak
Chief Minister,
Khyber Pakhtunkhwa
(Competent Authority)

Mr. Nadir Khan,
Comptroller,
Pakhtunkhwa House, Islamabad

No.SOB(AD)15(34)PAC/2009-10/Vol.II

Dated 19.06.2013

ATTESTED

~~Admin) for guidance and instructions in the matter and sent a copy~~

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

DISCIPLINARY ACTION

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Nadir Khan, Comptroller, Pakhtunkhwa House, Islamabad has rendered himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Section-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011:

That he, while posted as Comptroller, Khyber Pakhtunkhwa House Islamabad committed the following acts:

- You allowed Mr. Waqar Khan, Sub-Engineer, Capital Development Authority, Islamabad to stay in Pakhtunkhwa House, Islamabad with effect from 01.05.2005 to 28.08.2007 (850 days) and with effect from 10.03.2008 to 10.07.2008 (123 days) without any permit from the Estate Office, Administration Department, Peshawar; and
- You failed to recover room rent from the said Mr. Waqar Khan for his 973 days stay in Pakhtunkhwa House, Islamabad and thereby caused a loss of Rs.850,000/- to the public exchequer.

2. For the purpose of scrutinizing the conduct of the said accused officer with reference to the above allegations, an enquiry officer/committee consisting of the following is appointed/constituted under Section-5 of the E&D Rules, 2011:

1. Mian Mohammad
2. Mian Mohammad
3. _____

3. The enquiry officer/committee shall, in accordance with the provision of Rules, provide reasonable opportunity of hearing to the accused, record its findings and make recommendations, within thirty (30) days of receipt of this order, with regard to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the Administration Department shall join the proceedings on the date, time & place fixed by the enquiry officer/committee.

Pervez Khattak
Chief Minister,
Khyber Pakhtunkhwa
(Competent Authority)

Mr. Nadir Khan,
Comptroller,
Pakhtunkhwa House, Islamabad

No.SOB(AD)15(34)PAC/2009-10/Vol.II

Dated 19.06.2013

ATTESTED

Ref No. EX:GMP (KPK HT) Charge/Reply Dated: 07-07 /2013

To

- i. Mr Mian Muhammad (PCS SG BS-19),
Additional Secretary (Cabinet), E&A Department
- ii. Mr Atta- ur-Rehman (PCS) SG BS-19)
Additional Secretary LG&RD Department
(The members of Inquiry Committee)

Subject: REPLY OF THE CHARGE SHEET

Dear Sir,

In reply of charge sheet, served upon me on 26-06-2013, the undersigned humbly submit as under;

I was appointed against the designated post of comptroller Khyber Pakhtunkhwa House, Islamabad in the year 1994.

ATTESTED

Before I proceed to the reply of charges, I would like to narrate the brief background of the whole affair as it is extremely pertinent for the just appreciation of the facts and situation and for the dispensation of justice in a just and fair manner.

Background:

The present charge sheet is actuated by the personal grudge and vengeance of Mr. Hifz-ur-Rehman, the Secretary Administration. On April 21, 2012 the assistant comptroller KPK House Islamabad namely Muhammad Razaq Khan informed me that Mr. Habibullah, PS to Ex: Chief Secretary wants to waive ^{the} off outstanding dues of Rs. 50,000 against Mr Zulfiqar Ali Shah for using different rooms in the KPK house, Islamabad for which I did not agree to it and wrote a letter on 21-4-2012 (annexed-"I", page- 9) to the Estate officer (Admin) for guidance and instructions in the matter and sent a copy of the letter to the said Mr. Hifz-ur-Rehman, the Secretary Administration.

2/7/13

The said Zulfiqar Ali Shah checked out without clearing the dues of Rs. 50,000 and in this regard I again wrote a letter (annexed-"II", page- 10 to 11) to the Estate officer (Admin), the concerned authority, requesting there in, for clearing of the said outstanding dues, or the case be put up to the competent authority for its writing-off so that audit objection be removed/avoided and the copy of the letter, too; was sent to Mr. Hifz-ur-Rehman, the Secretary Administration.

My insistence and pursuance for recovery of government dues was not liked by Mr. Hifz-ur-Rehman, the Secretary Administration and he got annoyed with me. There upon he asked Mr. Abid, cashier Administration Department to make payment of Rs. 50,000 out of his own pocket and later on get his-self compensated while making purchase for KPK House Islamabad which he accordingly did. An amount of Rs 2.2 million was drawn from the Treasury for purchase of various items like blankets, bed sheets, utensils etc for the KPK House, Islamabad but the total purchasing hardly exceeds Rs 800,000 and rest of the money was embezzled and pocketed by the worthy Secretary Administration (Mr Hifz-ur-Rehman), which need a separate inquiry and probe.

ATTESTED

Hence, onward a consistent victimization campaign started against me by Mr. Hifz-ur-Rehman, the Secretary Administration.

The following incident caused my transfer and rest of the two employees. On day prior to our transfer on 13-6-2013, the son of Hon'ble Chief Minister asked for a spare car for duty in Peshawar. Mr. Sohail, waiter of CM block at KPK House, Islamabad asked the driver to bring the car for CM duty. The driver said that he is already on duty (personal) with the son of Mr. Hifz-ur-Rehman, the Secretary Administration on the instruction of assistant comptroller. The same was not in my knowledge that assistant comptroller had

the Secretary Administration. When the said car was withdrawn from the son of Mr. Hifz-ur-Rehman, the Secretary Administration, he got furious and complained to his father (Mr. Hifz-ur-Rehman). Though on the instruction of the Deputy Secretary administration, as a substitute, I sent him my official car but the substitution could not dampen the wrath of his worthy father (Mr. Hifz-ur-Rehman) and consequently I was transferred on 14-6-2013.

Bias and partiality of Mr. Hifz-ur-Rehman, the Secretary Administration is reflected from the fact that 1st he put-up a summary (annexed-"III", page-12) for my transfer on 14th April, 2013 to the Hon'ble Care Taker Chief Minister, KPK, but the same was turned down by his Excellency with the remarks that *"it reflects a one sided picture which requires thorough probe and it be left to the new political government* and thereafter, Mr. Hifz-ur-Rehman, the secretary Administration, without taking the remarks of the Hon'ble Chief Minister (Care Taker) on board and without adopting the proper procedure, issued my transfer orders (annexed-"IV", page- 13 to 14) in un-natural haste on 14th June, 2013 and on the very same day after closing hours i.e. at 14:20 Hours, which was the last working day of the week, dispatched the same to me via fax with directions "to hand over the charge by today positively".

The, malafide and irregularity is evident from the record that Mr. Hifz-ur-Rehman, the Secretary Administration issued my transfer order (annexed-"IV", page- 13 to 14) on 14th June, 2013, and he got the so-called approval (annexed-"V", page-15) from the Hon'ble Chief Minister (incumbent) on 17th June, 2013 by keeping his Excellency in the dark, he issued transfer order prior to the approval of the Hon'ble Chief Minister.

(ATTESTED

Reply of the Charge Sheet:

i. No doubted and un-disputed, that making reservation at Khyber Pakhtunkhwa House, Islamabad is the exclusive and sole responsibility of the Estate officer, administration department; and not of the undersigned.

ii. Mr. Akram Khan Durrani, the Ex: Chief Minister, KPK, directed the undersigned on telephone on 30-4-2005 to reserve a room for one Waqar Khan, nephew of Baz Muhammad, through the Estate office. I onward conveyed the CM's telephonic directions to Mr. Liaqat, Reservation incharge, Estate office Peshawar and he (Mr. Liaqat) blocked/booked Room number 12 old block, KPK House, Islamabad and the compliance report was given to the Chief Minister.

iii. It is pertinent to mention here, that during the stay/visit of Mr. Akram Khan Durrani, the Ex: Chief Minister at KPK, House Islamabad, his Principal Staff Officer (Mr. Qaiser Alam Khan) came to the room of the said Waqar Khan and directed me to take extra care of this gentleman as he is very much close to the Chief Minister. He (Waqar Khan) stayed at KPK, House, Islamabad, till the end of MMA tenure.

ATTESTED

iv. When the government changed he (Waqar Khan) again approached to the then new Chief Minister, Mr. Amir Haider Khan Hoti and the then new Chief Minister called me and directed to get a room reserved through Estate office for Waqar Khan, nephew of Baz Muhammad Khan. The Chief Minister's Orders were again onward conveyed to Estate office, Administration department and room number 21, old block, KPK House, Islamabad was allotted for Mr. Waqar by the Estate office, administration department and compliance report was submitted to the then Chief Minister.

v. After 123 days stay of Mr. Waqar in KPK House, Islamabad, Mr. Rahim Khan, the then Deputy/Additional secretary administration took notice of his long stay/allotment of Room No. 12, Old Block by the Estate office and in this regard wrote a letter to Waqar Khan to immediately vacate the room and make payment of all dues. He vacates the room but did not clear the outstanding dues.

vi. In the DAC (Departmental Account Committee) meeting, Chaired by Arbab Shah Rukh Khan, the then Secretary Administration, directed the Estate officer to write a letter to Capital Development Authority (employer of the said Waqar Khan) for the recovery of dues against Waqar Khan, but no one exhaust his responsibility, for the reason best known to him/them, rather the undersigned has approached to the immediate boss of Mr. Waqar Khan i.e. to the Deputy Director, Road Division-V, CDA, Islamabad vide my letter No. Comt (FH)/2009 dated 01-08-2009 for the recovery of the subject dues and in reply to the above the said Deputy Director conveyed written statement/letter of Mr. Waqar (annexed-"VI", page-16 to 17) in which he (Mr. Waqar) denied any stay at KPK House, Islamabad. Similarly, thereafter I also again approached to the said Deputy Director CDA for the said recovery by communicating the decision taken by the DAC meeting dated 06-01-201-10 (annexed-"VII", page- 18 to 19).

ATTESTED

vii. There upon I wrote a letter to the member administration (annexed-"VIII", page- 20 to 23) and established the fact of his stay in KPK House by different records like, our telephones records, which shows his telephone communications with his family and friends during his stay at KPK House, Islamabad and the same was followed by reminders (annexed-"IX", page-24 to 25) & (annexed-"X", page-26).

viii. Similarly, the concerned staffs (supervisory as well as telephone operators and waiters) have given their affidavit/statement (annexed-"XI", page- 27 to 38) on judicial stamp papers, confirming his (Mr. Waqar Khan) stay at KPK House, Islamabad.

ix. The knowledge of the Estate Office and other responsible personals about the stay of Mr. Waqar Khan at KPK House, Islamabad is evident from the fact that during his stay, the room occupied by the delinquent official (Mr. Waqar) was never ever allotted to any other occupant during the period under reference i.e. w.e.from 01-05-2005 to 28-08-2007 (850 days) and again w.e.from 10-03-2008 to 10-7-2008 (123 days). The undersigned in a chain of letters time and again requested to the Estate office and Administration for taking disciplinary, civil and criminal proceedings against Mr. Waqar, but none from the responsible initiated the same. For ready reference a self-explanatory letter of the undersigned is enclosed (annexed-"XII", page- 39 to 42)

x. After the PAC meeting an inquiry was conducted by the Deputy Secretary Establishment (Ex: Estate officer) Mr. Zubair in April 2013. A letter (annexed-"XIII", page-43) was communicated with no facts & finding report and the the undersigned requested for the same vide his reply (annexed-"XIV", page-44) but the same was never communicated to the undersigned. It is pertinent to mention here that vide the above letter (annexed-"XIV", page-44) the undersigned requested for granting authorization to initiate criminal proceedings against the delinquent official (Mr. Waqar), but to the utmost surprise, till date the same has not been granted.

ATTESTED

xi. The delinquent official (Mr. Waqar) did not move any application for allotment of room as he was not entitled being a grade 11 official of CDA and for that reason he cleverly used the political channel

through Estate office for getting accommodation in KPK House, Islamabad.

xii. The KPK House, Islamabad cannot accommodate any person even for a single day without the prior allotment/booking/permission/knowledge of Estate office as the room occupancy is regularly monitored on daily basis by the Estate office/Administration.

xiii. It is pertinent to mention here, that the undersigned had also written a letter (annexed-"XV", page-45) to the PSO to the then Chief Minister for recovery of the under reference outstanding dues. Reply of which (annexed-"XVI", page-46) has been conveyed to me with the remarks that *"the said room was declared as sub-camp office of chief minister and was used for holding meetings regarding repair work being carried out in chief Minister annexy. As the Waqar Khan was helping in the work, while staying in the room, so he cannot be asked to pay dues"*.

ATTACHED

xiv. In the last Public Account Committee (PAC) meeting chaired by Mr. Zameen Khan, the then MPA, held on 1-10-2012, the Secretary administration, Mr. Hifz-ur-Rehman was asked to lodge an FIR against the defaulter (Mr. Waqar) for the said recovery but the Secretary administration, Mr. Hifz-ur-Rehman was reluctant and failed to proceed legally against him (Mr. Waqar) for the recovery of dues despite the express, direction of PAC.

xv. Keeping in view the facts and circumstances adumbrated above, Sir; room reservation was not my duty/responsibility and as such the recovery of rent is/was, too; the responsibility of the allotting authority. The charge sheet is based on the malafide intention, animosity and revengeful action of Mr. Hifz-ur-Rehman, the

Secretary Administration and he kept all the Administration including the Hon'ble Chief Minister in dark by getting his favorable recommendation for quenching his own ego.

Sir,

I have been confronted with two allegations

- i. That I allowed Mr. Waqar to stay in KPK House, Islamabad; So Sir, as evident from the above facts that I am not to allow any one even for a single day, rather allotment/reservation/booking etc is the sole duty of the Estate office.
- ii. That I failed to recover the Room rent from Mr. Waqar; So Sir, as stated above, I exhaust my all efforts for the recovery as well as for taking disciplinary action against Mr. Waqar, but, the responsible persons failed to take action.

Prayer:

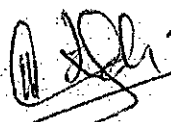
It is, therefore humbly prayed, that in the light of above, the charge sheet/allegation levelled against me may graciously be withdrawn, the undersigned be exonerated, honorably, from all the charges and my grievance against the malafide Secretary Administration be addressed.

Note:

Yes Sir, I would like to take the opportunity of being heard personally.

Yours faithfully,

ATTESTED

 02/07/2013

Nadir Khan (OSD, PBS-18)

(Ex: Comptroller KPK House, Islamabad)

ENQUIRY REPORT

Subject:- ENQUIRY AGAINST MR. NADIR KHAN, EX-COMPTROLLER, KHYBER PAKHTUNKHWA HOUSE, ISLAMABAD.

INTRODUCTION

A fact finding enquiry, subsequent to recommendations of the Public Accounts Committee, was conducted against Mr. Nadir Khan, Ex-Comptroller, Pakhtunkhwa House, Islamabad for allowing unauthorized stay of one Mr. Waqar Khan, Sub-Engineer, Capital Development Authority, Islamabad from 01/05/2005 to 28/08/2007 (850 days) and from 10/03/2008 to 10/07/2008 (123 days) without payment of room rent causing financial loss of Rs. 850,000/- to the public exchequer.

ORDER OF INQUIRY

2. The Chief Minister, Khyber Pakhtunkhwa (Competent Authority) entrusted the inquiry to the Inquiry Committee comprising the undersigned, on 24/06/2013 (Annex-I).

LAW APPLICABLE:

3. The accused officer was charge sheeted under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The charges framed against the accused were:-

- He allowed Mr. Waqar Khan, Sub-Engineer, Capital Development Authority, Islamabad to stay in Pakhtunkhwa House, Islamabad with effect from 01.05.2005 to 28.08.2007 (850 days) and with effect from 10.03.2008 to 10.07.2008 (123 days) without any permit from the Estate Office, Administration Department, Peshawar; and

He failed to recover room rent from the said Mr. Waqar Khan for his 973 days stay in Pakhtunkhwa House, Islamabad and thereby caused a loss of Rs. 850,000/- to the public exchequer.

INQUIRY PROCEEDINGS

4. Charge sheet and statement of allegations were served on the accused officer and he was directed to submit written reply to the Inquiry Committee (Annex-II). The accused submitted his reply to the enquiry committee on 02/07/2013 (Annex-III). He was accorded an opportunity of personal hearing on 08.07.2013 (Annex-IV) followed by cross examination and view point of the other concerned officers/officials on 15.07.2013. During personal hearing, departmental representative i.e. Section Officer (E-I), Estate Officer and Mr. Liaqat Ali, the then Junior Clerk, Estate Office were present.

ATTESTED

5. The accused in his written defence allocated 03 pages exclusively on the background emanating from personal grudge, victimization and vengeance at the hands of former Secretary Administration. He, during course of personal hearing also resorted to name him for personal vendetta.

6. The accused disowned the charges both in written defence as well as during course of personal hearing. He continued to assert that he received verbal directions from two ex-Chief Ministers during tenure of their office to reserve a room for Mr. Waqar Khan in Pakhtunkhwa House, Islamabad. The verbal orders of the then Chief Ministers were communicated to Estate Office and Mr. Liaqat Ali (Junior Clerk) the then Reservation Incharge, Estate Office reserved room No.12 old block and room No.21 old block respectively for stay of Mr. Waqar Khan during the tenure of former two Chief Ministers. However, no formal reservation permits were issued to that effect. He repeatedly negated the charges on the ground that reservations in Pakhtunkhwa House, Islamabad is not the responsibility of Comptroller but permit issuing authority is the Estate Officer, Administration Department and who did not issue reservation permits.

7. On a cross examination and question, the incumbent Estate Officer admitted that reservation permit is issued by the Estate Office. But in the instant case Mr. Waqar Khan could stay from 2005 to 2008 without such permit to have been issued by the Estate Office. The Estate Officer also relied on the statement of Mr. Liaqat Ali, the then Junior Clerk, Estate Office that room No.12 old block and room No.21 old block Pakhtunkhwa House, Islamabad had been reserved for Mr. Waqar Khan on the verbal directions from the former Chief Ministers. Their statements submitted to the Enquiry Committee, are reflected as "Annex-V & VI" respectively.

8. Mr. Liaqat Ali, the then Junior Clerk, Estate Office has narrated in his statement that on 1st May, 2005 the accused officer rang him up and informed that Mr. Waqar Khan had been accommodated in Pakhtunkhwa House, Islamabad as guest of the Chief Minister, therefore, reservation permit may not be issued to anyone else against the room. And as it was Sunday reservation permit could not be issued. On a query from the enquiry committee addressed to the Estate Officer and Mr. Liaqat Ali, the then Junior Clerk, Estate Office as to whether there was record of room reservation in general as well as in particular about Mr. Waqar Khan, both the officer/official replied that being old record, it is not available and the charts maintained for reservations in Pakhtunkhwa House, Islamabad have been discarded and weed out.

ATTESTED

9. The accused officer, in support of his argument that Mr. Waqar Khan had a long stay at Pakhtunkhwa House, Islamabad, attached/produced statements of 11 staff members on Judicial Papers, verifying and authenticating that Mr. Waqar Khan, had stayed in Pakhtunkhwa House, Islamabad. Moreover, in a rejoinder dated 21/07/2013 (**Annex-VII**) to his reply he also produced details of phone Nos; which were connected and contacted through telephone exchange by Mr. Waqar Khan during his stay at Pakhtunkhwa House, Islamabad. A letter dated 15/01/2011 issued by Assistant Estate Officer to one Syed Muhammad Shah occupant of Room No.9 old Block has been provided as proof to establish that in case of unauthorized and prolonged stays, it has been the Estate Office to take action for forceful eviction of such occupants in the past. In, the case of Mr. Waqar Khan too, he quoted Mr. Rahim Khan – the former Addl; Secretary Administration to have issued such letter to Mr. Waqar Khan compelling him to dislodge and vacate the room he had occupied unauthorizedly. However, he could not produce a copy of the letter in support of his claim.

10. In order to get something in written form for honouring verbal directions of the former Chief Minister to allow Mr. Waqar Khan and who stayed for 123 days without payment of room rent (Rs.1,23,000) w.e.f. 10-03-2008 to 10-07-2008, the accused officer wrote a letter to PSO to Chief Minister on 27-09-2012 (**Annex-VIII**). Astonishingly, PSO to Chief Minister replied him on the same day (**Annex-IX**) justifying the illegal stay of Mr. Waqar Khan in these words "Room No.21 old Block was declared as Sub-Camp Office of the Honourable Chief Minister Khyber Pakhtunkhwa with effect from 10-03-2008 to 10-07-2008 as some repair work was being carried out in Chief Minister Annexy. The room was used for holding meetings and consultations. The same room was in custody of Waqar Khan, Sub-Engineer for upkeep and cleanliness". It was further certified that the room had not been used for residing, rather it remained as Camp Office during this time.

11. The reply of PSO to Chief Minister, Khyber Pakhtunkhwa is nothing but eyewash, as no documentary proof could be produced to the effect that room No.21 old block, Pakhtunkhwa House Islamabad had been declared as Sub-Camp Office of the former Chief Minister in the past.

FINDINGS:

a) Mr. Waqar Khan – a Sub-Engineer in Capital Development Authority, is established to have managed a prolonged stay through political influence. Using political channels is in itself misconduct, cognizable under Government Servants Conduct Rules.

ATTESTED

- b) Allowing and accommodating an individual holding a valid reservation permit of Estate Office, falls in the ambit of responsibilities of Comptroller, Pakhtunkhwa House Islamabad. But in the instant case, he allowed and facilitated an unauthorized stay spread over almost 03 years.
- c) The accused officer as well as the Estate Office have miserably failed to have transformed verbal orders of the former Chief Executives of the Province into formal/written shape for transparency and good governance as they were required to have done that under the Rules of Business.
- d) The unauthorized and illegal stay of Mr. Waqar Khan was not possible without the connivance of Estate Office and the accused officer. They sacrificed public interests at the altar of personal interests, totally ignoring their responsibilities in public offices as sacred trust.
- e) The authority of Estate Office has eroded with the passage of time and reservation permits once used to be issued by Estate Officers in good old days, passed on to a Junior Clerk. Even then, there was no formal orders for distribution of work and Mr. Liaqat Ali (former Junior Clerk, Estate Office) was delegated this function under verbal directions.
- f) The Estate Officers, who remained posted during the period, could not have the moral courage to have raised this issue and solicited orders of the Competent Authority. They knowingly or unknowingly remained tight lipped, probably with a view of "appeasement" and "let sleeping dogs lie".
- g) The apathy and compromising posture of Estate Office proved dearer to the Provincial Exchequer. Such kinds of unauthorized stays definitely caused pilferages in realization of receipt targets. The Estate Officers committed criminal negligence and played as "hand in glove" just to cover up and accommodate a political blue eyed person.
- h) The unauthorized and prolonged stay by Mr. Waqar Khan had been hushed up unless it was unearthed by Audit Party. Even on pointation by the audit report, concrete steps could not be taken and ultimately draft para converted into audit para went up to Public Accounts Committee. Unfortunately, the directions of Public Accounts Committee were not taken seriously and the accused officer was left alone to write to Capital Development Authority for realization of room rent outstanding against Mr. Waqar Khan. This was basically the responsibility of Principal Accounting Officer to have written and taken up the issue at senior level with Capital Development Authority.

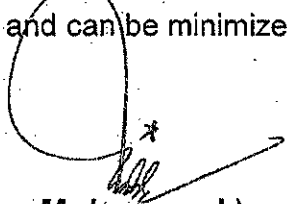
ATTESTED

i) On the basis of such malpractices, it can safely be concluded that this doesn't seem to have been the only case of prolonged/illegal stay of an individual in Pakhtunkhwa House, Islamabad since its commissioning in 1981. But ample number of cases must have remained under the carpet unrecorded and undocumented. This case, however, came into lime light due to audit report. Had, it not been noticed and reported by audit party there was likely hood that Mr. Waqar Khan would have a smooth sailing of illegal stay at Pakhtunkhwa House, Islamabad owing to political patronage and criminal negligence of officials at the helms of affairs.

j) Allegations leveled against the accused (Nadir Khan) are established. A loss of Rs.8,50,000/- has been sustained to the Public Exchequer due to his inefficiency and negligence.

RECOMMENDATIONS OF THE ENQUIRY COMMITTEE:

- (i) Major penalty of "Compulsory Retirement from Service" as mentioned in rule 4 (b) (ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 may be imposed upon Mr. Nadir Khan;
- (ii) The Capital Development Authority, Islamabad should be approached for initiating disciplinary proceedings against Mr. Waqar Khan, Sub-Engineer. Simultaneously, Administration Department should lodge FIR against him and be pursued vigorously by the Department so that recovery of Rs.8,50,000/- could be effectuated.
- (iii) The incumbents posted in the Estate Office and involved in the correspondence in the subject matter but failed to take effective action on the offence may also be booked for disciplinary proceedings under the relevant law;
- (iv) Record relating to the reservations of rooms in Pakhtunkhwa House both in Old and New Blocks may not be destroyed as noticed in the present case but should be computerized and kept in safe custody;
- (v) An internal audit at least once a year, may be arranged and ensured by the Administration Department as required under rule 13 of General Financial Rules so that misappropriation or embezzlement is checked and can be minimized, if any.


(Mian Muhammad)
Additional Secretary (Cabinet),
Administration Department.


(Atta-ur-Rahman)
Additional Secretary (LG),
LGE&RD Department.

ATTESTED

SHOW CAUSE NOTICE

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 do hereby serve you, Mr. Nadir Khan, Ex- Comptroller, Khyber Pakhtunkhwa House, Islamabad now under suspension with the following:-

That on going through the material on record and other papers connected with the case, I am satisfied that the charge given below has been proved against you:-

- i) That you allow Mr. Waqar Khan, Sub-Engineer, Capital Development Authority, Islamabad to stay in Khyber Pakhtunkhwa House, Islamabad with effect from 1.5.2005 to 28.8.2007 (850-days) and w.e.f. 10.3.2008 to 10.7.2008 (123-days) without any permit from the Estate Office, Administration Department, Peshawar and
 - ii) You failed to recover room rent from the said Mr. Waqar Khan for his 970-days stay in Khyber Pakhtunkhwa House, Islamabad and thereby caused a loss of Rs. 8,50,000/- to the public exchequer.
2. That as a result thereof, I, as Authorized Authority, have tentatively decided to impose upon you the penalty of compulsory retirement under rule 4 of the said rules.
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than seven days of its delivery, it shall be presumed that you have no defence to put in and in that case an exparte action will be taken against you.
5. A copy of enquiry report is enclosed.

Pervez Khattak
(PERVEZ KHATTAK)
CHIEF MINISTER
KHYBER PAKHTUNKHWA
(COMPETENT AUTHORITY)

MR. NADIR KHAN,
EX-COMPTROLLER, KHYBER PAKHTUNKHWA HOUSE, ISLAMABAD,
NOW UNDER SUSPENSION.

ATTESTED

To,

The Hon'ble Chief Minister
KPK (Competent Authority)

Annex-I

Subject: **SHOW CAUSE NOTICE (REPLY)**

Memo;

Apropos the Show Cause Notice, served upon me on 19th-Sep, 2013 vide letter No. SO (E-I) E&AD/9-128/2013 dated 18-09-2013, the following reply is submitted;

Before advertng to the facts of the case, I would like to quote the verdict of the Holy Qur'an and Hadith of our Holy Prophet (PBUH), with the request to decide my case with justice keeping in view the dictates of justice laid down by the Holy Qur'an and Sunnah, couched in the following views;

Srurah Al-Maidah (5th), Ayat No-8:-

8. O you who believe! Stand out firmly for Allâh as just witnesses; and let not the enmity and hatred of others make you avoid justice. Be just: that is nearer to piety; and fear Allâh. Verily, Allâh is Well-Acquainted with what you do.

يٰۤاَيُّهَا الَّذِيْنَ ءَامَنُوْا كُوْنُوْا قَوّٰمِيْنَ لِلّٰهِ
شٰهَدَآءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ
شِقَاقُ قَوْمٍ عَلٰٓى اَلَّا تَعْدِلُوْا اَعْدِلُوْا هُوَ
اَقْرَبُ لِلتَّقْوٰى وَاتَّقُوا اللّٰهَ اِنَّ اللّٰهَ خَبِيْرٌ
بِمَا تَعْمَلُوْنَ

Also as per saying of Our Holy Prophet (PBUH):-

Sahih Bukhari, Volume 4, Book 56, Number 681, Narrated by 'Aisha (r.a.):

"What destroyed the nations preceding you were that if a powerful amongst them commits a crime, they would forgive him, and if a poor person amongst them committed the same, he was dealt with, with iron hands"

=====

R/Sir;

First of all it is to mention here that it was the undersigned who detected, highlighted and proved the stay of Mr. Waqar Khan (Sub-Engineer, CDA and son-in-law/nephew of Baz Muhammad Khan) at KPK House Islamabad through documentary evidence and

ATTESTED

by keeping the record, but regret to say that instead of rewarding him for his efficiency and honesty, he was arraigned as accused and recommendation for awarding major penalty was proposed by the enquiry committee and the real culprits were let free. It is to unearth here, that one learned member of the said enquiry committee is the sub-ordinate of the main character/the most responsible person of this episode i.e. Mr. Hifz-ur-Rehman, and adopting of hostile posture against me cannot be ruled out.

But

On the other hand the actual responsible personnel i.e. the then Secretary Admin/Principal Accounting Officer, Mr. Hifz-ur-Rehman and the Estate Officer etc have been let free, who destroyed the record pertaining to stay of Mr. Waqar, with pre-planned objectives.

The undersigned has highlighted each and every aspect of the allegation in his detailed reply, already submitted on 02-07-2013 to the enquiry committee, comprising forty six (46) pages, (*mentioned as annex-III, page-4 to 49 in the enquiry report*), however, in response to the subject show cause notice, the undersigned humbly submits as under;

I have been charge sheeted on two (02) charges:-

- 1) That, I allowed Mr. Waqar Khan Sub-Engineer, CDA, Islamabad to stay at KPK House, Islamabad.....ibid
- 2) That, I failed to recover room rent from the said Mr. Waqar Khan.....ibid

In reply of the above two charges, the following humble submission are made;

ATTACHED

AA

Negation of 1st charge:

I had never ever allotted or allowed Mr. Waqar Khan to stay in KPK House, Islamabad, nor did the same fall in my domain; rather, it was the Estate office which allowed him stay, being guest of Mr. Akram Khan Durrani, the former Chief Executive/CM of the Province. It is established/admitted fact that reservation of room is not my job/responsibility and I cannot accommodate a person even for a single day, **hence**, the first charge levelled against me regarding allowing of Mr. Waqar for stay, is baseless, unjustified, not supported by any material evidence and is prompted by malice.

It is to pinpoint here that it has been admitted by the worthy enquiry committee in its findings at *Para-A* that "**stay of Mr. Waqar was the result of political influence**" and at *Para-C* that "**Mr. Waqar stayed on the verbal orders of the then Chief Executive of the Province**" hence, how the undersigned, being a civil servant, dare to disobey or deny such like orders of the Chief Executive of the Province, albeit the fact that the said room was already reserved by the Estate office for him and the same was extended by the Estate office on daily basis via telephonic reservation. This very fact is established from the circumstances that during the stay of Mr. Waqar Khan the said room was never allotted to anybody else by the Estate office.

Furthermore the enquiry committee in its report at *Para-7* has categorically admitted that "**the Estate officer also relied on the statement of Mr. Liaqat Ali Junior Clerk (the then Reservation**

ATTESTED



Incharge) Estate office, that room at KPK House, Islamabad had been reserved for Mr. Waqar Khan on the verbal directions of former Chief Minister" and the same fact is reflected in statements of Mr. Liaqat Ali Junior clerk (the then Reservation Incharge) Estate Office which is available on the enquiry file as annex-VI, page-52.

Likewise in the statement of Mr. Qasim Jan, the Estate officer, available on the enquiry file as annex-V, page 51, that "the room was reserved on the verbal directives of the then CM". It is further admitted there that "reservation/permit issuance is the job of Estate office".

Negation of 2nd charge:

Recovery of room rent is the exclusive job/responsibility of the Estate office and not of the undersigned. None of other formation including the Estate office has made any efforts to recover the said room rent from Mr. Waqar Khan, rather, it was the undersigned who initiated and made efforts by highlighting the matter at each and every forum including a chain of communication to responsible personnel of CDA, **hence**, the 2nd charge, too; crumbles to the ground, being not substantiated.

=====

Regarding the discharge of my duty, it is respectfully submitted;

- That, the indifference, coldness, apathy and compromising posture of the Estate office, Principal Accounting Officer and the Administration department, Mr. Waqar Khan paid deaf ear

ATTESTED

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to my letters by turning the same as my personal matter and all my efforts for the recovery of the said room rent became futile.

- That, it is pertinent to mention here that this fact has been admitted by the worthy enquiry committee in its findings at Para-h that ***"the accused officer was left alone to write to CDA for realization of room rent outstanding against Mr. Waqar Khan. This was basically the responsibility of Principal Accounting Officer to have written and taken up the issue at senior level with CDA"***. Similarly it has been admitted by Mr. Qasim Jan, the Estate Officer in his statement before the enquiry committee that ***"the comptroller (undersigned) has made several communication for effecting the recovery, but no fruitful result came out"***.
- Moreover, it is on record, that the undersigned had made several requests to the then Secretary (admin) (Mr. Hifz-ur-Rehman) for issuance of directions to start criminal proceedings against Mr. Waqar Khan, but I regret to mention here that he (Mr. Hifz-ur-Rehman) failed to take step in this regard, being politically motivated.
- Also in the last PAC meeting , Mr. Hifz-ur-Rehman, the then Secretary (Admin)/Principal Accounting Officer was directed by the then DG, Audit, KPK, to take positive step for the recovery of room rent from Mr. Waqar Khan, but he failed to move a bit.
- That, again to mention here that the undersigned was barred from the recovery of Room rent for 123 days vide letter issued

Ali...
AM

from the then CM Secretariat, copy of which is available in the enquiry file at page-49, then how the enquiry committee made him responsible.

- Mr. Liaqat Khan Junior Clerk (the then Reservation incharge) concealed the real facts from the enquiry committee by saying that "the undersigned informed him on 01-05-2005 regarding the reservation of room for Mr. Waqar Khan, as directed by the then CM" and this false portion of his statement was objected by the undersigned in front of the enquiry committee during the course of personal hearing dated 15-07-2013.

In fact the undersigned telephonically communicated the directives of the then CM to Mr. Liaqat on 30-04-2005 and he informed the undersigned back that Room NO. 12, old block had been reserved for the said Mr. Waqar, guest of the then Hon'ble CM. The same was communicated to the then CM that the Estate office had reserved Room No.12 old block for his (CM) guest and then Mr. Waqar arrived on 01-05-2005.

- It is pertinent to mention here that destroying the relevant record by the Estate office and the Admin Department openly speaks regarding their guilty mind/intention and involvement and the same fact finds support from the evidence that they never ever made any efforts for the vacation of the room as well as of the recovery of room rent.
- Efficiency, good governance and loyalty of the undersigned is floating on the record that it was the undersigned who raised the issue and proved the stay of Mr. Waqar Khan by the

ATTESTED

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following means, though the Estate office had destroyed the record pertaining to the stay of Mr. Waqar Khan;

- a) The undersigned made proper entry in the guest register and from it the same was brought to the notice of Audit party.
- b) The undersigned proved stay of Mr. Waqar Khan through the sworn affidavits of the staff of KPK House and by submitting the telephone calls register to the enquiry committee.
- c) The undersigned also made request to the PSO of the former Hon'ble CM for the recovery of room rent of 123 days from Mr. Waqar Khan, having stayed there on the verbal directions of the former CM, but the undersigned was debarred from the recovery vide *letter No. PSO/CM/KP/1-37/2011 dated 27-09-2012*. Both the request and reply of PSO are available on the *enquiry file at page-48 and 49*, respectively.

To clarify the point of the worthy enquiry committee mentioned in *Para-H* of the report regarding unearthing of the issue by the Audit party; it is humbly submitted;

- i) That, record/guest register maintained by the undersigned made the Audit party able to bring the same on record in shape of draft Para, because the Estate office and Admin Department have already washed out the relevant record.

Attested

And

ii) That, Initially the Audit party took the Para only for RS. 1,23,000/- for the period of 10-03-2008 to 10-07-2008 (123 days), for ready reference copy of the Draft Para is attached here as *annexed-A*; and for the recovery of this amount (Rs, 1,23,000/-) the undersigned was debarred from the recovery vide letter issued from the CM Secretariat, which is available on the *enquiry file at page-49*.

And it was the undersigned who brought on record the real figures regarding the recovery of room rent of previous period of 850 days (from 01-05-2005 to 28-08-2007).

Therefore keeping in view the facts;

- a) That, Mr. Waqar Khan stayed at KPK House on the directives of Mr. Akram Khan Durrani, the then Chief Executive of the Province.
- b) That, undersigned on that very date i.e. on 30-04-2005 communicated the directives of the then CM to the Reservation incharge of the Estate office and the Estate office reserved Room No. 21, Old block for Mr. Waqar, which fact is evident from the fact that during the stay of Mr. Waqar, the Estate office had never ever allotted the said room to any other person.
- c) That, keeping record of the stay of Mr. Waqar by me and proving his stay through documentary evidence proves my efficiency, good performance and loyalty, while on the

ATTESTED *AA*

other hand destruction of record by the Estate office and Admin Department has established guilty intention of others.

- d) That, I raised and highlighted the issue and knocked at each and every forum for the recovery of the room rent, and no one else, which is evident from the enquiry report and admitted by the worthy enquiry committee in *Para-H*.
- e) That, the Audit party in its Draft Para and also the worthy enquiry committee in its report have categorically stated that *"communication/recovery is the duty/responsibility of the Departmental Controlling Officer/Principal Accounting Officer i.e. the then Secretary Admin, Mr. Hifz-ur-Rehman"*, but I have been made a scape goat by letting the real culprits scot free, which is against the justice and the divine law enunciated the Holy Qur'an and Sunnah.

It is most humbly prayed;

- a) That, the undersigned be exonerated from all the charges, being baseless, false and maneuvered;
- b) That, the actual responsible personnel including Mr. Hifz-ur-Rehman, the then Secretary Admin/Principal Accounting officer and the responsible officers of the Estate office be dealt with iron hands;

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c) That, a proper FIR be lodged against Mr. Waqar Khan, and communication at high level be initiated with CDA for the recovery of the subject room rent, as was decided in PAC meeting.


R/Sir:

These are the real facts before you Honor for the dispensation of justice and fair play and I left my case at the disposal of your kind wisdom and impartiality in expectation of justice.

NOTE:

I desire to be heard in person to clarify my position and unearth the real facts before your Honor

Your's obedient



Nadir Khan (OSD, PBS-18)

(Ex: Comptroller KPK House, Islamabad)

Dated: 25-09-2013

Certificate:

My this reply consist of ten (10) pages along with Draft Para, consist of one (01) page attached as annexed-"A".



Nadir Khan (OSD, PBS-18)

(Ex: Comptroller KPK House, Islamabad)

ATTESTED





GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the November 21, 2013

NOTIFICATION

NO.SO(E-I)E&AD/9-128/2013. WHEREAS, Mr. Nadir Khan, Ex-Comptroller, Khyber Pakhtunkhwa House, Islamabad was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, on account of his involvement in charges leveled against him as per the Charge Sheet and the Statement of Allegations;

2. AND WHEREAS, an enquiry committee was constituted comprising of Mian Muhammad (PCS SG BS-19) Additional Secretary (Cabinet) and Mr. Attar-Rehman (PCS SG BS-19) Additional Secretary, LG&RD to conduct inquiry against the accused officer;

3. AND WHEREAS, the Inquiry committee after having examined the charges, evidence on record and explanation of the accused officer, submitted its report;

4. AND WHEREAS, the competent authority also accorded the opportunity of personal hearing to the accused officer;

5. NOW THEREFORE, the Competent authority, after having considered the charges, evidence on record, the explanation of the accused officer, defense offered by the accused officer during personal hearing and exercising his power under Rule-14 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose major penalty of "Compulsory retirement from service" on Mr. Nadir Khan, Ex-Comptroller, Khyber Pakhtunkhwa House, Islamabad, with immediate effect.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

Endst. No. & date even.

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Government of Khyber Pakhtunkhwa, Administration Department.
4. Accountant General, Khyber Pakhtunkhwa.
5. S.O. (Secret) E&AD/Section Officer (HRD Wing)/S.O. (Admn.)/S.O.(PSB), S.O. (E.II) E&AD.
6. PS to Chief Secretary, Khyber Pakhtunkhwa
7. PS to Secretary Establishment, Khyber Pakhtunkhwa/ PA to Deputy Secretary (Establishment)/D.S (Admn.) E&AD.
8. Officer concerned.
9. Manager, Government Printing Press, Peshawar.

M. Javed Siddiqi
(MUHAMMAD JAVED SIDDIQI)
SECTION OFFICER (ESTT. I)

ATTESTED

Ad

To,

944-EX-K

The Hon'ble Chief Minister
KPK (Competent Authority)

Subject: APPEAL/REVIEW PETITION UNDER RULE-17 OF KPK GOVERNMENT SERVANTS (E&D) RULES, 2011 AGAINST THE ORDER/NOTIFICATION NO. SO(E-I)E&AD/9-128/2013 DATED 21-11-2013 VIDE WHICH MAJOR PENALTY OF "COMPULSORY RETIREMENT FROM SERVICE" HAS BEEN IMPOSED ON THE APPELLANT AND FOR SETTING ASIDE THE SAME, BEING UNJUSTIFIED & UNTENABLE

R/Sir;

In response to the above mentioned notification, the appellant want to humbly submit the facts and background of initiating of the instant proceedings in order to show the male treatment, hostile posture and discrimination at the hands of high-ups/real culprits.

BACKGROUND OF INITIATING OF THE PROCEEDINGS:

- A.** That, the Appellant was appointed as Care Taker (BPS-16) on 24th July, 1994, purely, for Frontier House, Islamabad (now called as Khyber Pakhtunkhwa House) vide notification No. SO(E) C&W/1-9/94, attested copy of which is annexed-"A" at page-14.
- B.** That, on 7th November, 1996, after rendering satisfactory service, the competent authority after due approval of the Departmental Selection Committee promoted/appointed the appellant as Comptroller (BPS-17), Frontier House, Islamabad vide notification No. SOS-II (S&GAD)8(160)96-P.II, attested copy of which is annexed-"B" at page-15.

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And

- C.** That, on 28th April, 2004 as a reward for best service and efficiency, the competent authority after consultation/approval of the provincial selection Board, promoted the appellant to BPS-18 (as personal to him) vide Notification No. E&A(AD)4(104)/2004, attested copy of which is annexed-"C" at page-16.
- D.** That, pertinent to mention here, and as evident from the above mentioned Notifications, the appointment of the appellant was purely and specifically for Frontier House, Islamabad, and not for elsewhere.
- E.** That, the present charge sheet is actuated by the personal grudge and vengeance of Mr. Hifz-ur-Rehman, the then Secretary Administration. On April 21, 2012 the Assistant Comptroller KPK House Islamabad namely Muhammad Razaq Khan informed the appellant that Mr. Habibullah, PS to Ex: Chief Secretary wants to waived-off outstanding dues of Rs. 50,000 against Mr Zulfiqar Ali Shah for using different rooms in the KPK house, Islamabad for which the appellant did not agree to it and wrote a letter on 21-4-2012 to the Estate officer (Admin) for guidance and instructions in the matter and sent a copy of the letter to the said Mr. Hifz-ur-Rehman, the Secretary Administration. Copy of the said letter is annexed-"D" at page-17.
- F.** That, the above mentioned Zulfiqar Ali Shah checked out without clearing the dues of Rs. 50,000 and in this regard the appellant again wrote a letter to the Estate officer (Admin), the concerned authority, requesting there in, for clearing of the said outstanding dues, or the case be put up to the competent authority for its writing-off so that audit objection be removed/avoided and the copy of the letter, too; was sent to Mr. Hifz-ur-Rehman, the Secretary Administration. Copy of the letter is annexed-"E" at page-18.

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G. That, the appellant's insistence and pursuance for recovery of government dues was not liked by Mr. Hifz-ur-Rehman, the then Secretary Administration and he got annoyed with the appellant and with heavy heart he asked Mr. Abid, cashier Administration Department to make payment of Rs. 50,000 out of his own pocket and later on get his self compensated while making purchase for KPK House Islamabad which he accordingly did. An amount of Rs 2.2 million was drawn from the Treasury for purchase of various items like blankets, bed sheets, utensils etc for the KPK House, Islamabad but the total purchasing hardly exceeds Rs 800,000 and rest of the money was embezzled and pocketed by the then "honest" Secretary Administration (Mr. Hifz-ur-Rehman), which need a separate inquiry and probe.

H. That, due to the above mentioned facts, Mr. Hifz-ur-Rehman developed a personal grudge against the Appellant and as retaliation on 16th April, 2013 Mr. Hifz-ur-Rehman put-up a summary, with some speculative/perverse allegations, to the then Hon'ble Care Taker Chief Minister, KPK, for transfer of the appellant, which was returned by the Hon'ble Chief Minister un-approved with certain remarks, attested copy of which is annexed-"F" at page-19.

I. That, on 14th June, 2013, Mr. Hifz-ur-Rehman by overriding the order/remarks of the then Hon'ble Care Taker Chief Minister, issued transfer order of the appellant vides Notification No. E&A(AD)3(82)/2013, attested copy of which is annexed-"G" at page-20 to 21.

J. That, when, Mr. Hifz-ur-Rehman was confronted by the appellant with the gross illegality of having overridden the remarks/order of the then Hon'ble Care Taker Chief Minister, he put-up the same old summary dated 16th April, 2013 with new print/copy before your Excellency by

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And

keeping you in dark and took approval on 17th June, 2013, attested copy of which is annexed-"H" at page-22.

- K.** That, it is pertinent to mention here that the above mentioned summary was shown put-up on **16th April, 2013** to your Excellency but strange enough that at that time even the General election was not held, let alone the appointment of your Excellency.
- L.** That, to unearth that Mr. Hifz-ur-Rehman issued transfer order of the appellant on **14th June, 2013**, prior to the so-called approval of your Excellency which was allegedly obtained on **17th June, 2013**.
- M.** That, the appellant being an obedient civil servant, complied with the directions/transfer order and reported at the Administration department, Peshawar vides arrival report, copy of which is annexed -"I" at page-23.
- N.** That, as Section 10 of The Civil Servants Act, 1973, dealing with Posting and Transfer of Civil servants, does not even apply to the case of the Appellants - as per proviso-1 to Section 10, it is explicitly stated that ***"nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region"***, therefore the appellant being aggrieved approached to the august Peshawar High Court vide Writ petition No. 1765-P/2013, which was forwarded by the Hon'ble bench to the Chief Secretary for decision in accordance with law vide order dated 05-07-2013, copy of which is annexed-"J" at page-24 to 25.
- O.** That, Mr. Hifz-ur-Rehman was imminently poised to disgrace, defame and demean the Appellant for quenching his personal ego and on receiving the above mentioned order of the august High Court, he, Mr. Hifz-ur-Rehman got annoyed and he start backbite and by poisoning high-ups' ears start the instant proceedings against the appellant.

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OBJECTION ON THE PROCEEDINGS:**OBJECTION NO-1**

Both the learned members of the enquiry committee are the honest and competent officers, but one member namely Mr. Atta-ur-Rehman, Additional Secretary (LG&RD) was the subordinate of the main character/the most responsible person of this episode i.e. Mr. Hifz-ur-Rehman, and adopting of hostile posture against the appellant due to influence cannot be ruled out and the appellant has not only raised his objection at the time of enquiry proceedings, but also in his show cause reply.

OBJECTION NO-2

In his show cause reply the appellant opted/desired to be heard in person to clarify his position and unearth the real facts and faces of the culprits before your Excellency, as required in Rule-15 of the Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011, but the hostile elements in order to keep your Excellency unaware of the real facts not provided opportunity of personal hearing before your Excellency and just for fulfilling of the stereo type formality, scheduled my personal hearing before the Secretary Establishment, who is not the COMPETENT AUTHORITY in my case, hence Rule-15 of the under reference Rule.

FACTS OF THE CASE & GROUNDS OF APPEAL/REVIEW:

- I) That, on 30-04-2005 the then Chief Executive/Chief Minister Mr. Akram Khan Durrani verbally directed the appellant to make arrangement for the stay of the son-in-law/Nephew of Senator Baaz Muhammad Khan namely Mr. Waqar who was an employee (sub-engineer) of CDA, Islamabad.
- II) That, the appellant, being have no domain over the reservation/allotment of rooms/accommodation to any one, telephonically communicated the directives of the then CM to Mr. Liaquat on 30-04-2005 and the later feedback the appellant that Room No 12, old block had been reserved for the said Mr. Waqar, guest of the then Hon'ble CM.

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A.A.

- III) That, the appellant communicated the compliance report to the then CM that the Estate office had reserved Room No.12 old block for his (CM) guest and then Mr. Waqar arrived on 01-05-2005. It is pertinent to mention here that during the long stay (850 days during the tenure of Mr. Akram Khan Durrani and 123 days during the tenure of Mr. Amir Haider Khan Hoti) of the said Mr. Waqar, the Estate office has never allotted the said room to any one which is more than proof that the stay of Mr. Waqar was on the board of the Estate office.
- IV) That, the Audit Party during the course of audit for the year 2007-08 pointed out that an amount of Rs. 1,23,000/- be recovered from the said Mr. Waqar on account of his stay for the period w.e.from 10-03-2008 to 10-07-2008 (123 days) @ Rs.1000/- per night. Copy of the relevant Audit Para is annexed-**"K"** at page-26.
- V) That, for affecting the said recovery, the appellant has wrote a letter to the PSO of the then Hon'ble CM, copy of which is annexed-**"L"** at page-27.
- VI) That, in response of the above letter the appellant was restrained from affecting any recovery from Mr. Waqar with the observation that *"the said room was declared as sub camp office of the Hon'ble CM w.e.from 10-03-2008 to 10-07-2008 as some repair work was being carried out in CM annexy. The room was used for holding meetings and consultations. The same room was in custody of Waqar Khan, Sub-Engineer for upkeep and cleanliness"* Copy of the said letter is annexed-**"M"**, at page-28.
- VII) That, in the DAC (Departmental Account Committee) meeting, Chaired by Arbab Shah Rukh Khan, the then Secretary Administration, directed the Estate officer to write a letter to Capital Development Authority (employer of the said Waqar Khan) for the recovery of dues against Waqar Khan, but no one exhaust his responsibility, for the reason best known to him/them, rather the

ATTESTED

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appellant has approached to the immediate boss of the said Mr. Waqar i.e. to the Deputy Director, Road Division-V, CDA, Islamabad vide letter No. Comt (FH)/2009 for the recovery of the subject dues and in reply to the above the said Deputy Director conveyed written statement/letter of Mr. Waqar in which he (Mr. Waqar) denied any stay at KPK House, Islamabad. Copies of both the letters are annexed-"N" at page-29 & "O" at page-30.

- VIII) That, thereafter the appellant again approached to the said Deputy Director CDA for the said recovery by communicating the decision taken by the DAC meeting dated 06-01-2010 and had also wrote a letter to the Member Administration & Establishment (CDA) vide letters copies of which are annexed-"P" at page-31 & "Q" at page-32 to 34, followed by reminders copies of which are annexed-"R" at page-35 & "S" at page-36.
- IX) That, as mentioned earlier, that knowledge of the Estate Office and other responsible personals about the stay of Mr. Waqar Khan at KPK House, Islamabad is evident from the fact that during his stay, the room occupied by the delinquent official (Mr. Waqar) was never ever allotted to any other occupant during the under reference period i.e. w.e.from 01-05-2005 to 28-08-2007 (850 days) and again w.e.from 10-03-2008 to 10-7-2008 (123 days). The appellant, time and again, in a chain of letters requested to the Estate office and Administration for taking disciplinary, civil and criminal proceedings against the said Mr. Waqar, but none from the responsible initiated the same. For ready reference a self-explanatory letter of the appellant is annexed-"T" at page-39.

That, the appellant through written communication requested to his high-ups for granting authorization to initiate criminal proceedings against the delinquent official (Mr. Waqar), but to the utmost surprise, till date the same has not been granted and even Mr. Hifz-ur-Rehman, the then Secretary Administration, failed to take

ATTESTED



step in this regard, being politically motivated. Copy of the said letter is annexed-"U" at page-40.

- X) That in the last Public Account Committee (PAC) meeting chaired by Mr. Zameen Khan, the then MPA, held on 1-10-2012, the then Secretary administration, Mr. Hifz-ur-Rehman was asked to lodge an FIR against the defaulter (Mr. Waqar) for the said recovery but Mr. Hifz-ur-Rehman was reluctant and failed to proceed legally against him (Mr. Waqar) for the recovery of dues despite the express, direction of PAC.
- XI) That, keeping in view the facts and circumstances adumbrated above, Sir; room reservation was not the job/domain/duty/responsibility of the appellant and as such the recovery of rent is/was, too; the responsibility of the allotting authority. Initiating of the proceedings was based on the malafide intention, animosity and revengeful action of Mr. Hifz-ur-Rehman, and he kept all the Administration including your Excellency in dark by getting his favorable recommendation for quenching his own ego.
- XII) That, it is on board that the KPK House, Islamabad cannot accommodate any person even for a single day without the prior allotment/booking/permission/knowledge of the Estate office as the room occupancy is regularly monitored on daily basis by the Estate office/Administration.
- XIII) That, as mentioned above that the said Mr. Waqar flatly denied any stay at KPK, House and it was the appellant who proved his stay by different records like, telephones records register, which shows his telephone communications with his family and friends during his stay at KPK House, Islamabad, copies of which are annexed-"V" at page-41 to 51.

ATTESTED

And

- XIV) That, the appellant has also further proved stay of the said Mr. Waqar by getting sworn affidavits of the concerned staffs (supervisory as well as telephone operators and waiters) on judicial stamp papers, confirming his (Mr. Waqar Khan) stay at KPK House, Islamabad, copies of which are annexed-"W" at page-52-63.
- XV) That, efficiency of the appellant is much clear and evident from the above struggle/communication of the appellant. Only the struggle and record of the appellant make able the audit party to point out the recovery because the Estate office and Administration Department have trashed the record pertaining to stay of Mr. Waqar. Destroying the relevant record by the Estate office and the Admin Department openly speaks regarding their guilty mind/intention and involvement and the same fact finds support from the evidence that they never ever made any efforts for the vacation of the room as well as of the recovery of room rent.
- XVI) That, it was the appellant who detected, highlighted and proved the stay of Mr. Waqar Khan (Sub-Engineer, CDA) who was also son-in-law/nephew of Senator Baaz Muhammad Khan, at KPK House Islamabad through documentary evidence and by keeping the record, but regret to say that instead of rewarding him for his efficiency and honesty, he was arraigned as accused and recommendation for awarding major penalty was imposed on him while on the other hand the actual responsible personnel i.e. the then Secretary Admin/Principal Accounting Officer, Mr. Hifz-ur-Rehman and the Estate Officer etc have been let free, who destroyed the record pertaining to stay of Mr. Waqar, with pre-planned objectives.
- XVII) That, due to the indifference, coldness, apathy and compromising posture of the Estate office, Principal Accounting Officer and the Administration department, Mr. Waqar Khan paid deaf ear to my letters by turning the same as my personal matter and all my efforts for the recovery of the said room rent became futile.

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XVIII) That, it is pertinent to mention here that this fact has been admitted by the worthy enquiry committee in its findings at **Para-H** that *"the accused officer was left alone to write to CDA for realization of room rent outstanding against Mr. Waqar Khan. This was basically the responsibility of Principal Accounting Officer to have written and taken up the issue at senior level with CDA"*. Similarly it has been admitted by Mr. Qasim Jan, the Estate Officer in his statement before the enquiry committee that *"the comptroller (undersigned) has made several communication for affecting the recovery, but no fruitful result came out"*.

XIX) That, as evident from **(annexed-L, page-27)** that initially the Audit party took the Para only for RS. 1,23,000/- for the period of **10-03-2008 to 10-07-2008 (123 days)**, for which too; the undersigned was debarred from the recovery as mentioned in the letter issued from CM Secretariat **(annexed-M, page-28)**, but the written communications and record/guest register maintained by the appellant able the audit party to brought on record the real figures regarding the recovery of room rent of previous period of 850 days (from 01-05-2005 to 28-08-2007), because the department have already washed out the relevant record.

XX) That, the Audit party in its Draft Para and also the worthy enquiry committee in its report have categorically stated that *"communication/recovery is the duty/ responsibility of the Departmental Controlling Officer/Principal Accounting Officer i.e. the then Secretary Admin, Mr. Hifz-ur-Rehman"*, but the appellant have been made a scape goat by letting the real culprits scot free, which is against the justice and the divine law enunciated the Holy Qur'an and Sunnah. To mention here that the same observation was revealed by the worthy Secretary Establishment during the course of personal hearing of the appellant.

ATTESTED

Adh

REGARDING THE CHARGE SHEET/STATEMENT OF ALLEGATION:

R/Sir;

The appellant have been confronted with two allegations:-

- That the appellant allowed Mr. Waqar to stay in KPK House, Islamabad;
- That the appellant failed to recover the Room rent from Mr. Waqar;

Negation of 1st charge:

The appellant had never ever allotted or allowed Mr. Waqar Khan to stay in KPK House, Islamabad, nor did the same fall in his domain; rather, it was the Estate office which allowed him stay, being guest of Mr. Akram Khan Durrani, the former Chief Executive/CM of the Province. It is established/admitted fact that reservation of room is not the job/responsibility of the appellant and he cannot accommodate a person even for a single day, **hence**, the first charge levelled against the appellant regarding allowing of Mr. Waqar for stay, is baseless, unjustified, not supported by any material evidence and is prompted by malice.

It is to pinpoint here that it has been admitted by the worthy enquiry committee in its findings at *Para-A* that "**stay of Mr. Waqar was the result of political influence**" and at *Para-C* that "**Mr. Waqar stayed on the verbal orders of the then Chief Executive of the Province**" hence, how the undersigned, being a civil servant, dare to disobey or deny such like orders of the Chief Executive of the Province, albeit the fact that the said room was already reserved by the Estate office for him and the same was extended by the Estate office on daily basis via telephonic reservation. This very fact is established from the circumstances that during the stay of Mr. Waqar Khan the said room was never allotted to anybody else by the Estate office.

Furthermore the enquiry committee in its report at *Para-7* has categorically admitted that "**the Estate officer also relied on the statement of**

AA ATTESTED

Mr. Liaqat Ali Junior Clerk (the then Reservation Incharge) Estate office, that room at KPK House, Islamabad had been reserved for Mr. Waqar Khan on the verbal directions of former Chief Minister” and the same fact is reflected in statements of Mr. Liaqat Ali Junior clerk (the then Reservation Incharge) Estate Office which is available on the enquiry file as annex-VI, page-52.

Likewise in the statement of Mr. Qasim Jan, the Estate officer, available on the enquiry file as annex-V, page 51, that *“the room was reserved on the verbal directives of the then CM”*. It is further admitted there that *“reservation/permit issuance is the job of Estate office”*.

Additionally in the PAC meeting held on 18-04-2012 it was admitted by the department, represented by Mr. Hifz-ur-Rehman & Mr. Qaiser Alam that *“the room to Mr. Waqar was allotted on the verbal directives of the higher authority and he could keep the room free of charge”*.

How in the ambient circumstances, the appellant has been made escape goat by turning him the sole responsible for the same. Furthermore in the said meeting the department was directed to ensure the recovery of said amount through CDA, but the department not moved a bit, rather the appellant's struggle is evident through documentary proof. Copy of the minutes of the PAC meeting is annexed-“X”, at page-64 to 66.

Negation of 2nd charge:

Recovery of room rent in the particular case was the exclusive job/responsibility of the Estate office and Principal accounting officer and not of the appellant. None of other formation including the Estate office has made any efforts to recover the said room rent from Mr. Waqar Khan, rather, it was the appellant who initiated and made efforts by highlighting the matter at each and every forum including a chain of communication to responsible personnel of CDA, **h**ence, the 2nd charge, too; crumbles to the ground, being not substantiated.

ATTESTED

Ad

POINT OF DISCRIMINATION:

The appellant has been awarded major penalty, but on the other hand an amount of 13,69,000/- has not been recovered from the occupant who stayed at Shahi Mehmana Khana, Peshawar and the same issue was also taken in the PAC meeting, none were held responsible by any one. Copy of the minutes of the said PAC meeting is annexed-"Y", at page-67 to 69.

It is most humbly prayed;

- a) That, the appellant be exonerated from all the charges, being baseless, false, maneuvered, against the law, facts and circumstance and based on malafide intention;
- b) That, the actual responsible personnel including Mr. Hifz-ur-Rehman, the then Secretary Admin/Principal Accounting officer and the responsible officers of the Estate office be dealt with iron hands;
- c) That, a proper FIR be lodged against Mr. Waqar Khan, and communication at high level be initiated with CDA for the recovery of the subject room rent, as was decided in PAC meeting.

R/Sir:

These are the real facts before you Honor for the dispensation of justice and fair play and I left my case at the disposal of your kind wisdom and impartiality in expectation of justice.

Yours obedient



Nadir Khan (OSD, PBS-18)

(Ex: Comptroller KPK House, Islamabad)

Dated: 28-11-2013

Certificate:

- Appeal/review in hand is the first one on the subject issue before this learned forum.
- The instant appeal/review consist of thirteen (13) pages along with the annexed documents of fifty (50) pages {Total Sixty three (63) pages}

 ATTESTED



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

NO. SO(E-I)E&AD/9-128/2014

Dated Peshawar, the January 3, 2014

To

Mr. Nadir Khan,
Ex-Comptroller, Khyber Pakhtunkhwa House Islamabad.

**SUBJECT: - REVIEW PETITION AGAINST THE ORDER OF IMPOSITION OF
MAJOR PENALTY OF COMPULSORY RETIREMENT FROM
SERVICE.**

I am directed to refer your Review Petition dated 28.11.2013 on the subject noted above and to inform that the competent authority (Chief Minister, Khyber Pakhtunkhwa) has perused your review petition and rejected the same for having no substance.


(MUHAMMAD JAVED SIDDIQI)
SECTION OFFICER (ESTT. I)

ATTESTED

