


23.07.2018


Mr. Irshad, Advocate on behalf of counsel for the appellant present. Mr. Sardar Shoukat Hayat, Addl: AG for respondents present. Security and process fee not deposited. Appellant is directed to submit security and process fee within a week, thereafter notices be issued to the respondents for submission of written reply/comments. Adjourned. To come up for written reply on 11.09.2018 before S.B.


(Ahmad Hassan)
Member

11.09.2018

Neither appellant nor his counsel present. Called for several times but none appeared on behalf of the appellant. The court time is about to over, hence this Tribunal is left with no option but to dismiss the appeal in default. Parties are left to bear their own costs. File be consigned to the record room.

Announced:
11.09.2018


Chairman
SW
11.9.2018

22.03.2018

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving as Junior Clerk in the office of Deputy Director (Planning Cell) of Forestry, Environment and Wildlife Department Khyber Pakhtunkhwa Peshawar. It was further contended that during service the appellant was dismissed from service vide order dated 18th September 2017 on the allegations mentioned in the charge sheet. It was further contended that the appellant filed departmental appeal but the same was not responded hence, the present service appeal. It was further contended that the allegations against the appellant mentioned in the charge sheet and show-cause notice was general in nature. It was further contended that neither proper inquiry was conducted nor opportunity of personal hearing as well as cross examination was provided to the appellant therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 15.05.2018 before S.B.



(Muhammad Amin Khan Kundi)
Member

15.05.2018

None is present on behalf of the appellant. Security and process fee have not been deposited. To come up for further proceedings on 23.07.2018 before S.B.






Chairman

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 194/2018


| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1. | 12/02/2018 | <p>The appeal of Mr. Hamidullah resubmitted today by Mr. Javed Iqbal Gulbela Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | 13/02/18. | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/02/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 26.02.2018 | <p>Counsel for the applicant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 22.03.2018 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member (E)</p> |

The appeal of Mr. Hamid Ullah Ex-Junior clerk office of the Deputy Director Forestry KPK received today i.e. on 31.01.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of the appeal may be got signed by the appellant.
- 2- Copies of charge sheet, statement of allegations and replies thereto are not attached with the appeal which may be placed on it.

No. 247 /S.T,

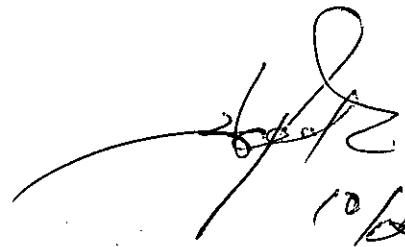
Dt. 01/02 /2018


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Javed Iqbal Gulbela Adv. Pesh.

Respected Sir,

Resubmitted after necessary
completion & as the no. 2
copies of charge sheet is provided
to the Appellant, so it is not
attached of the instant case.
may graciously be filed
before the Honorable Tribunal.


10/2/18

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

In Re S.A 194 /2018

Hamid Ullah

VERSUS

Government of, Khyber Pakhtunkhwa, and others

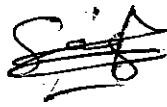
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| 3 | Addresses of Parties. | | 8. |
| 4 | Copies compulsory retirement | "A" | 9. |
| 5 | Copy of impugned order dated 18-09-2017 | "B" | 10. |
| 6 | Copy of Departmental appeal | "C" | 11-12. |
| 8 | Other documents | "D" | 13-22. |
| 9 | Wakalatnama | | 23. |

Dated: 30/01/2018

Appellant

Through



JAVED IQBAL GULBELA

&

SAGHIR IQBAL GULBELA

Advocate High Court

Peshawar.

Off Add: 9-10A Al-Nimrah Centre, Govt College Chowk Peshawar

(1)

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

Khyber Pakhtunkhwa
Service Tribunal

In Re S.A 194 /2018

Diary No. 160
Dated 31-01-2018

*Hamid Ullah, Ex-Junior Clerk (BPS-11) R/o officer of
Deputy Director (Planning) Cell of Forestry,
Environment and wildlife department, Khyber
Pakhtunkhwa Peshawar.*

-----*(Appellant)*

VERSUS

- 1. Chief Secretary, Khyber Pakhtunkhwa at civil
servant Peshawar.*
- 2. Secretary, Forestry Environment and wildlife
Department Khyber Pakhtunkhwa Peshawar.*

-----*(Respondents).*

**APPEAL AGAINST THE IMPUGNED
OFFICER ORDER NO.
SO(ESTT)FE&WD/3-2/2016:1555-58,
DATED 18-09-2017 OF THE OFFICE OF
SECRETARY FORESTRY,
ENVIRONMENT AND WILDLIFE
DEPARTMENT WHEREBY THE
APPELLANT WAS DISMISSED FROM
SERVICE**

Filed to-day

[Signature]
Registrar

31/1/18

Re-submitted to -day
and filed.

[Signature]
Registrar

12/2/18

Respectfully Sheweth;

1. *That the Appellant was appointed as a junior clerk from 24-12-1990 (27 Years) in the Office of the Deputy Director (Planning Cell) of Forestry, Environment and wildlife Department and since then is performing duty to the utmost of his capabilities and potential and to the entire satisfaction of his high-ups.*

2. *That during my entire service, I have been the most devoted, regular, punctual fellow and left no stone unturned in performing my duties.*

3. *That all of a sudden the appellant was served with a show-cause notice, with following allegations:-*
 - a. *That you remained absent from Official duties most of the days in every month of the calendar year.*

- b. That despite repeated specific instruction, you failed to effectively perform your duties and functions in respect of office DDP.
- c. That as a routine, you attend the office for one or two hours only in a day, as a result considerable Official Dak remains un-disposed and sometimes gets missing.
- d. That due to your above mentioned attitude, the official work is badly affected and causing loss to the Government.
- e. That you are involved in a private business without any prior permission of the competent authority.
4. That an inquiry was constituted, where in the appellant was not allowed to defend himself properly.

5. *The committee gave its recommendations and it recommended the penalty of "Compulsory Retirement" of the appellant. (Copies are annexed A)*
6. *That instead the appellant was dismissed from service vide the impugned order SO(ESTT)FE&WD/3-2/2016:1555-58, dated 18-09-2017 by the Secretary Forestry, Environment and Wildlife Department Khyber Pakhtunkhwa. (Copy is annexed B)*
7. *That thereafter the Appellant preferred a departmental appeal, but inspite of lapse of statutory period nothing came out (Copy of departmental appeal is annexed as annexure "C").*
6. *That feeling aggrieved the Appellant prefers the instant Appeal for setting aside the impugned dismissal order upon the following:-*

GROUNDS:-

- A) That the impugned dismissal order is against law and facts of the case and is liable to be set aside.
- B) That first of all the appellant has neither remained absent as alleged nor remained habitual absentee, nor even failed in performance of official duties, nor has committed any other illegality.
- C) That the inquiry committee although did not extend proper opportunity to defend my case, but even then recommended a less harsh penalty of compulsory retirement.
- D) That from every angle the impugned order of dismissal is unwarranted and is liable to be set aside and the appellant is entitled for re-instatement into service with all back benefits.

E) That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned order No. SO(ESTT)FE&WD/3-2/2016:1555-58 dated 18-09-2017 of the Secretary Forestry, Environment and wildlife Department Khyber Pakhtunkhwa be set aside and the appellant be reinstated into service with all back benefits 05-10-2017.

Dated: 30/01/2018.

Hamid ulkh.

Appellant

Through



JAVED IQBAL GULBELA

&

SAGHIR IQBAL GULBELA

Advocate High Court

Peshawar.

NOTE:-

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.



Advocate.

(7)

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

In Re S.A _____/2018

Hamid Ullah

VERSUS

Government of, Khyber Pakhtunkhwa, and others

AFFIDAVIT

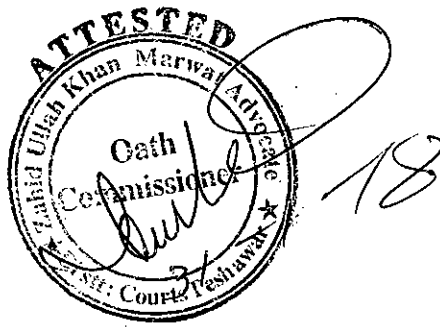
I, Hamid Ullah, Ex-Junior Clerk (BPS-11) R/o officer of Deputy Director (Planning) Cell of Frostery, Environment and wildlife department, Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

[Handwritten Signature]

Hamid Ullah
DEPONENT

Identified By :

Javed Iqbal Gulbela
Advocate High Court
Peshawar.



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

In Re S.A _____/2018

Hamid Ullah

VERSUS

Government of, Khyber Pakhtunkhwa, and others

ADDRESSES OF PARTIES

APPELLANT.

*Hamid Ullah, Ex-Junior Clerk (BPS-11) R/o officer of
Deputy Director (Planning) Cell of Forestry,
Environment and wildlife department, Khyber
Pakhtunkhwa Peshawar*

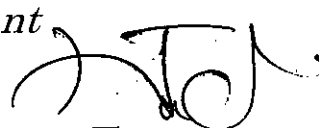
RESPONDENTS:

- 1. Chief Secretary, Khyber Pakhtunkhwa at civil
servant Peshawar.*
- 2. Secretary, Forestry Environment and wildlife
Department Khyber Pakhtunkhwa Peshawar*

Dated: 30/01/2018

Appellant

Through


JAVED IQBAL GULBELA
&
SAGHIR IQBAL GULBELA
*Advocate High Court
Peshawar.*



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar the, 18th September, 2017

NOTIFICATION

No: SO(Estt)/FE&WD/3-2/2016: WHEREAS, Mr. Hamid Ullah, Junior Clerk (BS-11), Office of Deputy Director (Planning) Cell of Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 for the charges as mentioned in the Charge Sheets and Statement of Allegations, served upon him.

AND WHEREAS, Enquiry Committee, comprising of Mr. Sanaullah Khan, Deputy Director (BS-18) and Mr. Mumtaz Ali, Assistant Director (Legal), BS-17, Environmental Protection Agency, Khyber Pakhtunkhwa was constituted to conduct inquiry against the said accused official.

AND WHEREAS, the Enquiry Committee, after having examined the charges, evidence on record and explanation of the accused officials/officers, submitted its report, wherein the charges against the official concerned have been proved being of serious nature beyond reasonable doubt.

AND WHEREAS, the Competent Authority, after considering the Inquiry Report and other related documents of the case, served Show Cause Notices upon the accused official against whom charges established to which he replied, and provided him opportunity of personal hearing.

NOW, THEREFORE, the Competent Authority, after having considered the charges, evidence on record, findings/recommendations of the Enquiry Committee, the explanation of the accused official, and hearing him in person and exercising his powers under Rule-14 (5) (ii) read with Rule-4 (1) (b) (iv) of the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 has been pleased to impose major penalty of "DISMISSAL FROM SERVICE" upon the above named accused official.

Secretary to Govt: of Khyber Pakhtunkhwa
Forestry, Environment & Wildlife
Department

Endst: No: SO (Estt)/FE&WD/3-2/2016:

1571-58

Dated Peshawar the, 18th September, 2017

Copy is forwarded to:-

- 1) Section Officer (General), FE&W department, Khyber Pakhtunkhwa.
- 2) Deputy Director (Planning) Cell of FE&W Department, Khyber Pakhtunkhwa.
- 3) PS to Secretary, Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa.
- 4) Official concerned C/o Deputy Director (Planning) Cell of FE&W department, Khyber Pakhtunkhwa.
- 5) Office order file.

ATTESTED

(MAQBOOL HUSSAIN)
SECTION OFFICER (ESTT)

The Worthy Chief Secretary,
Khyber Pakhtunkhwa Civil Secretariat,
Peshawar.

Subject:- DEPARTMENTAL APPEAL AGAINST THE IMPUGNED OFFICER ORDER NO. SO(ESTT)FE&WD/3-2/2016:1555-58, DATED 18-09-2017 OF THE OFFICE OF SECRETARY FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT.

Respected Sir,

With due deference & obeisance, the applicant very humbly submits the instant departmental appeal against the impugned Office order No. SO(ESTT)FE&WD/3-2/2016:1555-58, dated 18-09-2017 where the appellant was dismissed from service to the following effect:-

1. That the appellant was appointed as a junior clerk from **24-12-1990 (27 years)** in the Office of the Deputy Director (Planning Cell) of Forestry, Environment and Wildlife Department and since then is performing duty to the utmost of his capabilities and potential and to the entire satisfaction of my high-ups.
2. That during my entire service, I have been the most devoted, regular, punctual fellow and left no stone unturned in performing my duties.
3. That all of a sudden the appellant was served with a showcause notice, with following allegations:-
 - a. That you remained absent from Official duties most of the days in every month of the calendar year.
 - b. That despite repeated specific instructions, you failed to effectively perform your duties and functions in respect of Office DDP.
 - c. That as a routine, you attend the Office for one or two hours only in a day, as a result considerable Official Dak remains un-disposed and sometimes gets missing.
 - d. That due to your above mentioned attitude, the Official work is badly affected and causing loss to the Government.
 - e. That you are involved in a private business without any prior permission of the competent authority.
4. That an inquiry was constituted, where in the appellant was not allowed to defend himself properly as he was served with a showcause notice.
5. The committee gave its recommendations and it recommended the plenty of "Compulsory Retirement" of the appellant (**copies are annexed-I**)
6. That instead the appellant was dismissed from service vide the impugned order SO(ESTT)FE&WD/3-2/2016:1555-58, dated 18-09-2017 by the Secretary Forestry, Environment and Wildlife Department Khyber Pakhtunkhwa (**copy is annexed-II**). Dak remains un-disposed and sometimes gets missing.
7. That feeling aggrieved the appellant prefers the instant appeal for setting aside the impugned dismissal order upon the following

ATTESTED

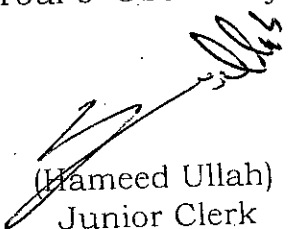
GROUNDS

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- i. That the impugned dismissal order is against Law and Facts of the case and is liable to be set aside.
- ii. That first of all the appellant has neither remained absent as alleged nor remained habitual absentee, nor even failed in performance of official duties, nor has committed any other illegality.
- iii. That the inquiry committee although did not extend proper opportunity to defend my case, but even then recommended a less harsh penalty of compulsory retirement.
- iv. That from every angle the impugned order of dismissal is unwarranted and is liable to be set aside and the appellant is entitled for re-instatement into service with all back benefits.

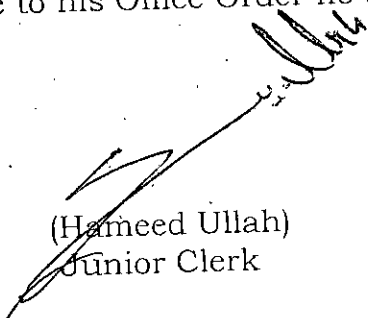
It is therefore, most humbly prayed that on acceptance of the instant departmental case, impugned Office order SO(ESTT)FE&WD/3-2/2016-1555-58, dated 18-09-2017 of the Secretary Forestry, Environment and Wildlife Department Khyber Pakhtunkhwa be set aside and the appellant be reinstated into service with all back benefits dated 05-10-2017.

Your's Obediently


(Hameed Ullah)
Junior Clerk

Copy of the above is forwarded for information to the Secretary Forestry, Environment and Wildlife Department with reference to his Office Order no and date quoted above.

*received
6/10/2017*


(Hameed Ullah)
Junior Clerk

~~X~~
ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

SHOW CAUSE NOTICE

I, Syed Nazar Hussain Shah, Secretary, Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa as Competent Authority, under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Hamid Ullah, Junior Clerk (BS-11), office of the Deputy Director, Planning Cell of Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa, as follows:

1. (i) that consequent upon the completion of enquiry conducted against you by the Enquiry Committee, for which you were given opportunity of hearing vide communication No.SO(Estt)FE&WD/3-2/2k15/4-8, dated 09th March, 2017; and
- (ii) on going through the recommendation of the Enquiry Committee, the material on record and other connected papers including your defence before the Enquiry Committee,-

I am satisfied that you have committed the following acts/omissions specified in the Rule-3 of the said rules:-

- (a) Inefficiency
- (b) misconduct

2. As a result thereof, I, as competent 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/penalties 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 of fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

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

(Syed Nazar Hussain Shah)
Secretary to Government of Khyber Pakhtunkhwa
Forestry, Environment & Wildlife Department/

~~ATTESTED~~

ENQUIRY REPORT

Subject: CHARGE SHEET

According to the charge sheet and statement of allegations Mr. Hamidullah, Junior Clerk (BPS-11), that while he was posted as Junior Clerk (Dispatch and Diary work) in the office of the Deputy Director (Planning), Forestry, Environment & Wildlife Department, Government of Khyber Pakhtunkhwa, he was involved in certain irregularities and rendered himself liable to be proceeded against, as he has committed the following acts/omissions within the meaning of Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rule and has rendered himself liable to all or any of the penalties specified in Rule 4 of the Rules ibid.

STATEMENT OF ALLEGATIONS:

- i. That you remained absent from official duties most of the days in every month of the calendar year.
- ii. That despite repeated specific instructions, you failed to effectively perform your duties and functions in respect of the office of DDP.
- iii. That as a routine, you attend the office for one or two hours only in a day, as a result considerable official Dak remains un-disposed and sometimes gets missing.
- iv. That due to your above mentioned attitude, the official work is badly affected and causing loss to the Government.
- v. That you are involved in a private business without any prior permission of the competent authority (Annex-1).

For probing into the charge/allegations leveled against Mr. Hamidullah, Junior Clerk (BPS-11) (accused official), Planning Cell, FE&WD, Mr. Sanaullah Khan, Director, Environmental Protection Agency (EPA), and Mr. Mumtaz Ali Wazir, Assistant Director (Litigation), Environmental Protection Agency (EPA), Government of Khyber Pakhtunkhwa, Peshawar have been appointed as Enquiry Officers/committee vide Government of Khyber Pakhtunkhwa Forestry,

~~ATTESTED~~

Environment & Wildlife Department, Notification No. SO(Estt)FE&WD/3-2/2K15 dated March 9th, 2017, to scrutinize the conduct of the said accused official with reference to the above Allegations and Charge Sheets (Annex-2).

PROCEEDINGS:

To scrutinize the conduct of Mr. Hamidullah, Junior Clerk (BPS-11) with reference to the above allegations, the enquiry Committee directed Mr. Salahuddin, Deputy Director (Planning), MR. Zahoor Rahman, Accountnt, Planning Cell and Mr. Hamidullah, Junior Clerk, Planning Cell through a letters No.EPA/DD (Tech)/1265-66 and No.EPA/DD (Tech)/1267-68 and No.EPA/DD (Tech)/1269-70 dated March 17th, 2017, to appear in person before the enquiry committee along with all the relevant proof/ documents/written statement, as per date, time and venue mentioned (Annex-3).

STATEMENT OF DEPUTY DIRECTOR (PLANNING) AND ACCOUNTANT, PLANNING CELL, FE&WD:

The Deputy Director (Planning) and Accountant, Planning Cell, Forestry, Environment & Wildlife Department recorded their statements and also provided written proof against Mr. Hamidullah, Junior Clerk, Planning Cell, FE&WD.

1. They stated that the accused was appointed as Junior Clerk in a Project namely "Strengthening of Planning Cell in administrative Department" dated 24/12/1990 (Annex-4).
2. His service was regularized due to conversion of the posts from Developmental side to SNE/normal budget side, dated 29/3/2010 (Annex-5).
3. They said that Mr. Hamidullah is habitual late comer to the office since 2012. They produced copies of the orders of the competent authority who warned the accused person time and again to be careful in future otherwise disciplinary action will be initiated against him and then taken lenient view and considered his wilful absence from duty as "Leave without pay" (Annex-6).
4. They produced copies of the daily attendance register wherein the accused (Mr. Hamidullah) was marked "Absent" since 01/09/2016 to 14/10/2016 and October 20th, 21st, 27th, 2016 and from 07/11/2016 to 25/11/2016 and from November 29th to 30th, 2016 and from December 15th to 29th, 2016 and

~~ATTESTED~~

SA

January 1st, 9th, 10th, 11th and 19th, 2016. They further said that the accused is now continuously absent from office without intimation to officers since February 9th, 2016 till date (Annex-7).

(Signature)

STATEMENT OF MR. HAMIDULLAH, JUNIOR CLERK, PLANNING CELL, FE&WD:

| S. No. | Questions of the Enquiry Committee | Answers of Mr. Hamidullah, Junior Clerk |
|--------|--|--|
| 01 | Why are you absent from official duties most of the days in every month of the Calendar year? | He, (Mr. Hamidullah) said that I did not remain absent from my office and always remained present and performed my duties up to the mark and left no pendency on my part in routine official business. He said the DDP has personal grudges/clashes with him and he always intentionally marked me "Absent" in the attendance register. He further said that I submitted leave application to meet any emergency at my home that too was marked by DDP without pay which is contrary to the laid down procedure and Government instructions and I was deprived from my due right of leave. He later on confessed/acknowledged that due to his personal engagement he comes late and leave office earlier without intimation of his superior. |
| 02 | Despite repeatedly instructions why you failed to effectively perform your duties in the DDP office and also come late and leave earlier the office without permission of the competent authority? | He categorically stated that he is engaged with some private security company namely "Labaik" under the supervision of a retired Lt. General Mr. Hamid Niaz. He stated that he is getting a smaller amount of salary as a Junior Clerk from the Forestry, Environment & Wildlife Department which is not sufficient to meet his daily needs. From the Security company he is getting more than Rs. 80,000/= per month. His duty is a middle man between the company and customers. He further stated that he has no established office of security company in Peshawar and performing his duty mostly on telephone calls and customer visit. |
| 03 | Why you leave the office after attending one or two hours without intimation to your | He said that he had distributed his office work like diary dispatch etc. with his office colleague that's why I left the |

~~ATTESTED~~

superiors?

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office so earned. He said that he did work on computer, went to treasury office in routine to deliver cheques and distribute the official Dak which is the responsibility of Peon or Naib Qasid to various offices like DG, EPA, Chief Conservator Forest, Shami Road, Chief Conservator of Wildlife, Secretary, Finance Department, Income Tax office; Jamrud Road etc. in addition to his job description. He said that he had not availed earned leave during his 27 years service. He said that he never seeks permission of his superiors for coming late and leave the office earlier. Anyhow, in this context, he had not received any specific instructions either verbally or in writing from his superiors. He did not produce any written evidence in his support/defense.

(Signature)

| | | |
|----|---|--|
| 04 | Why you do not change your worse attitude with the office colleagues and superiors? | I can't change my attitude because the DDP is personalized with me and even he has deducted three days amount from my salary although I have informed telephonically the DDP that my mother-in-law has died. |
| 05 | Are you involved in private business without any prior permission of the competent authority? | He straight away said "Yes" because I am getting a very meager and insufficient salary of Rs. 25000/- month due to which I can't meet my children educational expenses and huge utilities bills etc. |
| 06 | Why you behave like this with your superiors and what is the philosophy behind? | He simply replied that I want "Compulsory Retirement" from my service with full benefits. |

RECOMMENDATIONS:

We, Mr. Sanaullah Khan, Director, EPA, and Mr. Mumtaz Ali Wazir, Assistant Director (Litigation), EPA, as Enquiry officers, after a thorough examination of the facts on record and personal hearing of the Deputy Director Planning, Accountant, Planning Cell and the accused (Mr. Hamidullah), submit the following recommendations:-

~~ATTESTED~~

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- i. It is our considered view that Mr. Hamidullah, Junior Clerk (BPS-11), Planning Cell, Forestry, Environment & Wildlife Department certainly knew the ground reality and dodging/evading his superiors through various ways and means. He has adopted a habit to remain absent from duty/come late and leave earlier the office at his own sweet will which is violation of the Government of Khyber Pakhtunkhwa; Efficiency and Discipline Rule, 1989.
- ii. Keeping in mind the marathon length of service of Mr. Hamidullah, Junir Clerk, Planning Cell, FE&WD, it is our considered opinion that the major penalty of "Compulsory Retirement" may be imposed upon the accused (Mr. Hamidullah) under Section 4(1) (b) (ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 1973.



(Sanaullah Khan)
Convener of the Enquiry
Committee /Director, EPA



(Mumtaz Ali Wazir)
Assistant Director (Litigation), EPA
Member of the Enquiry Committee

~~ATTESIED~~

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M.T. PC # 02 Job No. 21(12)MS Wing Contents

For Official Use



A COMPENDIUM OF LAWS AND RULES CONTAINING EFFICIENCY AND DISCIPLINE RULES

**PAKISTAN PUBLIC ADMINISTRATION RESEARCH
CENTRE
ESTABLISHMENT DIVISION
CABINET SECRETARIAT
ISLAMABAD
2012**

~~ATTESIED~~

3. The above instructions may also be brought to the notice of attached departments/subordinate offices for compliance in future.

[Authority - Estt. Division O.M. No. 2/1/82-D-2, dated 11-1-1982 as modified vide Estt. Division O.M. of even number dated 3-7-1985].

Sl. No. 29. Requirement to Issue a Fresh Show Cause Notice if the Penalty Imposed Under Government Servants (Efficiency and Discipline) Rules, 1973, or Proposed to be Imposed is Greater than that Specified in the Show Cause Notice, or is Proposed to Be Enhanced by the Appellate Authority

As a result of disciplinary action taken against a government servant, the appellate authority considered the penalty imposed by the authorized officer to be inadequate and enhanced the penalty. The government servant filed an appeal against enhancement of penalty before the Services Tribunal (Appeal No. 2(K) of 1980). The Services Tribunal, while accepting the appeal, observed that the penalty was enhanced without giving the appellant an opportunity of being heard which was against natural justice and further observed that "we are of the firm opinion that even if the rules are silent on the subject, any time an appellant's punishment is enhanced, he will be given a show cause and a hearing. This requirement of natural justice shall always be read into the rules." The Division concerned referred the observation of the Services Tribunal to the Ministry of Law who confirmed that, while it was open to the appellate authority to revise the sentence upward, it would be appropriate for the appellate authority to give a show cause notice to the appellant and hear him before passing the order. They advised that the order of the Tribunal should, therefore, be obeyed:

2. The observations of the Service Tribunal and the advice of the Justice Division mentioned in para 1 is brought to the notice of all Ministries/Divisions and Departments for guidance and compliance.

3. The cases in which a penalty is enhanced may be as follows:-

- (i) Where the authority decides to enhance the penalty proposed by the authorized officer and which is greater than the maximum penalty shown in the show cause notice issued by the authorized officer in terms of rule 5 (1) (iii) of the Government Servants (Efficiency & Discipline) Rules, 1973, or in the show

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cause notice issued by the authorized officer in terms of rule 5(1) (iv), after considering the inquiry report, as the case may be; or

- (ii) Where the authority in exercise of its revisionary powers under rule 6-A of the rules, decides to ~~enhance a penalty already imposed in a case already disposed of or which, in a pending case, is greater than the penalty shown in the show cause notice;~~ or
- (iii) Where the appellate authority, in exercise of its appellate jurisdiction, decides to enhance the penalty already imposed on the appellant.

4. The Ministries, Divisions and Departments are advised to ensure that in all such cases as are mentioned above, before the penalty is enhanced a show cause notice is invariably issued and the accused/appellant is given an opportunity of being heard in person.

[Authority - Estt. Division O.M. No. 4/42/83-D.2, dated 29-7-1985]

SI. No. 30 Specification of Major Penalty in the Show Cause Notice Issued Under Government Servants (Efficiency and Discipline) Rules, 1973

Attention is invited to para 3 of Establishment Division O.M.No.2/1/82-D.2, dated 11-1-1982 as corrected vide para 1 of O.M. of even number dated 3rd July 1985, wherein advice was conveyed that while issuing a show cause notice to an accused government official under the Government Servants (Efficiency and Discipline) Rules, 1973, mention of imposition of the penalty of "dismissal from service" should, invariably, be made. Once an accused official has been served with a show cause notice for the highest penalty of "dismissal from service" under the said rules, there can be no legal objection to the imposition of a lesser penalty/penalties on him, if subsequently so warranted on finalisation of the disciplinary proceedings.

2. Attention is also invited to this Division O.M. No.4/42/83-D.2, dated 29.7.1985, wherein it was laid down that if a penalty is enhanced in the following cases, a show cause notice should invariably be issued, and the accused/appellant be provided an opportunity of being heard in person:

- (i) Where the 'authority' decides to enhance the penalty proposed by the 'authorised officer' and which is greater

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LABAIK




Security Services (Pvt)Ltd
Jasmeen Arcade Fakher-e-Alam,
3rd Floor C-7 Peshawar Cantt Saddar.
Tel: 92-091-5250415, 0315-9844670
Fax; 92-091-5250415

LSS/599/17 dated 01 April, 2017.

OFFICE ORDER.

In the light of resignation submitted by Mr. Hamidullah S/o Wahid Ullah Night Checker. He is no more in Labaik Security Services (Pvt)Ltd and his resignation is hereby accepted w.e.f. dated:01-04-2017.


Chief Executive
Labaik Security Services (Pvt) Ltd
Chief Executive
Labaik Security Services
(Pvt) Ltd.

وکالت نامہ

بعد ازاں U.P. Secular Tribunal Patna

نام حکومت وکالت
 منجانب Appellant/Plaintiff دعویٰ
 تاریخ 30/01/2012
S.A.

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوہر میں
 بمقام حکومت وکالت کیلئے جاوید اقبال گل بیلہ اینڈ وکیٹ ہائی کورٹ کو بدین شرط وکیل

مقرر کیا ہے۔ کہ میں ہر پیشی کا خود یا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل
 صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا، اگر پیشی پر من مظهر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے
 کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر
 مقام پجھری کی کسی اور جگہ یا پجھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر
 مقدمہ علاوہ صدر مقام پجھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پجھری کے اوقات کے آگے پیچھے پیش ہونے پر
 من مظهر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی
 صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کوکل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور
 صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و گمرانی ہر قسم کی درخواست پر دستخط و
 تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل

کرنے اور ہر قسم کے بیان دینے اور سپروٹاشی و راضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور
 بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ترقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف
 کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا
 اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا بیرٹر کو بجائے اپنے یا اپنے ہمراہ
 مقرر کریں اور ایسے مشیر قانون کے ہر امر وہی اور ایسے ہی اختیارات حاصل ہوں گے جیسے کے صاحب موصوف کو حاصل
 ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو
 پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت

میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سند ہے۔
 مورخہ 30/01/2012۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted

Flamid

حکومت وکالت و جیو الٹا