

Sr. No	Date of order/ proceeding	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	09.12.2019	<p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b>  <b>Service Appeal No. 340/2018</b></p> <p style="text-align: right;">Date of Institution ..... 22.02.2018  Date of Decision ..... 09.12.2019</p> <p>Azmat Ullah son of Hidayat Ullah Khan Executive Engineer  (C&amp;W) Highway FATA Sub Division, Lower Kurram.  <b>Appellant</b></p> <p style="text-align: center;"><b>Versus</b></p> <ol style="list-style-type: none"> <li>1. Government of Khyber Pakhtunkhwa, through Chief Secretary Peshawar.</li> <li>2. Secretary to Government of Khyber Pakhtunkhwa C&amp;W Department, Peshawar.</li> <li>3. Chief Engineer (FATA) Work &amp; Services Department FAA Secretariat Peshawar.</li> </ol> <p style="text-align: right;"><b>Respondents</b></p> <p><b>Mr. Muhammad Hamid Mughal-----Member(J)</b>  <b>Mr. Hussain Shah-----Member(E)</b></p> <p style="text-align: center;"><b><u>JUDGMENT</u></b>  <b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Muhammad Abbas Senior Clerk present.</p> <p>2. The appellant, Executive Engineer, (C&amp;W) has filed the present service appeal being aggrieved against the order of the</p>

*Handwritten signature and date:*  
9.12.2019

review authority dated 24.11.2017 whereby the major penalty of reduction to lower post/pay scale imposed upon the appellant, was converted into minor penalty of stoppage of two annual increments for two years. Prayer of the appellant is for setting aside the imposition of the minor penalty imposed upon him.

3. Learned counsel for the appellant argued that the appellant while posted as Xen Highway FATA Division Kurram Agency received charge sheet containing allegation that

- i. He allowed Mr. Mushtaq Ali (Sub Engineer) posted as SDO (OPS) Highway FATA Sub Division Lower Kurram to prepare bill amounting to Rs.24.290 million as Sub Engineer for the work "Construction of Chinarak Tora Woray Road (03 KM) Kurram Agency" falling in Central Kurram without any approval of the Competent Authority.
- ii. He accepted the measurement of the work not executed at site and passed for payment.

Further argued that inquiry was conducted and the inquiry committee in its finding, exonerated the appellant in respect of Charge-I however the Charge-II leveled against the appellant was held to be proved; that the appellant was served with Show Cause Notice and then received the order dated 22.02.2017 wherein major penalty of reduction to lower post/pay scale was imposed upon him; that the appellant filed review petition there against and the respondent No.1 ordered re-inquiry into the

11  
9.12.2019

matter as such three members technical committee was constituted which gave findings in favor of the appellant however the review authority vide order dated 24.11.2017 instead of exonerating the appellant from the charges, converted the major penalty of reduction to lower post/pay scale into minor penalty of stoppage of two annual increments for two years. Further argued that the impugned order is against law, facts and norms of justice; that the Chief Engineer FATA has already clarified vide letter dated 08.08.2016 that there is no loss to the government exchequer.

4. As against that learned Deputy District Attorney while defending the impugned order, argued that proper departmental action/regular inquiry was conducted against the appellant and the inquiry committee gave its findings that Charge-II has been proved to the extent that the total measurement of work accepted and passed for payment by the appellant is Rs. 24.290/- million out of which the work not executed at site is costing Rs.12.121/- million; that the inquiry committee came to the conclusion that the appellant alongwith co-accused officials namely Fazal Rehman and Mushtaq Ali are responsible for incorrect measurement of work by Mr. Mushtaq Ali Sub Engineer, incorrect check measurement by Mr. Fazal Rehman Sub Divisional Officer and passing of incorrect measurement of work for payment to the contractor by the appellant Azmat Ullah; that in none of the inquiry report the appellant has been exonerated

9.12.2019

from the charges; that the inquiry committee found the appellant guilty on account of "payment" for no work at site and the same was recouped through a transfer entry credit to deposit-II (contractors account) and not credited to work account; that the technical committee visited the spot later in time.

5. Arguments heard. File perused.

6. Proper inquiry was conducted against the appellant prior to the imposition of penalty upon him. The inquiry committee vide its report came to the conclusion that Charge-II has been proved to the extent that the total measurement of work accepted and passed for payment by the appellant is Rs. 24.290/- million out of which the work not executed at site is costing Rs.12.121/- million and that the appellant alongwith co-accused officials namely Fazal Rehman and Mushtaq Ali are responsible for incorrect measurement of work by Mr. Mushtaq Ali Sub Engineer, incorrect check measurement by Mr. Fazal Rehman Sub Divisional Officer and passing of incorrect measurement of work for payment to the contractor by the appellant Azmat Ullah.

7. Learned counsel for the appellant could not demonstrate that in the inquiry reports the appellant has been exonerated from the charges. This Tribunal is of the considered opinion that the respondent has already taken lenient view by converting the major penalty into minor penalty as mentioned above.

8. As a sequel to above the appellant has not been able to seek indulgence of this Tribunal. Consequently the present service

9.12.2019

appeal is dismissed. Parties are left to bear their own costs. File be  
consigned to the record room.



(Hussain Shah)  
Member



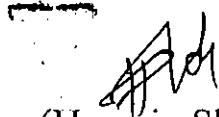
(Muhammad Hamid Mughal)  
Member

ANNOUNCED

09.12.2019

09.12.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Muhammad Abbas Senior Clerk present. Vide separate judgment of today of this Tribunal, placed on file, the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)  
Member



(Muhammad Hamid Mughal)  
Member

ANNOUNCED.

09.12.2019

06.11.2019

To come up before the Bench, which heard the arguments,  
on 15.11.2019.

  
Member

  
Member

~~15.11.2019: Appellant in-person present. Mr. Zia Ul-Haq learned Deputy  
District Attorney for the respondents present. To come up for  
order on 09.12.2019 before D.B.~~

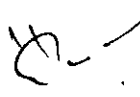
~~Member~~

~~Member~~

15.11.2019

Due to rush of work, further proceedings in the case could  
not be conducted. Adjourn. To come up for further  
proceedings/order on 09.12.2019 before D.B.


  
Member

  
Member

12.07.2019

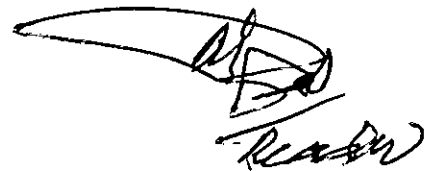
Counsel for the appellant and Addl: AG alongwith Mr. Mehboob ur Rehman, Junior Clerk for respondents present. Representative of the respondents submitted record which is placed on file. Case to come up for arguments on 10.09.2019 before D.B.

  
Member

  
Member

10-9-2019

*Since 10-9-2019 has been declared as public holiday, therefore the case is adjourned for the same on 4-10-2019, before D.B.*

  
Member

04.10.2019

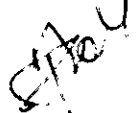
Appellant in person present. Mr. Usman Ghani learned Deputy District Attorney for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 17.10.2019 before D.B.


  
Member

  
Member

17.10.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Abbas Senior Clerk present. Arguments heard. To come up for order on 06.11.2019 before D.B.

  
Member

  
Member



12.03.2019

Appellant absent. Learned counsel for the appellant is also absent. However, junior counsel for the appellant present and seeks adjournment on the ground that learned senior counsel for the appellant is busy before the Hon'ble Peshawar High Court. M/S Muhammad Jan and Ziaullah, Deputy District Attorney for the respondents present. Adjourn. To come up for record and arguments on 03.05.2019 before D.B.

  
(M. AMIN KHAN KUNDI)  
MEMBER

  
(M. HAMID MUGHAL)  
MEMBER

03.05.2019

Appellant alongwith his counsel and Muhammad Jan, Deputy District Attorney alongwith Mr. Abbas Khan, Senior Clerk for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 11.06.2019 for record and arguments before D.B.

  
(AHMAD HASSAN)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

11.06.2019

Counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.

Due to paucity of time hearing is adjourned to 12.07.2019 before the D.B.

  
Member

  
Chairman

This Service Appeal  
had been returned  
due to the mentioned  
deficiencies and now  
after correction and  
fulfillment this  
Service Appeal is  
re-submitted  
before this Hon'ble  
Service Tribunal on  
dated 08-03-2018.

~~Advocate~~  
Advocate.

DBE

20/8/18

The only review petition  
against the Impugned  
order dated 24/11/2017  
had been submitted  
to the Respondent no. 2  
and the Appellant  
doesn't have the copy  
of that review petition  
although the order of  
the said review petition  
is placed on file as  
annexure "M" on page  
No. 76.


~~Advocate~~  
Advocate.

The appeal of Mr. Azmatullah son of Hidayatullah Khan Executive Engineer Highway FATA Sub Div. Lower Kurram received today i.e. on 22.02.2018 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 appeal may be got signed by the appellant.
- 2- Address of respondent no.1 is incomplete which may be completed.
- 3- In the memo of appeal places have been left blank which may be filled up.
- 4- Copy of review petition against the order dated 24.11.2017 is not attached with the appeal which may be placed on it.
- 5- Annexures of the appeal are not in sequence which may be annexed serial as mentioned in the memo of appeal.
- 6- Copy of appellate order dated 15.01.2018 mentioned in the memo of appeal is not attached.
- 7- Affidavit be got attested by the Oath Commissioner.

No. 386 /S.T,

Dt. 23/02 /2018


  
**REGISTRAR**  
**SERVICE TRIBUNAL**  
**KHYBER PAKHTUNKHWA**  
**PESHAWAR.**

Mr. Shan Asghar Adv. Peshawar.



08.10.2018

Appellant with counsel present. Mr. Usman Ghani, District Attorney for the respondent present. The learned District Attorney for the respondents made a request for further adjournment. Granted. To come up for written reply/comments on 27.11.2018 before S.B.

  
Chairman

27.11.2018

Appellant with counsel and Mr. Mr. Kabir Ullah Khattak learned AAG alongwith Mr. Mubashir Assistant for the respondents present. Representative of the respondents submitted reply on behalf of respondent No.2 & 3. Learned A.A.G stated that the respondent No.1 also relies on the same. Adjourn. To come up for rejoinder if any and arguments on 16.01.2019 before D.B.

  
Member

16.01.2019

Counsel for the appellant present. Mr. Abbas Khan, Junior Clerk alongwith Mr. Ziaullah, DDA for respondents present. Respondents are directed to produce complete record on the next date of hearing. To come up for record and arguments on 12.03.2019 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

340/2018

17.05.2018

Appellant Deposited  
Security & Process Fee

Mushtaq Ali, appellant in connected appeal present on behalf of appellant Azmatullah and submitted that security and process fee have not been deposited due to misunderstanding and requested for further time to deposit the same. Request is accepted. Security and process fee be deposited within 7 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 09.07.2018 before S.B.

  
Chairman

09.07.2018

Counsel for the appellant and Mr. Sardar Shoukat Hayat, Addl: AG for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 9.08.2018 before S.B.

  
Member

09.08.2018

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply not submitted. Learned AAG sought some time to submit the same. Granted. To come up for written reply/comments on 08.10.2018 before S.B.

  
Chairman

26.03.2018

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in C&W Department as XEN. It was further contended that during service the appellant was imposed major penalty of reduction in lower pay scale vide order dated 22.02.2017 on the allegation that he allowed Mr. Mushtaq Ali Sub-Engineer posted as SDO (CPS) Highway FATA Sub-Division Lower Kurram to prepare "bill amounting to Rs. 24.290 million as Sub-Engineer for the work construction of Chinerak Tora Woray Road (03 KM) Kurram Agency Falling in Central Kurram without any approval of the competent authority" and also "accepted the measurement of the work not executed at site and passed for payment". It was further contended that the appellant filed writ petition which was partially accepted and the major penalty of reduction to lower post was converted into minor penalty of stoppage of two increments for two years vide order dated 24<sup>th</sup> November 2017. It was further contended that the appellant also filed second writ petition which was dismissed and hence the present appeal. It was further contended that the inquiry proceeding was conducted against the appellant and the inquiry officer has clearly mentioned that the appellant is not at fault and exonerated him from the charge leveled against him and the Chief Engineer FATA has also submitted report that no loss has been caused to the government exchequer. It was further contended that neither opportunity of cross examination was provided to the appellant nor opportunity of personal hearing and defence was afforded to the appellant therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by 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 17.05.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

Form-A

FORM OF ORDERSHEET

Court of \_\_\_\_\_

Case No. 340/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	09/03/2018	<p>The appeal of Mr. Azmat Ullah resubmitted today by Mr. Shan Asghar Advocate may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 9/3/18</p>
2-	12/03/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/03/18.</u></p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>

# BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal No. 340 Of 2018

Azmat Ullah

..... Appellant

VERSUS

C & W & others

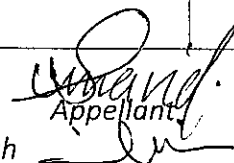
..... Respondents

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Dated 21/02/2018

Through

  
Appellant

SHAN ASGHAR

Advocate, Peshawar.



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**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

Appeal No. 340 Of 2018

**Azmat Ullah S/o Hidayat Ullah Khan**  
Executive Engineer (C&W)  
Highway FATA Sub Division, lower Kurram

Khyber Pakhtukhwa  
Service Tribunal

Diary No. 256

Dated 22/2/2018

..... Appellant

**VERSUS**

- 1) **Government of Khyber Pakhtunkhawa through Chief Secretary.**
- 2) **Secretary to Government of Khyber Pakhtunkhawa.**  
C&W Department, Peshawar.
- 3) **Chief Engineer (FATA)**  
Work & Service Department FATA Secretariat, Peshawar.

..... Respondents

**APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED OFFICE ORDER NO-SOE/C&WD/8-29/2015 DATED 24/11/2017 OF THE OFFICE THE SECRETARY C & W DEPARTMENT GOVT OF KPK WHEREBY, REVIEW AGAINST THE IMPUGEN OFFICE ORDER NO-SOE/C&WD//8-29/2015 DATED 22/02/2017 WAS PARTIALLY ALLOWED, BE SET ASIDE AND BY DOING SO, THE IMPUGNED PENALTY IMPOSING ORDER NO- SOE/C&WD//8-29/2015 DATED 22-02-2017 OF THE OFFICE OF THE SECRETARY C&W DEPARTMENT GOVT OF KPK BE SET ASIDE, BEING VOID ILLEGAL AND UNLAWFUL. AND IMPUGNED ORDER OF THE RESPONDENT DATED 15/01/2018, WHO HAS IMPOSED THE MINOR PENALTY UPON THE APPLICANT IN WHICH RESPONDENT HAS STOPPAGE OF 'TWO ANNUAL INCREMENTS FOR TWO YEARS, BE ALSO SET ASIDE AND ANY OTHER RELIEF NOT SPECIFICALLY ASKED FOR MAY ALSO GRACIOUSLY BE EXTENDED IN FEVOUR OF THE APPELLANT IN CIRCUMSTANCE OF THE CASE.**

Filed to-day

Registrar  
22/2/18

Re-submitted to -day  
and filed.

Registrar  
9/3/18

**Prayer**

On acceptance of appeal, the impugned order dated 15/01/2018 which has been communicated vide order dated 15/01/2018 at Annexure "A" may kindly be set aside...

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**Respectfully Sheweth:**

The appellant respectfully submits as under:

- 1- That the appellant is a law abiding citizen of Pakistan and hails to a very respectable family of the province of Khyber pakhtunkhwa. Needless to mention the appellant has an unblemished service record and has always performed his duties with honesty, zeal, professionalism and to the best of his abilities. Lastly the appellant was posted as **Xen** Highway FATA Division Kurram Agency.
- 2- That a work titled Widening and black topping of 3 KMs Chanarak Tora warai Road from 46 to 48 (phase IV 03 KMs) in Kurram agency was approved for cost of Rs.75 million on 28/08/2014.
- 3- That after the completion of codal formalities the bid offered by M/S Aman ullah khan and Co, Govt contractor – 10% below was approved by the competent authority and work order was issued on **14-04-2015** and the contractor commenced work on **28/05/2015**.
- 4- That however, to the utter shock disbelieve of the appellant he received a charge sheet wherein certain allegation were leveled against the appellant the first allegation against the appellant was that:-**(Annexure -A)**
  - i) You allowed Mr. Mushtaq Ali (Sub Engineer) posted as SDO (OPS) Highway FATA sub division lower kurram where's you prepare the bill amounting to Rs.**24.290** million as sub Engineer for the work " Construction of Chinakrak Tora Woray Road (03 Km) Kurram agency falling in Central Kurram without any approval of the Competent Authority.
  - ii) You accepted the measurement of the work not executed at site and passed payment.

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- 5- That an inquiry committee was constituted by the competent authority comprising of Mr. Dawood Khan , additional secretary, law department & Engr. Muhammad Iqbal, Super-intendant Engineer, Irrigation Department, Peshawar. Needless to mention the appellant duly replied to the aforesaid charge sheet and vehemently denied the said allegations being false and absolutely incorrect.(Annexure-B)
- 6- That the inquiry committee in its finding are exonerated the appellant in respect of the charge no.i, however, the charge no.ii leveled against the appellant was held to be proved.(Annexure-C)
- 7- That in view of the findings of the inquiry committee the appellant was served with a show-cause notice wherein a Major penalty of **"Reduction to a lower post/Pay Scale"** was attentively imposed on the appellant. Needless to mention the appellant submitted has reply to the foreside show Cause notice wherein he explained the entire situation.(Annexure-D&E)
- 8- That, However, despite genuine plea of the appellant he received the impugned order dated 22/02/2017 wherein a major penalty **"Reduction to a lower post/Pay Scale"** has been imposed on the appellant.(Annexure-F).
- 9- That the appellant duly failed a review petition against the foreside impugned order under Rule 17 (2) (b) of the Khyber Pakhtunkhwa Government servants (E&D) Rules 2011 ("E&D Rules") (Annexure-G).
- 10- That the worthy Chief Minister, in light of the review of the appellant was pleased to order for re-inquiry in to the matter and as such a three member/technical Committee was constituted who was given the task to re-inquiry into the entire matter. It is pertinent to mentioned that even though the worthy Chief Minister had ordered for re-inquiry which in an essence nullified the

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impugned order, however, the respondent still kept the order in filed which is against logic and the norms.(annexure-H & I)

11- That it is absolutely pertinent to mentioned that the technical committee in its re-inquiry report is also supporter the stance of the appellant wherein the technical duly noted in its report the work has been carried out at site and by the contractor has a matter liability to the tune of Rs.1,559,042.67/-. Therefore, the charge that the appellant prepared bill by taking the measurement of the work not executed at site could not be proved.( Annexure-J)

12- That the conclusion of the re-inquiry report of the technical committee also supported the stance of the appellant as clause 7 of the contract agreements provides that the 1<sup>st</sup> running bill rather than all running bill/intermediate payments shall be regarded as payment by way of advance the final payment which no claim whatsoever could be established furthermore the technical committee in its re-inquiry report also advise the divisional to follow the agreement in latter in spirit.(Annexure-K)

13- That the chief Engineer FATA, has already clarified vide his letter No: 3842/2/46-E dated 18/8/2016 that there is no loss to Govt exchequer. In case of no loss, the major penalty is not justified.(Annexure-L).

14- That applicant has filed a 2<sup>nd</sup> review petition against the order of respondent No-2 which was dismissed vide order dated 15/01/2018.Hence this appeal inter-alia on the following grounds:(Annexure-M)

**Grounds:**

A) That the appellant has not been treated in accordance with law, and his rights secured and guaranteed by the constitution are violated.

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- B) That the appellant has got years of unblemished service at his credit and implicating him of something for which he is not responsible for would tarnish his career and put a stigma on his service record.
- C) That the inquiry committee in its findings ignored the Building & Road Development Code no. 4.5 (j) which clearly outline the responsibility of check measurement by Division Officer (XEN). According to the said code the Divisional officer must clerk at least 24 bills in a financial year or 10% of the total payment made in his division. Needless to mention the inquiry committee itself just in its report that the actual payment had done at 50% which is more than what the appellant has been authorized to do. (Annexure-N)
- D) That The inquiry committee in its findings ignored CPWA code chapter-II, Para-3 and Para-229 which clearly states that advance payment for work actually executed may be made on the certificate of a responsible officer (not below the rank of sub-divisional officer) to the effect that not less than the quantity of work paid for has actually been done, and the officer granting such a certificate will be held responsible for any overpayment which may concern the work in consequence. Final payment may, however, in no case be made without detailed measurement". Having said that it is also pertinent to mention that the Said inquiry conducted on the 1<sup>st</sup> running bill/1<sup>st</sup> in interim bill amount to Rs.23.204 million where the work was still continued and only about 31% of the approved cost was relevant. (Annexure-O)
- E) That the first inquiry committee did not consider clause-7 of the contract between the department and the contractor (duly executed by the competent authority) wherein it has been stated that the 1<sup>st</sup> running bill rather than all running bill/intermediate payment shall be regard as payment by way of advance against the final payment on which no claim whatsoever could be established, however, the

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technical committee in its re-inquiry report supported the stance of the appellant.

- F) That it is also extremely intriguing to note that despite the fact the administrative department had clarified that no loss has been caused to the government exchequer as the amount was lying in **PW Deposit-II** and not paid to the contractor coupled with the clarification from Chief Engineer FATA W&S Peshawar that the excess amount of **Rs.12.120** million in respect of earthwork as intimated by the inquiry committee has credited to work entry no-1 for the month of **August 2016**, as the said amount is lying in **PW Deposit-II** and not paid to the contract, an extremely harsh penalty has been imposed on the appellant.
- G) That the appellant was never associated with the inquiry. The appellant was never confronted with the evidence adduced by the inquiry report nor was he given an opportunity to cross examine the witness or challenge the evidence which is against the Rule 11 of the E&D 2011. Indeed the entire inquiry process has been conducted in a very mechanical and superficial manner.
- H) That even when the appellant was given a chance for personal hearing there was no representative of the department present on the date of hearing which is against Rule 14(4) (d) of the **E&D Rule 2011** wherein the departmental representatives are required to appear with all the relevant record. Indeed the entire proceedings were nothing more than just a mock exercise. **(Annexure-P)**
- I) That the inquiry committee has also transgresses its authority wherein a sub-committee has been constituted by it composed of sub-Engineer **(BPS12)**.
- J) That the appellant was never confronted with the so called correct measurement of the technical committee nor was he ever provided

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an opportunity to cross examine the so called technical sub-committee which is against the very spirit of Rule 11(4) of E&D Rule. Needless to mention the so called measurements of the inquiry committee or the technical sub-committee are not available on record in the inquiry committee has only relied on the 'visual' measurement.

- K) That the inquiry committee has also failed to take the geological report into consideration and have only relied on the "visual" measurement, which is against the basic logic of engineering.
- L) That the true facts are that the in-charge sub-engineer had carried out the measurement and made necessary entries in the measurement book (MB). After preparing and checking of the bill by the sub-divisional account, it was passed on to the in-charge sub-divisional officer who again checked the bill and the measurement by him and his account staff submitted it further to the divisional office in the divisional office, the bill was forwarded to the divisional accounts officer and his attached staff for codal formalities. The divisional account officer after pre-audit processed the bill to the appellant for passing its order. Furthermore, according to the rules, all the PWD works are executed under well-defined standing order and as per the procedure in vogue if the divisional officer finds any short-comings he brings the same into the notice of the executive engineer and divisional account officer, the divisional officer operates from 60 where all necessary short comings, if notice, are recorded. Thus, the divisional account officer in the capacity of audit representative and advisor to executive engineer has not brought to notice of the appellant any short-coming nor has operated form 60.
- M) That without prejudice to above and in addition there to the impugned penalty of reduction of pay scale awarded to the appellant is also illegal as no time frame has been provided wherein

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the penalty would take effect, thus leaving the penalty looming over the future of the appellant.

- N) That the impugned order imposing the penalty in contradiction to the fact and law.
- O) That the penalty imposed is harsh and against all norms of justice and most certainly against the principles of proportionality.
- P) That there was no evidence that the appellant caused any loss to the Government either for personal gain or otherwise.
- Q) That it is absolutely pertinent to mention that the technical committee in its re-inquiry report also supported the stance of the appellant wherein the technical committee duly noted in its report that the work has been carried out at site and by the contractor has a matured liability to the tune of Rs. **1,559,042.67/-**. Therefore, the charge that the appellant prepared bill by taking the measurement of the work not executed at site could not be proved.
- R) That the conclusion of the re-inquiry report of the technical committee also supported the stance of the appellant as clause 7 of the contract agreement provides that the 1<sup>st</sup> running bill rather than all running bill/intermediate payments shall be regarded as payment by way of advance against the final payment on which no claim whatsoever could be established. Furthermore, the technical committee in letter and spirit.
- S) That the chief engineer FATA, has already clarified vide his letter No: **3842/2/46-E dated 8/8/2016** that there is no loss to Govt exchequer. In case of no loss, the major penalty is not justified.
- T) That the impugned order dated **15/01/2018** which has been communicated vide order dated **15/01/2018** illegal, mala fide,



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without jurisdiction and without lawful authority and is unsustainable under the law.


U) That the Appellant seeks permission of this Hon'ble tribunal to rely on additional grounds at the time of hearing of this appeal.

**It is, therefore, prayed that on acceptance of this appeal, the impugned office order no-SOE/C&WD/8-29/2015 dated 24/11/2017 of the office the secretary C & W department Govt of KPK whereby, Review against the impugn office order no-SOE/C&WD//8-29/2015 dated 22/02/2017\_was partially allowed, be set aside and by doing so, the impugned penalty imposing order No- SOE/C&WD//8-29/2015 Dated 22-02-2017 of the office of the secretary C&W department Govt of KPK be set aside, being void illegal and unlawful and impugned order of the respondent dated 15/01/2018, who has imposed the minor penalty upon the applicant in which respondent has stoppage of two annual increments for two years, be also set aside Any other relief not specifically asked for may also graciously be extended in fevour of the appellant in circumstance of the case.**

Dated: 07/02/2018

  
Appellant

Through

  
Shan Asghar  
High Court Advocate,  
Peshawar.

**NOTE: That the earlier Appeal No.719 was dismissed as withdrawn vide order 11.12.2017 with the permission of the Hon,ble tribunal to file a fresh appeal.**

10

BEEFIER THE HONORUABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR

Service Appeal No. \_\_\_\_\_/2018

Azmat Ullah

Versus

Government of KPK

AFFIDAVIT

I, Azmat Ullah Engineer C&W, Peshawar, Son of Hidayat Ullah Khan, do hereby solemnly affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Forum.

  
DEPONENT

Identified by:

  
SHAN ASGHAR,

Advocate, High Court Peshawar

ATTESTED  
Oath Commissioner  
~~Zahoor Khan Advocate~~  
Distt. Court Peshawar  
21 MAR 2018

(1/1)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

Appeal No. \_\_\_\_\_ Of 2018

**Azmat Ullah** ..... **Appellant**

**VERSUS**

**Government of Khyber Pakhtunkhawa. & others**  
..... **Respondents**

**ADDRESSES OF THE PARTIES**

***Petitioner***


**Azmat Ullah S/o Hidayat Ullah Khan**  
Executive Engineer (C&W)  
Highway FATA Sub Division, lower Kurram


***Respondents***

- 1) Government of Khyber Pakhtunkhawa.**
- 2) Secretary to Government of Khyber Pakhtunkhawa.**  
C&W Department, Peshawar.
- 3) Chief Engineer (FATA)**  
Work & Service Department FATA Secretariat, Peshawar.
- 4) The Secretary Communication and work department.**

Dated 20/02/2018

Through

  
Petitioner

  
**Shan Asghar**  
Advocate High Court,  
Peshawar.

(12)

BEFORE THE COURT ADDL: SESSIONS JUDGE, PESHAWAR.

Appeal No. \_\_\_\_\_/2018

**Azmat Ullah**  
**Appellant**

**VERSUS**

**Govt of KPK etc.**  
**Respondent**

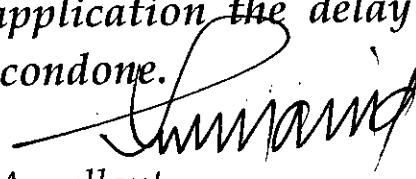
**APPLICATION FOR CONDONATION OF**  
**DELAY IN FILING OF APPEAL.**

Respectfully Sheweth:


- 1) That the petitioner / appellant have filed the above captioned appeal in which no date of is yet fixed for hearing, before this Hon'ble Tribunal.
- 1) That the applicant had also filed an appeal No.719 before this Hon'ble Court which was dismissed as withdrawn vide order dated 11.12.2017 with a permission to file a fresh appeal.
- 2) That due unavoidable circumstance the instant appeal was filed with delay 5/6 days, therefore request of the appellant is genuine.

It is, therefore, humbly prayed that on acceptance of this application the delay in filing of appeal may condone.

Dated 20/02/2018

  
Appellant

Through

  
Shan Ashgar

Advocate, High Court  
Peshawar

- A-13

A/9

CHARGE SHEET

I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Engr. Azmatullah Executive Engineer (BS-18) C&W Department; presently working as XEN Highway FATA Division Kurram Agency as follows:

That you, while posted as XEN Highway FATA Division Kurram Agency, committed the following irregularities in the scheme "Widening and Blacktopping of 03 KMs Chinarak Tora Woray Road from KM 46 to 48 (Phase-IV 03 KM) in Kurram Agency"

- i. You allowed Mr. Mushtaq Ali Sub Engineer posted as SDO (CPS) Highway FATA Sub Division Lower Kurram to prepare bill amounting to Rs.24.290 million as Sub Engineer for the work "Construction of Chinarak Tora Woray Road (03 KM) Kurram Agency" falling in Central Kurram without any approval of the Competent Authority
  - ii. You accepted the measurement of the work not executed at site and passed for payment
2. By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 ibid.
3. You are, therefore, required to submit your written defence within seven (07) days of the receipt of this charge sheet to the Inquiry Officer/Committee.
4. Your written defence, if any, should reach the Inquiry Office/ Committee within specified period, failing which it shall be presumed that you have no defence to put in and in that case exparte action shall be taken against you.
5. Intimate whether you desire to be heard in person
6. A Statement of Allegations is enclosed.

(Pervez Khattak)  
Chief Minister  
Khyber Pakhtunkhwa

  
**ATTESTED**

AEC  


To,

The Inquiry Committee,

- 1) Mr. Dawood Khan (PCS SG BS-19)  
Additional Secretary  
Law Department Peshawar.
- 2) Engr. Muhammad Iqbal (BS-19)  
Superintending Engineer,  
Irrigation Department Peshawar.

Sub: Reply to the Inquiry Report / Defense Statement

Ref: Inquiry Committee Letter No. PA/LD/1-1/2015/290013-17 Dated 04.01.2016

R/Sir,

I have been served with a charge sheet vide above refer letter stating there in:

i) " You allowed Mr. Mushtaq Ali Sub Engineer posted as SDO (OPS) Highway FATA Sub Division to prepare bill amounting to Rs. 24.290 million as Sub Engineer for the Work " Construction of Chinarak Tora warai Road (3 KMs) Kurram Agency" Falling in Central Kurram without any approval of the Competent Authority.

ii) "You accepted the measurement of the Work not executed at site and passed for payment"

As such, I have been charged to be guilty of misconduct under rule-3 of Khyber Pakhtunkhwa, Government Servants (E&D) Rules 2011 (Annex-A).

In this connection my response is as under.

Response:-

I. I straight away deny that I have allowed Mr. Mushtaq Ali as Sub-Engineer to prepare bill for the Work " Construction of Chinarak Torawarai Road (03 KMs). Neither I have allowed him nor have any written orders been issued for him to supervise and prepare bill of the said work.

However, written order of Mr. Ghaniullah Sub Engineer has been made to supervise all schemes falling in central Kurram vide T/O No. 2877/3-F dated 27-11-2014 and T/O No. 4749/3-E dated 29-09-2015 prior to this incident. (Annex-B & C)

*10/6/15*  
ALTESTED

*Atc*

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II. I have never accepted the measurement of the work which has not been executed at site.

Being an ongoing scheme, work on the said road is still in progress. Earth Work for 3 KMs of the Chinarak Torawarai Road has already been carried out at site for which payment has been passed.

So for Payment is concerned, it has been made to the contractor on the voucher submitted by Ghaniullah Sub Engineer and the SDO Central Kurram rather than Mushtaq Ali.

It is pertinent to mention that the payment has been made to the contractor on the bill duly certified by the SDO concerned.

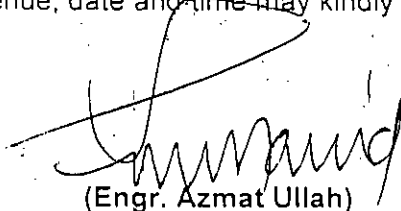
Respected Sir,

It is clear from the above explanation that I never have never allowed Mr. Mushtaq Ali to prepare bill of amounting to Rs. 24.290 million for the Work " Imp, Widening and B/T of Chinarak to Torawarai Road" nor I have accepted those measurements for which work has not been executed at site.

R/Sir,

In view of the above, I Engr. Azmatullah humbly request that being innocent in this entire business, the competent authority may kindly exempt/exonerate me from the charges leveled against me.

I wish to be heard in person for which Venue, date and time may kindly be fixed and intimated please.



(Engr. Azmat Ullah)  
Executive Engineer (BS-18)  
Highway FATA Division Kurram.



Atc

**ATTESTED**



C 16

GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS &  
HUMAN RIGHTS DEPARTMENT

No: PAAS(G)/1-1/2016/17071/WB  
Dated: Peshawar the 16.05.2016

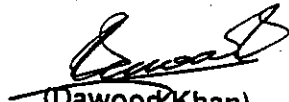
To

The Section Officer (Estab)  
Communication & Works Department.

Diary No. 9082  
Date 16/5/16

SUBJECT: INQUIRY REPORT.

Please refer to your letter No. SOE/C&WD/8-29/2015 dated 08/04/2016 on the subject noted above and to state that the Inquiry Report has been re-visited/re-examined as desired by the Competent Authority. The re-visited/re-examined Inquiry Report containing 07 pages with clear findings and recommendations is forwarded for further necessary action at your end.

  
(Dawood Khan)  
Additional Secretary (General),  
Law Department  
(Member Inquiry Committee)

SA  
Lm  
Jan 17/15/16

  
ATTESTED

Atc  




ENQUIRY REPORT

(17)

(15)

History of the Project

1. The project titled as "Widening and black topping of 03 Kms Chinarak Torawary Road from KM 46 to 48 (Phase-IV = 03 Kms) in Kurram Agency ADP No. 409/140010(2014-15) was administratively approved for Rs. 75.00 Million (copy attached as Annex-I).
2. The Project area is located in the Kurram Agency about 10 Kms towards the North of Duaba City on Hangu Parachinar Road near Village Tora Wory.
3. Approved cost of the Civil Work is Rs. 70.00 Million.
4. Technical sanction cost of the Project is Rs. 67.912 Million (copy attached as Annex-II).
5. Tender cost of the project is Rs. 63.00 Million.

Background:

The Competent authority authorized the undersigned to conduct an enquiry against the Engineer Azmatullah Executive Engineer (BS-18) C&W Department working as XEN Highway FATA Division Kurram Agency for the following charges.

- (i) He allowed Mr. Mustaq Ali Sub Engineer posted as SDO (OPS) Highway FATA Sub Division Lower Kurram to prepare bill amounting to Rs.24.290 Million as Sub Engineer for the work " Construction of Chinarak Torawary Road (03 KM) Kurram Agency" falling in central kurram without any approval of the competent authority.
- (ii) He accepted the measurement of the work not executed at site and passed payment

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**ATTESTED**

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Proceeding.

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1. The charge sheet was served to the accused vide Additional Secretary (General) Law Department (member of the committee) letter No. PA/LD/1-1/2015/290013-17 dated 04/01/2016 (copy attached as annex-III). The accused were further directed to submit written statements in their defense against the charges / allegations leveled against them in the charge sheet and to attend office of the Additional Secretary Law Department on 12<sup>th</sup> Jan 2016 for personal hearing.
2. The following officers / officials are involved in execution of the project, "widening and black topping of (03 km) Chinarak Tora wory road from km 46 to 48 (phase 4=3km) in Kurram Agency. ADP No 409/140010(2014-15) estimated cost Rs. 75.00 Million
  - (i) Engr: Azmatullah (BS-18) Executive Engineer Highway FATA Division Kurram Agency
  - (ii) Mr. Fazal Rehman (BS-17) Sub Divisional Officer Highway FATA Sub Division Central Kurram Agency
  - (iii) Mr Mushtaq Ali (BS-11) Sub Engineer of the Project presently posted as Sub Engineer in the C&W Division Bunir.
3. The above officers involved in execution of the Project appeared before the enquiry committee on 12-01-2016, submitted written statements and also heard in person individually regarding the charges leveled against them.

(Copy of the attendance sheet is attached as Annex-IV)

(Copies of the written statement of the above accused attached as Annex-V, Annex-VI, Annex-VII respectively)

4. Written Statement of the Executive Engineer FATA regarding Allegations

- (a) Executive Engineer FATA deny the charge No.(i) that he has allowed Mr Mushtaq Ali Sub Engineer to prepare the bill of the work "Construction of Chinarak Torawary road (03 Km)". He further stated that he has not issued any written order to Mushtaq Ali Sub Engineer for supervision of the work or preparation of bill rather written order of Mr Ghaniullah Sub Engineer was issued to supervise all the scheme in Central Kurram vide Executive Engineer FATA letter No. 2877/3-F dated 27-11-

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ARRESTED

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2014 and letter No. 4749/3-E dated 29-09-2015 (attached as Annex-VIII & IX respectively).

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- (b) Written statement of the Executive Engineer FATA regarding allegation No. (ii) reveals that he has never accepted the measurement of the work which is not executed at site. He further states that the work is still in progress and payment has been made to contractor for the Earthwork only which had already been executed at site. As per statement of the Executive Engineer FATA the bill for payment has been prepared by Mr. Ghaniullah Sub Engineer and not by Mr. Mushtaq Ali Sub Engineer and the same bill was certified by Sub Divisional Officer Kurram

5. Written Statement of the SDO Highway FATA Sub Division regarding Allegations

- (a) The Sub Divisional Officer Highway FATA Sub Division Central Kurram Mr. Fazal Rehman submitted written statement regarding allegation No. (i). He also deny the charge and state that Mr. Mushtaq Ali Sub Engineer was working as Sub Engineer in Central Kurram before he was posted as Sub Divisional Officer Central Kurram FATA Highway Division on 28-08-2014, however supporting Mr. Mushtaq Ali Sub Engineer for supervision of the work being resourceful Sub Engineer in the FATA Highway Division.
- (b). Regarding Allegation No. (ii) the Sub Divisional Officer concerned stated that the bill was certified by him for payment to the contractor, however he further state that the quantities paid have most been achieved as the scheme is in progress and any deficiency if exists can be covered in the 2<sup>nd</sup> running bill. The Sub Divisional Officer concerned further stated that the area is most sensitive because of Law & Order situations however the project can be completed within the stipulated period with cooperation of the local administration.

6. Written Statement of Mr. Mushtaq Ali Sub Engineer Highway FATA Sub Division regarding Allegations

- (a) Mr. Mushtaq Ali Sub Engineer was also served the charge sheet and he also submitted written statement which reveals that he has been accused for preparing the bill amounting to Rs. 24.290 Million for the work "Construction of Chinarak Torawary Road (03) Km" as Sub Engineer in Highway FATA Sub Division Central Kurram, being Sub Divisional Officer (OPS) FATA Sub Division in Lower Kurram is unjustified, because he was deputed by the then Executive Engineer FATA Division

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ATTESTED

vide letter No. 2130/2-E/SDO-LK dated 03-07-2014 (copy attached on Annex-X) to perform the specific task "Construction of Tora Wory Road (03 Km)".

(b) Regarding Allegation No (ii) Mr Mushtaq Ali Sub Engineer stated that he has been made an accused for preparing a bill for the work not executed at site. In this regard he stated that it is a fact that the site of work is situated in the remote area of Kurram Agency where Law & Order Situation exists and there is always access problem to the site of work. Frequent visit to the site is not possible without clearance certificate form the political authorities. Due to the same reason fast speed measurements have been taken for preparation of bill, however it is a running work and the quantities can be adjusted in the next running bill and further states that the quantities in question has already been achieved which can be verified at the site

7. (a) After going through the written statement and personal hearing of the accused the Secretary to Government Khyber Pakhtunkhwa C&W Département was requested vide Additional Secretary Law Department letter No. PA/LD/1-1/2015/3203-04 dated 19-01-2016 (copy attached as Annex XI) for providing the following documents

- a. Administrative Approval
  - b. Work Order / Tender Documents.
  - c. Technical Sanction (Detailed Cost estimate of the scheme
  - d. Measurement Book (MB)
  - e. Evidence regarding physical / financial progress of the scheme
  - f. Monitoring report of the scheme, if any
  - g. Copy of the fact finding inquiry, if any
  - h. Posting Orders of Engineer Azmatullah, XEN, Fazal Rahman, SDO and Mushtaq Ali, Sub Engineer posted (SDO own pay scale in Kurram Agency)
  - i. Bills/Vouchers of the Scheme.
8. The requisite documents (photo copies) as shown in serial No. 7 above have been provided vide Chief Engineer FATA Work and Services Department Peshawar letter No. 3044/2/46-E dated 21-01-2016.(copy attached as Annex XII
9. All the Project related documents have been studied and for confirmation of the Physical activities at site, a technical committee of the following officers of the Irrigation Department was deputed
- (i) Mr. Dawood Khan Assistant Director Small Dams Kohat
  - (ii) Mr. Mehmood Sultan Sub Engineer Small Dams Kohat

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**ATTESTED**

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10. The technical committee visited the site on 26-01-2016 along with the Executive Engineer FATA and other supporting staff of W&S Department FATA Kurram Agency. Detail site measurements were carried out of the physical activities executed at site of the Project.

(SP)

(21)

11. The enquiry committee member (the undersigned) visited the site on 26-02-2016 along with the Executive Engineer FATA and other supporting staff for visual verification of the work which measurements record have been prepared by the technical committee. The enquiry committee advised the technical committee for further confirmation of the measurements of the executed work.

12. The Technical committee finally visited the site on 29-02-2016 along with the Sub Divisional Officer Central Kurram Agency FATA and the measurement of the work done at site on the "Widening and Black Topping of Chinarak Tora Wory Road (03 Km)" were finalized. Detail as under :-

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**ATTESTED**

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**EXPENDITURE STATEMENT AS PER PAID CONTRACTOR BILL**

Sl. No	Item of work	Quantity Paid to the Contractor				Remarks
		Unit	Qty	Rate (Rs)	Amount (Rs)	
1.	Excavation to design Section i. As in shingle gravel	M <sup>3</sup>	20610	249.60	5144256	30% quantity paid in bill as in shingle gravel and 70% quantity paid in bill as in Rock
	ii. As in rock occasional blasting	M <sup>3</sup>	48089	417.66	20084852	
	<b>Sub Total</b>		<b>68699</b>		<b>25229108</b>	
	Add 7 % cost factor				1766037	
	<b>Total</b>				<b>26995145</b>	
	D/d 10% below Contractor Premium				2699514	
	<b>Net Total</b>				<b>24295630</b>	

**STATEMENT AS PER VERIFICATION AT SITE**

Sl. No	Item of work	Quantity verified at site				Remarks
		Unit	Qty	Rate (Rs)	Amount (Rs)	
1.	Excavation to design Section i. As in shingle gravel	M <sup>3</sup>	50650.9	249.60	12642465	The rate applied to the excavation work is in accordance to geological condition / classification of the soil at the site. There is no reach where occasional blasting is required for excavation which has been paid to the Contractor.
	ii. As in rock occasional blasting	M <sup>3</sup>	0	417.66	0	
	<b>Sub Total</b>		<b>50651</b>		<b>12642465</b>	
	Add 7 % cost factor				884973	
	<b>Total</b>				<b>13527438</b>	
	D/d 10% below Contractor Premium				1352744	
	<b>Net Total</b>				<b>12174694</b>	

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*[Signature]*  
**ATTESTED**

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**ACC**

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AP

**Findings:-**

1. After going through the written statement, personal hearing and relevant records it has been verified that Mr Mushtaq Ali (BPS-11) SDO (OPS) lower Kurram was not allowed by the Engr: Azmatullah Executive Engineer (BPS-18) C&W Department presently working as Executive Engineer Highway FATA Division Kurram Agency to prepare bill amounting to Rs. 24.290 Million as a Sub Engineer for the work "Construction of Chinarak Tora Wory Road (03 Km) Kurram Agency", rather Mr Mushtaq Ali sub Engr (BS 11) was already working in same area since 03-07-2014.
2. Mr Mushtaq Ali (BS-11) SDO (OPS) Highway Lower Kurram was directed by the then Executive Engineer Mr. Shaukat Ali (BS-17) vide Executive Engineer Highway FATA Division Kurram Agency letter No. 2130/2-E/SDO-LK dated 03-07-2014 for conducting survey preparation of PC-I / Detailed Cost estimate and taking the work in hand (copy attached as Annex-X).
3. Mr. Mushtaq Ali Sub Engineer (BS-11) SDO (OPS) Highway Sub Division Lower Kurram Agency also performed as Sub Engineer of the Project for the period from 03-07-2014 to 01-10-2015.
4. During field visit to the site and re-measurement of the work done it has been verified that only earthwork excavation has been carried out at site for widening of the road. The site visit further revealed that the rate for excavation work have not been adopted as per geological condition of the site. The detail of the quantities paid to the Contractor and the actual quantities as verified at site as envisage in the table at Serial No. 12 of the proceeding.

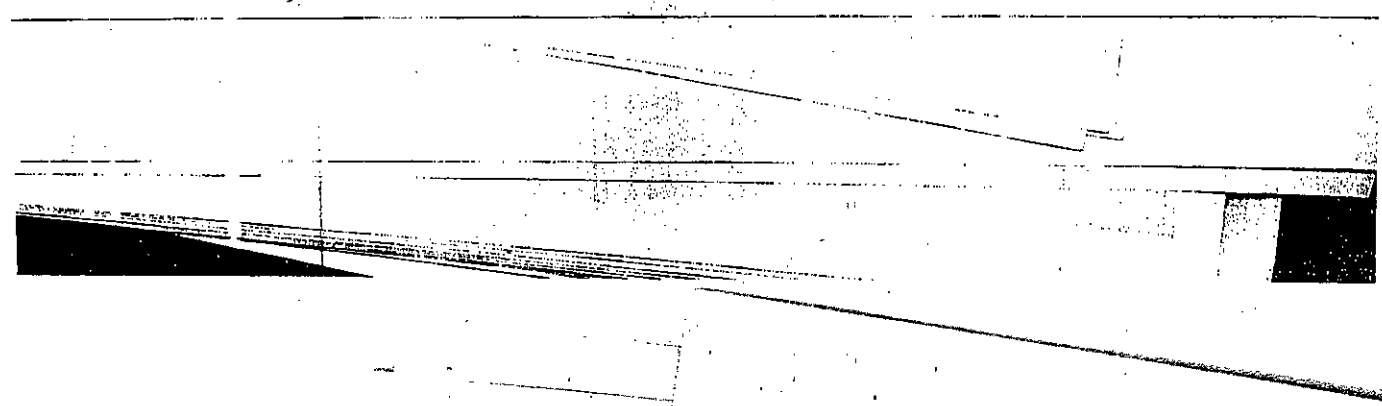
Quantity recorded in 1 <sup>st</sup> running bill	=68699 M <sup>3</sup>
<u>Quantity Verified at site</u>	<u>=50651 M<sup>3</sup></u>
Difference =	.18048 M <sup>3</sup>
Cost of the Work paid to the Contractor. =	Rs. 24295630
<u>Cost of the Work verified at site</u> =	<u>Rs. 12174694</u>
Difference/Overpayment =	Rs. 12120935

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**ATTESTED**

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Excess cost paid to the Contractor in quantities = Rs. 4338125  
Excess cost paid to the Contractor in rates = Rs. 7782810  
Total overpayment to the Contractor = Rs. 12120935

**Conclusion:**

**Charge No. (i)** "that Engr: Azmat Ullah (BPS-18) allowed Mr. Mushtaq ali sub-Engineer posted as Sub-Divisional Officer (OPS) Highway (FATA) Sub-Division Lower Kurram to prepare Bill amounting to Rs. 24.290 million as sub-engineer for the work Construction of Chinarak Raod (0.3 Km) Kurram Agency falling in central Kurram without any approval of the competent authority".

The Charge No. (i) above against the Engr: Azmatullah BPS-18 has not been proved.


**Charge No. (ii)** "that Engr: Azmatullah (BPS-18) accepted the measurement of the work not executed at site and passed payment".

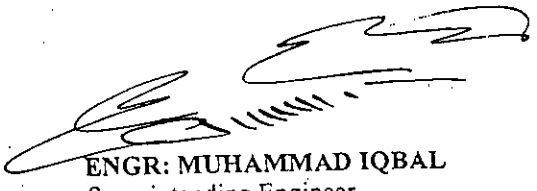
The Charge No. (ii) above has been proved to the extent that the total measurement of work accepted and passed for payment by the Engr: Azmat Ullah is Rs. 24.290 million, out of which the work not executed at site is costing Rs. 12.121 million.

For the above Charges, the following officers/officials are responsible.

S.No.	Name of officer/official	Designation
1.	Engr: Azmat Ullah (BS-18)	Executive Engineer, Highway FATA Division Kurram Agency
2.	Mr. Fazal Rehman (BS-17)	Sub-Divisional Officer, High FATA Sub-Division Central Kurram Agency.
3.	Mr. Mushtaq Ali (BS-11)	Sub-Engineer of the project.

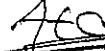
The above officers/officials are responsible for incorrect measurement of work by Mr. Mushtaq Ali, Sub-Engineer, incorrect check measurement by Mr. Fazal Rehman Sub-Divisional Officer and passing of incorrect measurement of work for payment to the contractor by Engr: Azmat Ullah Executive Engineer.

  
**DAWOOD KHAN**  
Additional Secretary (General Law, Deptt: /  
Member Inquiry Committee)

  
**ENGR: MUHAMMAD IQBAL**  
Superintending Engineer  
Irrigation Department  
(Now Director General  
Small Dams Irr: Deptt: Peshawar)

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**ATTESTED**





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Amx 'D'  
SHOW CAUSE NOTICE

I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Engr. Azmatullah Executive Engineer (BS-18) C&W Department; presently working as XEN Highway FATA Division Kurram Agency as follows.

1. (i) that consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide communication letter dated 12.01.2016; and
- ii) On going through the conclusion of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee;

I am satisfied that you while posted as XEN Highway FATA Division Kurram Agency, committed the following irregularities in the scheme "Widening and Blacktopping of 03 KMs Chinarak Tora Woray Road from KM 46 to 48 (Phase-IV 03 KM) in Kurram Agency", specified in rule 3 of the said rules:

~~ii. You accepted the measurement of the work not executed at site and passed for payment amounting to Rs. 12,120,935/-~~

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of "Removal from Service" under Rule 4 of the said rules.

3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

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

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

Received as  
30/11/2016

XEN  
HIGHWAY  
KURRAM

Pervez Khattak  
(Pervez Khattak)  
Chief Minister  
Khyber Pakhtunkhwa

A/C

ATTESTED

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30/11/16



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-29/2015  
Dated Peshawar, the November 23, 2016

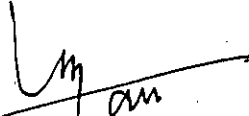
TO

Engr: Azmatullah (BS-18) ✓  
Executive Engineer  
Highway FATA Division  
Kurram Agency

SUBJECT: INQUIRY REPORT

I am directed to refer to the subject noted above and to enclose herewith two copies of the show cause Notice containing tentative major penalty of "Removal from Service" along-with inquiry report conducted by inquiry committee comprising of Mr. Dawood Khan Additional Secretary Law Department and Engr. Muhammad Iqbal Superintending Engineer Irrigation Department and to state that the 2<sup>ND</sup> copy of the show cause Notice may be returned to this Department after having signed as a token of receipt immediately.

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

  
(USMAN JAN)  
SECTION OFFICER (Estb)

Endst even No. & date

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

SECTION OFFICER (Estb)

A/c

  
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Annex 'E' (27)

(THROUGH PROPER CHANNEL)

To

The Honorable Chief Minister,  
Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT: INQUIRY REPORT.

Reference. Section Officer (Estb) C&W Department's letter No. SO (E))/C&WD/8-29/2015 dated Peshawar, the November 23, 2016.

Please refer to the letter quoted as above wherein a Show Cause notice has been served upon me by your good self. (Copy of the Show Cause notice enclosed as Annexure-1) and I have been directed to submit reply within 7 days of its receipt. After receipt of the Show Cause Notice on 30/11/2016, my reply is as under.

1. A work titled, "Widening and black topping of 3 kilometers Chinarak Torawarai Road from KM 46 to 48 (Phase IV 03 KM) in Kurram Agency" was approved for a cost of Rs.75 Million on 28/8/2014. After completion of codal formalities, the tender offered by M/S Amanullah Khan & Co. Government contractor @ 10% below was approved by the competent authority and work order issued on 14/4/2015. The contractor commenced the work on 28/5/2015. The in charge Sub Engineer had carried out the measurement and made necessary entries in the measurement book (MB). After preparing and checking of the bill by the Sub Divisional Accountant, it was passed on to the in charge Sub Divisional Officer who have again checked the bill and measurement by him and his accounts staff submitted it further to the Divisional office (Copy of the bill is enclosed as annexure 2). In the Divisional office, the bill was forwarded to the Divisional Accounts

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Officer and his attached staff for pre audit on behalf of the Audit Department for its accuracy and completion of codal formalities. The Divisional Accounts Officer after pre audit processed the bill to the undersigned for pass order. (Copy of certificate indicating officers who have carried out the cent per cent measurement and issued certificate that the work has been executed according to the PWD specification is enclosed as annexure 3). An inquiry has been conducted on the 1<sup>st</sup> running bill/1<sup>st</sup> interim bill amounting to RS 23.204 Million where the work was still continued and only about 31% of the approved cost is relevant.

2. According to the rules, all the PWD works are executed under well-defined standing orders. According to standing rules, Measurement Book (MB) is issued to the Sub Engineer concerned who is responsible for carrying out the measurement at site and thereby entering in the Measurement Book (MB). After necessary measurement at site & entry in the Measurement Book, by the Sub engineer, it is checked in the Sub Divisional office by the SDO in charge and his associated account staff. Thereafter, the bill is pre audited by the Divisional Accounts clerk and Divisional Account Officer for its accuracy and completion of codal formalities. The procedure in vogue is that if the Divisional officer finds any short comings, He brings the same in to the notice of the Divisional Officer/Executive Engineer. In case of difference in opinion between XEN and Divisional Accounts Officer, the Divisional Account Officer operates Form 60 where all necessary short comings if noticed are recorded (Necessary Instruction contained in the rules & issued by the Chief Engineer (FATA) Works & Services Department Peshawar are enclosed as Annexure 4). According to Clause 7 of the approved contract agreement duly printed by the Govt. press, the 1<sup>st</sup> running bill rather all running bills/intermediate payments shall be

  
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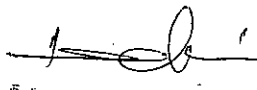
regarded as payment by way of advance against the final payment on which no claim whatsoever could be established. (Copy of the Clause 7 is enclosed as annexure 5).

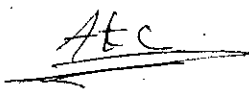
3. After perusal of the inquiry report & charges sheet, the undersigned has been made responsible for incorrect measurement and intension of imposing major penalty whereas the undersigned in light of explanation given vides Para 2 above and specifically in light of the Annexure.4, the responsibility of measurement rests upon the Sub Engineer and SDO along with their associated staff. Besides, the Divisional Account Officer in the capacity of Audit representative and advisor to the XEN have also not brought to the notice of the undersigned any shortcoming nor operated form 60.
4. It is also brought to yours kind notice that re-measurements of the work in 1<sup>st</sup> interim bill on which inquiry has been based has been carried out and accounted for by the relevant staff responsible for measurement in the subsequent 2<sup>nd</sup> running bill.

Since (i) the undersigned is not responsible for incorrect measurement and completed all codal formalities before affixing the Pass Order on 1<sup>st</sup> interim/running bill duly explained in above Paras.

(ii) The necessary re-measurement by the relevant staff has been made and accounted for in the subsequent 2<sup>nd</sup> interim/running bill. At present the work is moving very smoothly without any issue of measurement etc.

As such neither major penalty like that mentioned in the Show Cause Notice upon the undersigned is justified nor, it

  
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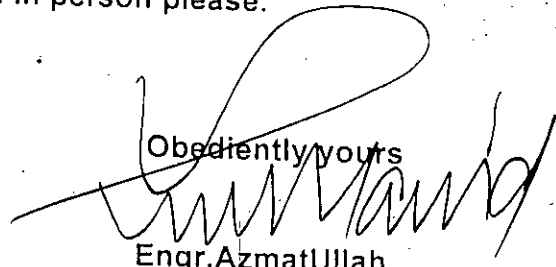
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would be covered under the rules for execution of the public works.

It is, therefore, humbly requested to exonerate the undersigned from the charge of incorrect measurement and from such a harsh punishment as the undersigned has served in a very difficult area confronted with many issues of Law & Order situations likely to result in life threatening, kidnapping events.

I also wish to be heard in person please.

Obediently yours



Engr. Azmat Ullah  
EXECUTIVE ENGINEER,  
Highway FATA Division,  
Kurram Agency.

  
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(Ans) F (31) ~~EDWD~~

GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the February 22, 2017

**ORDER:**

No. SOE/C&WD//8-29/2015: Engr. Azmatullah XEN (BS-18) XEN Highway FATA Division Kurram Agency proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011, committed the irregularities in the scheme "Widening and Blacktopping of 03 KMs Chinarak Tora Woray Road from KM 46 to 48 (Phase-IV 03 KM) in Kurram Agency".

2. AND WHEREAS, for the said act of misconduct he was served charge sheet/ statement of allegations.
3. AND WHEREAS, an inquiry committee comprising of Mr. Dawood Khan the then Additional Secretary Law Department, Peshawar and Engr. Muhammad Iqbal Superintending Engineer Irrigation Department was appointed, who submitted the inquiry report.
4. NOW THEREFORE, the Competent Authority after having considered the charges, material on record, inquiry report of the inquiry committee, explanation of the officer concerned during personal hearing held on 07.02.2017, in exercise of the powers under Rule-14(5)(ii) of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose the major penalty of "Reduction to a lower post/pay scale" upon the aforementioned officer.

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Accountant General PR (sub office) Peshawar
3. Secretary, (AI&C) FATA Sectt Warsak Road, Peshawar
4. Chief Engineer (FATA) W&S Peshawar
5. All Chief Engineers, C&W Peshawar
6. Chief Engineer (East) C&W Abbottabad
7. Managing Director PKHA Peshawar
8. Superintending Engineer (Northern/Southern) C&W FATA Circle Bannu/Peshawar
9. Executive Engineer Highway FATA Division Kurram Agency
10. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
11. Agency Accounts Officer Kurram Agency
12. PS to Secretary, C&W Department Peshawar
13. PA to Additional Secretary, C&W Department Peshawar
14. PA to Deputy Secretary (Admn), C&W Department Peshawar
15. Officer concerned
16. Office order File/Personal File

(USMAN JAN)  
SECTION OFFICER (Estb)

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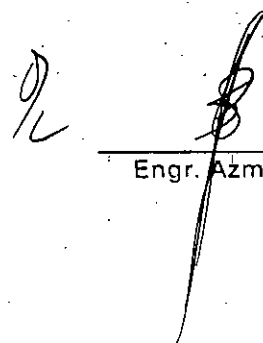
To

The Secretary,  
Communication & Works Department,  
Peshawar.

Subject: - REVIEW PETITION AGAINST THE PENALTY ORDER BEARING NO. SOE/C&WD/18-29/2015 DATED 22.02.2017 C&W DEPARTMENT "REDUCTION TO A LOWER POST / PAY SCALE" IN THE SCHEME TITLED " WIDENIGN AND BLACKTOPPING OF 03-KMS CHINARAK TORA WORAY ROAD, FROM KM 46 TO 48 (PHASE-IV 03-KMS) IN KURRAM AGENCY".

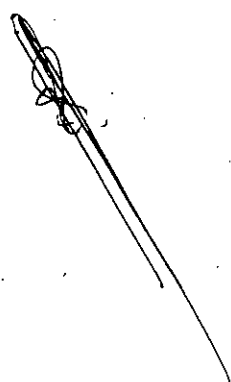
The review petition to the competent authority through your good-self for the subject inquiry proceedings is enclosed herewith for onward submission and necessary action please.

Yours sincerely

  
Engr. Azmat Ullah

Dated: - 15/3/2017

Received by  
secy/c&w  
on 21/3/17





~~Attest~~  
ATTESTED



To

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The Hon'able Chief Minister,  
Khyber Pakhtunkhwa,

Through: - Secretary to Government of Khyber Pakhtunkhwa,  
C&W Department Peshawar.

Subject: - REVIEW PETITION AGAINST THE PENALTY ORDER BEARING NO. SOE/C&WD//8-29/2015 DATED 22.02.2017 C&W DEPARTMENT "REDUCTION TO A LOWER POST / PAY SCALE" IN THE SCHEME TITLED " WIDENIGN AND BLACKTOPPING OF 03-KMS CHINARAK TORA WORAY ROAD, FROM KM 46 TO 48 (PHASE-IV 03-KMS) IN KURRAM AGENCY".

It is humbly requested that the subject penalty order dated 22.02.2017 (copy enclosed as annexure-A) received by me on 27.02.2017 may kindly be reviewed under provision of the Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011 Rule 17 (2) (b) and set-aside it on the following legal / factual grounds: -

1. That a work titled as "Widening and Black Topping of 3 KMs Chinarak Tora Woray Road from KM 46 to 48 (Phase-IV 03 KMs)" in Kurram Agency was approved for a cost of Rs. 75.00 million on 28.08.2014.
2. That completion of all codal formalities the bid offered by M/S Amanullah Khan and Co, Govt. Contractor @ 10% below was approved by the competent authority and work order was issued on 14.04.2015.
3. That however, to the utter shock and disbelief of the undersigned has received a charge sheet wherein certain allegations were levelled against the undersigned. The first allegation against the undersigned was that he:-
  - i) Allowed Mr. Mushtaq Ali (Sub Engineer) posted as SDO (OPS) Highway FATA Sub Division Lower Kurram to prepare bill amounting to Rs.24.290 million as a sub engineer for the aforesaid work without any approval of the competent authority.
  - ii) Accepted the measurement of the work not executed at site and passed for payment.
4. That the inquiry committee was constituted by the competent authority comprising of Mr. Dawood Khan, Additional Secretary Law Department and Engr. Muhammad Iqbal superintending Engineer, Irrigation Department Peshawar. Needless to mention the undersigned duly replied to the aforesaid allegations being false and absolutely incorrect.

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5. That the inquiry committee in its findings has exonerated the undersigned in respect of the charge No.(i), however, the charge No.(ii) levelled against the undersigned was held to be proved.
6. That in view of the findings of the inquiry committee the undersigned was served with a show cause notice wherein a major penalty of "Removal from Service" was tentatively imposed upon the undersigned. Needless to mention that the undersigned has submitted detailed reply wherein entire situation has been explained in detail.
7. That, however, despite the genuine plea of the undersigned, received the impugned order dated 22.02.2017 wherein a major penalty of "Reduction to lower post / pay scale" has been imposed upon the undersigned.

In view of the above facts, the following grounds are submitted in my defense:

1. Because the Inquiry committee in its findings ignored B&R Code (4.5-j) (enclosed as annexure-B) which clearly outlines the responsibility of check measurement by Divisional Officer (XEN). According to the said Code the " Divisional Officer (Executive Engineer) must check at least 24 bills in a financial year or 10% of the total payment made in his Division". Needless to mention that the inquiry committee itself justified in the inquiry report on (page no. 6/8) that out of the total payment made for earth work of Rs.24.295 million, Rs.12.174 million is correct and is 50% of the total payment made while the responsibility of the undersigned as per B&R Code in terms of payment and check measurements is only 10% of the total payment made in the division. As for as check measurements are concerned, it is only for at least 24 bills in a financial year and it is pertinent to mention that B&R Code has never specified it for a specific project. Therefore, B&R Code and well defined standing orders have not been violated and ignored.
2. Because the Inquiry Committee in its findings ignored CPWA code in Chapter-II, para.3 (on page-2) and para.229 (on page-78) (enclosed as annexure-C) which clearly states that "An advance payment for work actually executed may be made on the certificate of responsible officer (not below the rank of sub-divisional officer) to the effect that not less than the quantity of work paid for has actually been done, and the officer granting

*[Signature]*  
**ATTESTED**

*[Signature]*

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such a certificate will be held personally responsible for any overpayment which may occur on the work in consequence.

Final payments, may however, in no case be made without detailed measurements. Therefore, the undersigned has not violated the CPWA Code and has made payment on the basis of certificate given by the sub-divisional officer. (enclosed as annexure-D).

3. **Because** the inquiry committee did not consider **Clause-7 of the Contract agreement** (enclosed as annexure-E) duly printed by the Government press, mutually signed by the Department and Contractor and is approved by the competent authority wherein it has been stated that the 1<sup>st</sup> running bill rather all running bills / intermediate payments shall be regarded as payment by way of advance against the final payment on which no claim whatsoever could be established.
4. **Because** it is also extremely intriguing to note that despite the fact that the Administrative Department has proposed minor penalty of "stoppage of one annual increment for one year" to the undersigned (enclosed as annexure-F) and had clarified that no loss has been caused to the Government exchequer coupled with the Chief Engineer FATA Clarification (enclosed as annexure-G). In case of no loss to Govt. exchequer, even minor penalty is not justified and yet an extremely harsh major penalty of reduction to lower post / pay scale has been imposed upon the undersigned.
5. **Because** the undersigned was never associated with the inquiry. The undersigned was never confronted with the evidence adducted by the inquiry report nor was given an opportunity to cross examine the witnesses or challenge the evidence which is against the Rule 11 of the E&D Rules 2011 (enclosed as annexure-H). Indeed the entire process has been conducted in a very mechanical and superficial manner.
6. **Because** even when the undersigned was given a chance for personal hearing, there was no representative of the Department present on the date of hearing which is against Rule 14 (4) (d) of the E&D Rules 2011 (enclosed as annexure-I), wherein the Departmental representatives are required to appear with all relevant record. Indeed the entire proceedings were nothing more than just a mock exercise.

  
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- 7. Because the inquiry committee has also transgressed its authority wherein a sub-committee has been constituted by them composed of sub-engineers as mentioned by the inquiry report on page no. 4/8 of the inquiry report.
- 8. Because the undersigned was never confronted with the so called correct measurements of the technical committee (measurement verified at site), nor I was given an opportunity to cross examine the so called measurements verified at site by the technical sub-committee which is against the very spirit of Rule 11 (4) of E&D Rules 2011 (enclosed as annexure H). Needless to mention that the so called measurement verified at site by the inquiry committee are not available in the inquiry report nor in the original record as evident from the undersigned letter No.3735/1-E dated 27-02-2017, Chief Engineer (FATA) letter 4543/2/46-E dated, 28.02.2017 and Section Officer (Estb) C&W Department letter No. SOE/C&WD/8-29/2015 dated, 01.03.2017 (enclosed as annexure J, K & L) and the inquiry committee has only relied on the visual verification of the so called measurement instead of taking detail measurements on their own as stated by themselves in the inquiry report on page no. 5/8.
- 9. Because the Inquiry committee has also failed to take the geologic report (Rock classification report) into consideration (not present in the original record of the inquiry report refers enclosures J, K&L) and they have only relied on the visual verification which is against the basic logic of engineering.
- 10. Because the true facts are that the sub-engineer incharge had carried out the detail measurements and made necessary entries on pages 184 to 195 in the measurement book (MB No. 1151 / KD). The Sub divisional officer (SDO) has made check measurements and had given a certificate (enclosed as annexure-D) that the measurements have been jointly carried out by him with sub engineer in charge and the work has been carried out as per PWD specifications. The divisional account officer in the capacity of audit representative and advisor to the executive engineer have not brought any short comings in to the notice of the undersigned nor operated form 60. The responsibility of measurement rests upon sub-engineer and sub divisional officer. Furthermore, the bill have not been passed without a proper measurement Book as mentioned in para 46 of the summary of the inquiry proceedings.(enclosed as annexure M)

A.C.

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11. Because without prejudice to above and in addition thereto the impugned penalty of reduction to a lower post / pay scale awarded to the undersigned is also illegal as no time frame has been provided wherein the penalty would take effect, thus, leaving the penalty looming over the future of the undersigned.
12. Because the impugned order imposing the penalty is clearly in contradiction to the true facts and law.
13. Because the entire inquiry proceedings speak of malafide and ill-intension.
14. Because the penalty imposed is harsh and against all norms of justice and most certainly against the principles of proportionality.

I have not been treated in accordance with law, rules, policy and acted in violation of articles 4 of the Constitution of Pakistan.

Section 16 of the KPK Civil Servant Act 1973/ESTA/Code 2011 provide that every civil servant is liable for prescribed disciplinary action and penalty in accordance with the prescribed procedure. But in the instant case the Competent Authority has not followed the referred statutory provisions. In absence of conformity with the prescribed procedure as envisaged in E&D Rules, 2011, the so called disciplinary action is invalid and is liable to be set aside please.

From perusal of aforementioned grounds and explanations, it is quite clear that the imposition of major penalty "Reduction to a Lower Post / Pay Scale" upon the undersigned is not justified, even there is no loss caused to the government exchequer.

Therefore, it is requested to kindly review the penalty order No.SOE/C&WD//8-29/2015 DATED 22.02.2017 issued by C&W Department in respect of my "Reduction to a Lower Post / Pay Scale", kindly be set-aside, being callous, without justification and merits.

Yours sincerely

Engr. Azmat Ullah

Dated: 15.03.2017

ATTESTED



Annex (H) 38  
OFFICE OF THE CHIEF ENGINEER (FATA)  
WORKS & SERVICES DEPARTMENT  
PESHAWAR

No. 4785 /2/46-E  
Dated Peshawar the, 20/04/2017

OFFICE ORDER

Subject : (i) Review Petition against the penalty order bearing No. SOE/C&WD/8-29/2015, dated 22.2.2017 C&W Department "Removal from Service" in the scheme titled "Widening and Black Topping of 03 Kms Chinarak Tora Woray Road, from Km 46 to 48 (Phase-IV 03 Kms) in Kurram Agency" filed by Mr. Mushtaq Ali the then Sub Engineer and Mr. Fazal Rehman the then SDO C&W Department.

(ii) Review Petition against the penalty order bearing No. SOE/C&WD/8-29/2015 dated 22.2.2017 C&W Department "Reduction to a lower post/Pay scale" in the scheme titled "Widening and Black topping of 03 Kms Chinarrak Tora Woray Road, from KM 46 to 48 (Phase IV 03 Kms) in Kurram Agency" filed by Engr. Azmatullah C&W Department

Technical Committee comprising the following officers is hereby constituted to re-inquire the work done at site by the contractor and submit report within 15 days positively:-

1. Engr. Abdul Sattar,  
Superintending Engineer,  
Northern C&W FATA Circle, Peshawar. Chairman
2. Engr. Noor-us-Saeed Shah  
Superintending Engineer (H.Q)  
o/o Chief Engineer FATA,  
Works & Services Department Peshawar. Member
3. Engr. Noor Sahib Khan,  
Executive Engineer,  
Building FATA Division Mohmand at Ghallanai Member

(Engr: Muhammad Shahab Khattak)  
Chief Engineer

Copy forwarded to the:

- 1- Secretary C&W Department, Khyber Pakhtunkhwa Peshawar w/r to his letter No. SOE/C&WD/8-29/2015, dated 19.4.2017
- 2- Engr. Abdul Sattar Superintending Engineer, Northern C&W FATA Circle Peshawar alongwith copy of Secretary C&W Department Khyber Pakhtunkhwa Peshawar letter No. SOE/C&WD/8-29/2015, dated 3.4.2017 for information and necessary action.
- 3- Engr. Noor-us-Saeed Shah, Superintending Engineer (H.Q) local alongwith copy of Secretary C&W Department Khyber Pakhtunkhwa Peshawar letter No. SOE/C&WD/8-29/2015, dated 3.4.2017 for information and necessary action.
4. Engr. Noor Sahib Khan Executive Engineer, C&W FATA Division Mohmand at Ghallanai alongwith copy of Secretary C&W Department Khyber Pakhtunkhwa Peshawar letter No. SOE/C&WD/8-29/2015, dated 3.4.2017 for information and necessary action.
5. Executive Engineer, Highway FATA Division Kurram at Parachinar for information. He is directed to provide all the relevant documents to the Inquiry Committee and assist the committee in finalization of Inquiry report.

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Chief Engineer

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Annex I

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WORKS & SERVICES DEPARTMENT  
(FATA)

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INQUIRY REPORT

NAME OF WORK

WIDENING AND BLACK TOPPING OF 03  
KMS CHINARRAK TORA WORAY ROAD,  
FROM KM-46 TO 48 (PHASE-IV) IN  
KURRAM AGENCY

ADP NO. 403 / 140010 (2016-17)

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NAME OF WORK: WIDENING AND BLACK TOPPING OF 03 KMS  
CHINARRAK TORA WORAY ROAD, FROM KM-46 TO 48  
(PHASE-IV) IN KURRAM AGENCY ADP NO. 403 / 140010  
(2016-17)

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6	Letter for provision of record	Annex-E
7	Geological report	Annex-F
8	Details of work done at site	
	i) Abstract of Cost	
	ii) KM-46	Annex-G
	iii) KM-47	Annex-H
	iv) KM-48	Annex-J

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INQUIRY REPORT

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Name of Work: Widening and Black Topping of 03 Kms Chinarrak Tora Woray Road, from Km 46 to 48 (Phase-IV) 03-Kms in Kurram Agency.

1- A committee comprising following officers was constituted by Chief Engineer (FATA) W&S Department vide No. 4785 / 2 / 46-E dated 20-4-2017 to re-inquire the work done at site by the contractor and submit report within 15 days. Later on the time for submission of report was extended by 15 days from 10-5-2017.

- 1- Engr:Abdul Sattar; Chairman.  
Superintending Engineer,  
Northern C&W FATA Circle Peshawar.
- 2- Engr:Noor-us-Saeed Shah Member.  
Superintending Engineer (H.Q)  
O/O Chief Engineer (FATA)  
Works & Services Department Peshawar.
- 3- Engr:Asad Ali Co-opted member  
Executive Engineer  
Building FATA Division Kurram Agency.

Term of Reference (TOR) of the committee was "to re-inquire the work done at site by the contractor" (Annex-A).

2- HISTORY OF THE PROJECT

The subject road was reflected in FATA ADP 2014-15 at S# 409/140010 and approved for Rs. 75.00 million in FDWP meeting held on 21-8-2014, administrative approval issued on 28-8-2014 (Annex-B). Technical Sanction cost of the scheme is Rs.67.912 million, issued on 15-1-2016 (Annex-C). The scheme is still on-going and reflected in FATA ADP 2016-17 at S.No.403 /140010. The work was awarded to Mr.Amanullah Government Contractor through open competitive bidding and his rate is 10% below CSR 2012. Work order was issued and work started on 28-5-2015. The 1<sup>st</sup> running bill amounting to Rs. 24295630/- was prepared on 10-6-2015.

Sachin  
K&W Kurram

SE Kurram

M. Shafiq  
SE Kurram

A.E.C.

  
ATTESTED

3. PROCEEDINGS

The committee members visited the road on 03.05.2017 alongwith the then Executive Engineer Engr. Azmatullah, the then SDO Fazal Rehman, and Mr. Mushtaq Ali Sub Engineer. Detailed measurements were taken in presence of the above field officers. Details of survey attached (Annex-D). The record of the said project was collected from the Divisional Office i.e. Highway Division Kurram vide letter No.2847/1-Inq. Dated 24.4.2017 (Annex-E).

5. Detail of 1<sup>st</sup> running bill, prepared by Mr. Azmatullah XEN, Fazal Rahman SDO and Mushtaq Ali Sub Engineer.

S#	Item of work	Quantity Paid to the contractor				Remarks
		Unit	Qty:	Rate (Rs.)	Amount (Rs.)	
1.	Excavation to design Section.					
i.	As in Shingle gravel	M3	20610	249.60	5144256	30% quantity paid in bill as in shingle gravel and 70% quantity paid in bill as in Occasional Blasting.
ii.	As in rock occasional blasting	M3	48089	417.66	20084852	
	Sub Total		68699		25229108	
	Add 7% cost factor				1766037	
	Total				26995145	
	D/d 10% below contractor's premium				2699514	
	Net Total				24295630/-	

6. RE-INQUIRY OF WORK DONE AT SITE.

S#	Item of work	Work done by the contractor Amount (Rs.)	Remarks
I:	EARTH WORK		
i.	As in Shingle gravel.	12724449.8	The classification of Earth Work paid is not supported by the Geological report (Annex -F)
II:	ROAD WORK		
i.	Km No.46	6699219.30	Annex -G
ii.	Km No.47	5162199.06	Annex -H
iii.	Km No.48	1268804.51	Annex -J
	Total	25854672.67	
	D/D Already prepared Bill (Ref: Para-5 above)	24295630/-	
	Net liability of the contractor	1559042.67	
	SAY	1559042.67	

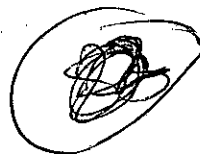
*Fazal Rehman*  
XEN Kurram

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*Mushtaq*  
SE HQ

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7. CONCLUSION

The scheme is still on-going as per FATA ADP 2016-17 at S.No.403 /140010. According to Clause - 7 of contract agreement that "But all intermediate payments shall be regarded as payments by way of advance against the final payment only and not as payments for work actually done and completed". Being ongoing work, the divisional staff is advised to follow the agreement in letter and spirit.

(Engr: NOOR US-SAEED SHAH)  
Superintending Engineer (HQ)  
W&S FATA  
(Member)

(Engr: ASAD ALI)  
Executive Engineer  
Building FATA Division Kurram  
(Member)

(Engr: ABDUL SATTAR)  
Superintending Engineer  
Northern C&W FATA Circle Peshawar  
(Chairman)

  
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ANNEX-A

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OFFICE OF THE CHIEF ENGINEER (FATA)  
WORKS & SERVICES DEPARTMENT  
PESHAWAR

No. 4836 /2/46-E  
Dated Peshawar the, 24/04/2017

**OFFICE ORDER**

Subject : (i) Review Petition against the penalty order bearing No. SOE/C&WD/8-29/2015, dated 22.2.2017 C&W Department "Removal from Service" in the scheme titled "Widening and Black Topping of 03 Kms Chinarak Tora Woray Road, from Km 46 to 48 (Phase-IV 03 Kms) in Kurram Agency" filed by Mr. Mushtaq Ali the then Sub Engineer and Mr. Fazal Rehman the then SDO C&W Department..

(ii) Review Petition against the penalty order bearing No. SOE/C&WD/8-29/2015 dated 22.2.2017 C&W Department "Reduction to a lower post/Pay scale" in the scheme titled "Widening and Black topping of 03 Kms Chinarrak Tora Woray Road, from KM 46 to 48 (Phase IV 03 Kms) in Kurram Agency" filed by Engr. Azmatullah C&W Department


In partial modification of this office order No. 4785/2/46-E, dated 20.4.2017, the following amendments in the Technical Committee is hereby ordered to re-inquire the work done at site by the contractor and submit report within 15 days positively:-

- |   |                 |
|---|-----------------|
| 1. Engr. Abdul Sattar,<br>Superintending Engineer,<br>Northern C&W FATA Circle, Peshawar.   | Chairman        |
| 2. Engr. Noor-us-Saeed Shah<br>Superintending Engineer (H.Q)<br>o/o Chief Engineer FATA,<br>Works & Services Department Peshawar. | Member          |
| 3. Engr. Asad Ali<br>Executive Engineer,<br>Building FATA Division Kurram Agency  | Co-opted member |

(Engr: Muhammad Shahab Khattak)  
Chief Engineer

Copy forwarded to the:

1. Secretary C&W Department, Khyber Pakhtunkhwa Peshawar
2. Engr. Abdul Sattar Superintending Engineer, Northern C&W FATA Circle Peshawar
3. Engr. Noor-us-Saeed Shah, Superintending Engineer (H.Q) local
4. Engr. Asad Ali Executive Engineer, Building FATA Division Parachinar
5. Executive Engineer, Highway FATA Division Kurram at Parachinar for information. He is directed to provide all the relevant documents to the Inquiry Committee and assist the committee in finalization of Inquiry report.
- X6. Engr. Noor Sahib Khan, Executive Engineer, Building FATA Division Khyber Agency w/r to his letter No. 760/1-E, dated 24.4.2017 for information.

  
Chief Engineer

  
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ANNEX-B

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OFFICE OF THE CHIEF ENGINEER (FATA)  
WORKS & SERVICES DEPARTMENT  
PESHAWAR

Subject: - ADMINISTRATIVE APPROVAL OF THE SCHEME "WIDENING & BLACK TOPPING OF 03-KMS CHINARAK TORAWARAY ROAD FROM KM-46 TO KM-48 (PHASE-IV=3-KMS) IN KURRAM AGENCY" ADP NO. 409/140010 (2014-15)

1. The competent authority has been pleased to accord administrative approval to the scheme "Widening & Black Topping of 03-Kms Chinarak Torawaray Road from KM-46 to KM-48 (Phase-IV=3-Kms) in Kurram Agency" ADP NO. 409/140010 (2014-15) at a total cost of Rs. 75.00 Million (Seventy Five million only) as per detail given below:-

S#	Item	(Rs. in million)							
		Year 2013-14		Year 2014-15		Year 2015-16		Total	
		Capital	Rev	Capital	Rev	Capital	Rev	Capital	Rev
1	Earth Work	16.000	-	9.148	-	0.000	-	25.148	-
2	Road Work	4.000	-	10.000	-	8.921	-	22.921	-
3	Road Structure	3.025	-	7.173	-	7.174	-	17.372	-
4	Cost Factor	1.612	-	1.842	-	1.127	-	4.581	-
5	Escalation	0.000	-	1.463	-	2.925	-	4.388	-
6	Contgyl/ Consultancy	0.363	-	0.119	-	0.108	-	0.590	-
	<b>TOTAL</b>	<b>25.000</b>	<b>-</b>	<b>29.745</b>	<b>-</b>	<b>20.255</b>	<b>-</b>	<b>75.000</b>	<b>-</b>

2. The scheme has been approved by the FDWP in its meeting held on 21.08.2014 Minutes issued vide Deputy Secretary (Admn P&D) Department FATA Secretariat Peshawar, letter No. Secy/P&D/FS/FDWP/2013-14 dated 26.08.2014

3. The expenditure involved is chargeable to the financial classification and functional code (01-Gen: Public Service) (019-Gen: Public Service not elsewhere defined) 0191-Gen: Public Service not elsewhere defined), (019120-Other) Demand No.133 Dev: Expenditure of FATA.

4. The administrative approval does not constitute sanction to the design and rates provided in the cost estimate. Financial responsibility of the design/rates rest with the authority competent to accord technical sanction to the detailed cost estimate.

5. The sanctioning authority shall allow appropriate rates after observing all codal formalities standing instruction regarding schedule of rates and financial regularity. The work shall be taken in hand after release of funds and proper technical sanction of the cost estimate.

Sd/-  
ADDL: CHIEF SECRETARY FATA

Dated Peshawar the ... 28 / 8 / 2014

Endst: No... 6042... 157-RM

Copy to the: -

1. Secretary, P&D FATA Secretariat Peshawar.
2. Secretary, Finance FATA Secretariat Peshawar.
3. Secretary (Admn: Ifra: & Coord), FATA Secretariat, Peshawar.
4. Additional Accountant General (Pakistan Revenue) Sub Office Peshawar.
5. Deputy Chief D&AD, P&D Division Islamabad.
6. Deputy Secretary, SAFRON Islamabad.
7. Deputy Secretary-II, P&D Deptt: FATA Secretariat Peshawar.
8. Superintending Engineer (Southern) C&W FATA Circle Peshawar.
9. Political Agent Kurram Agency
10. Executive Engineer, Highway FATA Division Kurram Agency
11. Agency Accounts Officer Kurram Agency.

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CHIEF ENGINEER  
W&S DEPARTMENT FATA

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ANNEX-C

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OFFICE OF THE CHIEF ENGINEER (FATA)  
Works & Services Department Peshawar

No. 7040 162-PCR

Dated Peshawar the 15/01/2016

To

The Executive Engineer,  
Highway FATA Division, Kurram Agency.

Subject: - TECHNICAL SANCTION

In exercise of the powers conferred upon the undersigned vide SI: No.21.1, appearing at Page 104-105 of the Government of Khyber Pakhtunkhwa, Finance Department delegation of powers under the financial rules and the powers of re-appropriation rules 2001, technical sanction is hereby accorded to the works and amount noted below:-

ADP No.	Name of work	Revised A.A. with date (M)	Budget Head	T.S Amount
383 2015-16	Widening & Black Topping of 03 Kms Chinarak Torawaray Road from KM-16 to 48 (Phase IV = 3 Kms) in Kurram Agency	75.00 28.8.2014	(01-Gen: Public Service) (019-Gen: Public Service not else where defined) 0191-Gen: Public Service not else where defined, (019120-Other) Demand No. 131 Dev: Expenditure of FATA	Rs.67.918 Million (Rupees Sixty Seven Million, Nine Hundred & Eighteen Thousand only)

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

It is further added that the Executive Engineer will be responsible for the suitability of design, reasonability of rates and execution of work according to the approved specification and scope of work.

Copy of the sanctioned estimate is returned herewith for record.

DA/As above

CHIEF ENGINEER (FATA)

Copy to the: -

- 1) Superintending Engineer (Southern) C&W FATA Circle Peshawar for information.
- 2) Chief Head Draftsman (Local) for information alongwith one copy of estimate for record.

CHIEF ENGINEER (FATA)

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ANNEX-E

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MOST IMMEDIATE

(51) OFFICE OF THE,  
SUPERINTENDING ENGINEER,  
NORTHERN C&W FATA CIRCLE PESHAWAR.

No. 4991/SE(P)/Kurram Dated 24/04/2017

To

The Executive Engineer  
Highway FATA Division.  
Kurram Agency.

(By Name)

Subject:-

(i) Review Petition against the penalty order bearing No.SOE/C&WD/8-29/2015, dated 22.2.2017 C&W department "Removal from Service" in the scheme titled "Widening and Black Topping of 03-Kms Chinarak Tora Woray Road, from Km 46 to 48 (Phase-IV 03-Kms) in Kurram Agency" filed by Mushtaq Ali the then Sub Engineer and Mr.Fazal Rehman the then SDO C&W Department.

(ii) Review Petition against the Penalty order bearing No.SOE/C&WD/8-29/2015 dated 22.2.2017 C&W Department "Reduction to a lower post/pay scale" in the scheme titled "Widening and Black Topping of 03-Kms Chinarak Tora Woray Road, from Km 46 to 48 (Phase-IV 03-Kms) in Kurram Agency" filed by Engr. Azmatullah C&W Department.

Ref'nce:-

Chief Engineer (FATA) W&S Deptt: Peshawar office order No.4785/2/46-E Dated 20.04.2017 (received on 21.4.2017)

To re-inquire the work done at site by the contractor, the following documents/record may be provided within 02-days positively repeat 02-days positively, so as to proceed further in the matter, and fix date for visit/inspection.

- 1- Approved PC-I/Detailed Cost Estimate.
- 2- A.A. letter issued from the competent authority.
- 3- Tender documents (in original)
- 4- Contract agreement (in original)
- 5- Technical Sanction accorded (in original)
- 6- TS letter issued from the competent authority.
- 7- Approved X-Sections & Long Sections as per Technical Sanction Estimate.
- 8- The X-Section of Improvement & Widening from the Measurement Books by Auto CAD.
- 9- All paid Bills/Vouchers (in original)
- 10- All Measurement Books (MBs).
- 11- Marking of RDs clearly showing the start and end point as per interval mentioned in the M.B. during Improvement & Widening.
- 12- Other related record (if any).
- 13- Photo graphs during execution of work (if any)

(Engr:Abdul Sattar)  
Superintending Engineer/Chairman

Copy to the:-

- 1- Chief Engineer (FATA) Works & Services Department Peshawar w/r to above for information please.
- 2- Engr: Noor-us-Saeed' Shah Superintending Engineer HQ O/O Chief Engineer (FATA) w/r to discussion on 24.4.2017 for information please.
- 3- Engr.Noor Sahib Khan Executive Engineer C&W FATA Division Mohmand Agency w/r to discussion on 24.4.2017 for information.

(Engr:Abdul Sattar)  
Superintending Engineer/Chairman

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ANNEX-F

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DEPARTMENT OF GEOLOGY  
UNIVERSITY OF PESHAWAR,  
KHYBER PAKHTUNKHWA, PAKISTAN



Ref: 416/Geol  
To

(S3)

Date: 28/4/2017

The Superintendent Engineer/Chairman  
Northern C&W FATA Circle Peshawar

(EB)


(EB)

Subject: Copy of Survey report of Chinarak Tora Woray Road (Phase-IV 03 KMs) in Kurram Agency.

Dear Engineer Abdul Sattar,

Reference to your letter No.4998/SE(P)Kurram dated 25/04/2017, please find enclosed a copy of the cited report which has already been submitted to XCN Mr. Azmatullah sb. The mentioned survey was conducted in reference to letter No. 3736/24-RD dated 27/02/2017 from the office of Executive Engineer FATA Division Kurram.

Regards,

  
M. Naveed Anjum  
Assistant Professor  
Department of Geology  
University of Peshawar

Atc

Phone: +92 (0) 91- 9216744 (Ext: 3039), Fax: +92(0) 91-5611214, E-mail: geology@upesh.edu.pk, Web: www.upesh.edu.pk

  
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DEPARTMENT OF GEOLOGY  
UNIVERSITY OF PESHAWAR,  
KHYBER PAKHTUNKHWA, PAKISTAN

Ref: 415/Exec/CPY

Date: 28/4/2017

Report requested by: Executive Engineer FATA Division Kurram

Letter reference: 3736/24-RD dated 27/02/2017

Site Name: Chinarak Thora Woray

Total Length: RD 00Kms+000 to RD 3Kms+000

No of rocks analysed: 12

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Summary of rock/Gravel Classification

S.N.	Rock/Shingle	Length in meters	Comments
1	Shingle with subordinate conglomerate at a place.	1445 meters	Consisting of limestone/sandstone fragments having size range of (1.5 inches across) embedded in mud matrix. (including 200*2.8 meters conglomerate bed)
2	Shale/Soft Rocks	830 meters	Greenish grey with thin beds of siltstones

Muhammad Naveed Anjum

MSc, MPhil, PhD Research (Sweden)

Assistant Professor

Email:naveed\_geo@upesh.edu.pk

Phone: 091-9216744, Cell: 0301-8832501

Signature of Muhammad Naveed Anjum  
Muhammad Naveed Anjum  
Assistant Professor  
Department of Geology  
University of Peshawar

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Phone: +92 (0) 91- 9216744 (Ext: 3039), Fax: +92(0) 91-5611214, E-mail: geology@upesh.edu.pk, Web: www.upesh.edu.pk

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Rock Classification Report of Chinarak Thora Woray, Kurram Agency



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By

Muhammad Naveed Anjum  
M.Sc, M. Phill and Ph.D Research (Mineralogy and Geochemistry, Sweden)  
Assistant Professor, Department of Geology,  
University of Peshawar, KPK, Pakistan, 25000.  
Phone (Office): +92-91-9216744, Ext: 111  
(Cell): +92-301-8832501  
E-mail: naveed\_geo@upesh.edu.pk

For

Highway FATA Division Kurram

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28/4/2017

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Description of the Rocks/Soil

The investigated road section is comprised of various lithologies including Shales, Siltstone Gravel/Shingle and Conglomerate. These rocks are briefly described below.

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a. Shale:

Shale is clastic rock, greenish grey-to olive green in colour showing fissile nature due to the presence of thin laminations/layers. Splintery characteristic is also common. They are dominantly consisting clay minerals and silt size quartz grains. The green color is because of presence glauconite and chlorite minerals. Thin beds of siltstone are also occasionally found. The compressive strength of these rocks is ranging from 1.5 to 4.5 MPa which shows a lower strength and is classified as soft rock. These rocks generally require the use of shovel/excavator for cutting removal.

b. Gravel/Shingle:

Shingle is another major material along the road section. It is consisting of various size fragments of limestone, sandstone and conglomerate embedded within mud matrix. The size of limestone fragments (fine grained and medium grained varieties) is generally in the range of 1-5 inches and is subangular to sub-rounded in shape. Sandstone fragments are generally angular to sub-angular in shape and are medium grained. Mineralogically these rocks are predominantly consisting of quartz with subordinate feldspar, lithics and Fe-oxides. The size of sandstone fragments in the gravel is ranging from 2-6 inches across. Isolated conglomeratic beds are also found ranging in size from several inches up-to 3 feet. Due to mud matrix present among the fragments the gravel/shingle is classified as a soft material and, therefore, can be easily excavated with shovel.

c. Conglomerate:

The third rock material is conglomerate which was observed in the last section of the studied 3-Kms road. The length of the conglomerate is about 200 meter with a thickness/Height of 2.8 meters on average. The conglomerate is predominantly consisting of rock fragments derived from various carbonate rocks with minor sandstone which has been cemented together by calcite. Carbonate fragments are predominantly

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limestone (Calcite) showing fine to medium-grained texture. The size of these carbonate unites is 1-2 inches across. The Sandstone fragments are having similar size to that of carbonate and are mainly consisting of quartz minerals having pinkish to yellowish brown colour. Cementation of calcite has been made these rocks relatively stronger than the rest of the rocks/material in the study area. The compressive strength of different rocks of the conglomeratic bed is in the range of 15-20MPa and can be classified as medium-hard rocks. (Table 1). These rocks may require the use of Jack Hammer or Chisel to be broken down.

**Procedure:** The study area was personally visited by the undersigned in response to the request from concerned Department. Whole of the already cut road section was investigated thoroughly to observe variation in the lithology. Samples along road cut were collected on the basis of field characteristics. A total of 12 thin sections were prepared from the collected samples which were then studied under polarizing microscope by using both low and high magnification powers. These rocks were then classified according to their strength properties as using field and laboratory characteristics. All the length data was taken from the RDs already marked along the road section by concerned Department. The length calculated for different rocks and gravel shingle may also include the already open area. Data obtained lies within 90% of accuracy.

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Table 1 showing Engineering classification of rock by strength

Hardness category	Typical range in unconfined compressive strength (MPa)	Strength value selected (MPa)	Field test on sample	Field test on outcrop
Soil*	< 0.50		Use USCS classifications	
Very soft rock or hard, soil-like material	0.00-1.25		Scratched with fingernail. Slight indentation by light blow of point of geologic pick. Requires power tools for excavation. Peels with pocket knife.	
Soft rock	1.25-5.0		Permits denting by moderate pressure of the fingers. Handheld specimen crumbles under firm blows with point of geologic pick.	Easily deformable with finger pressure.
Moderately soft rock	5.0-12.5		Shallow indentations (1-3 mm) by firm blows with point of geologic pick. Peels with difficulty with pocket knife. Resists denting by the fingers, but can be abraded and pierced to a shallow depth by a pencil point. Crumbles by rubbing with fingers.	Crumbles by rubbing with fingers.
Moderately hard rock	12.5-50		Cannot be scraped or peeled with pocket knife. Intact handheld specimen breaks with single blow of geologic hammer. Can be distinctly scratched with 20d common steel nail. Resists a pencil point, but can be scratched and cut with a knife blade.	Unfractured outcrop crumbles under light hammer blows.
Hard rock	50-100		Handheld specimen requires more than one hammer blow to break it. Can be faintly scratched with 20d common steel nail. Resistant to abrasion or cutting by a knife blade, but can be easily dented or broken by light blows of a hammer.	Outcrop withstands a few firm blows before breaking.
Very hard rock	100-250		Specimen breaks only by repeated, heavy blows with geologic hammer. Cannot be scratched with 20d common steel nail.	Outcrop withstands a few heavy ringing hammer blows but will yield large fragments.
Extremely hard rock	> 250		Specimen can only be chipped, not broken by repeated, heavy blows of geologic hammer.	Outcrop resists heavy ringing hammer blows and yields, with difficulty, only dust and small fragments.

Method used to determine consistency or hardness (check one):  
 Field assessment: \_\_\_\_\_ Uniaxial lab test: \_\_\_\_\_ Other: \_\_\_\_\_ Rebound hammer (ASTM D5870): \_\_\_\_\_  
 \* See NEI 1031.03 for consistency and density of soil materials. For very stiff soil, SPT N values < 15 to 30. For very soft rock or hard, soil-like material, SPT N values exceed 50 blows per foot.

Muhammad Naveed Anjum  
 MSc, MPhil, PhD Research (Sweden)  
 Assistant Professor  
 Email: naveed\_geo@upesh.edu.pk  
 Phone: 091-9216744, Cell: 0301-8832501

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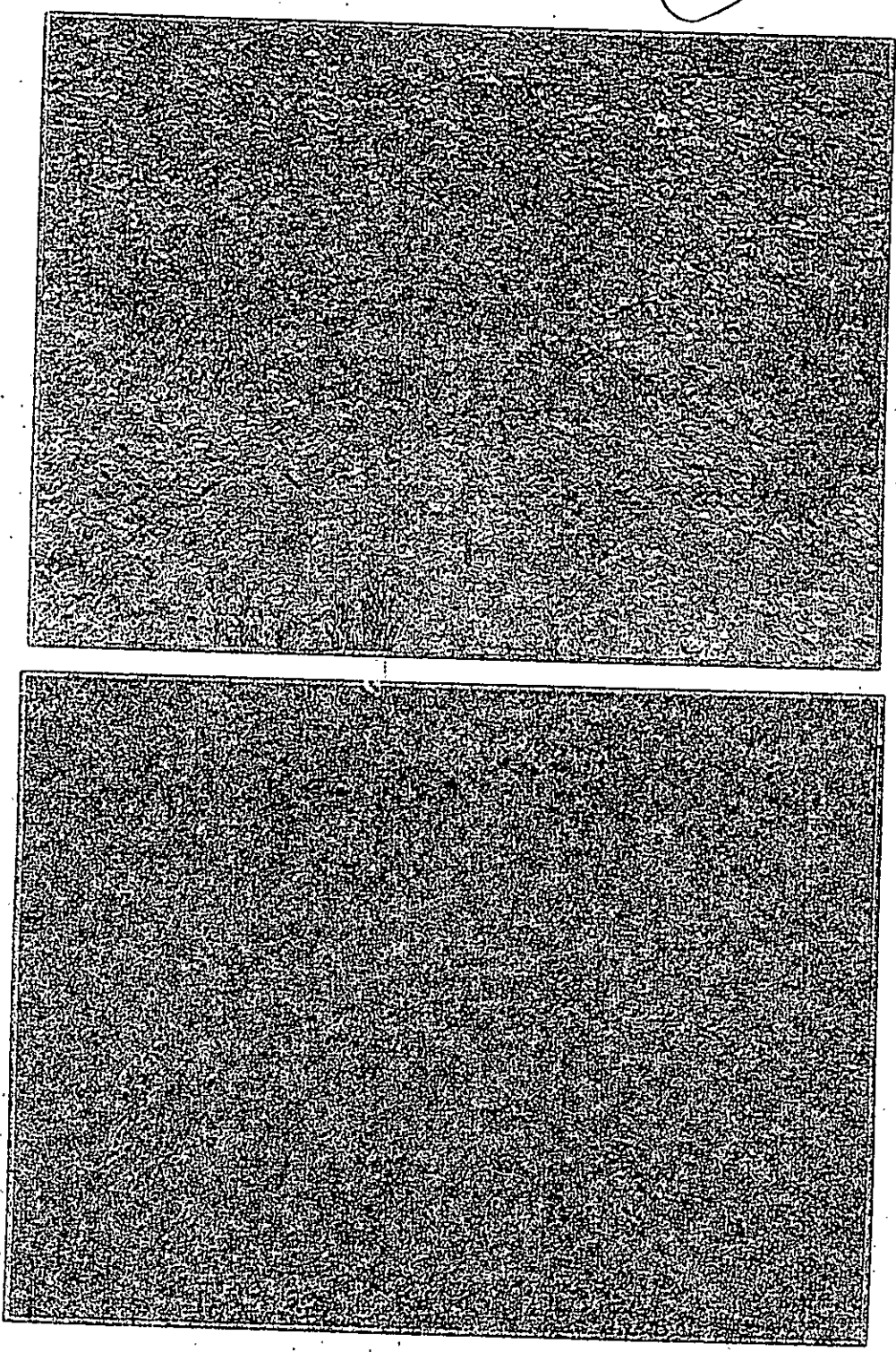


Fig.1. A. and B. Road cut showing Gravel of carbonate-rocks embedded in mud matrix

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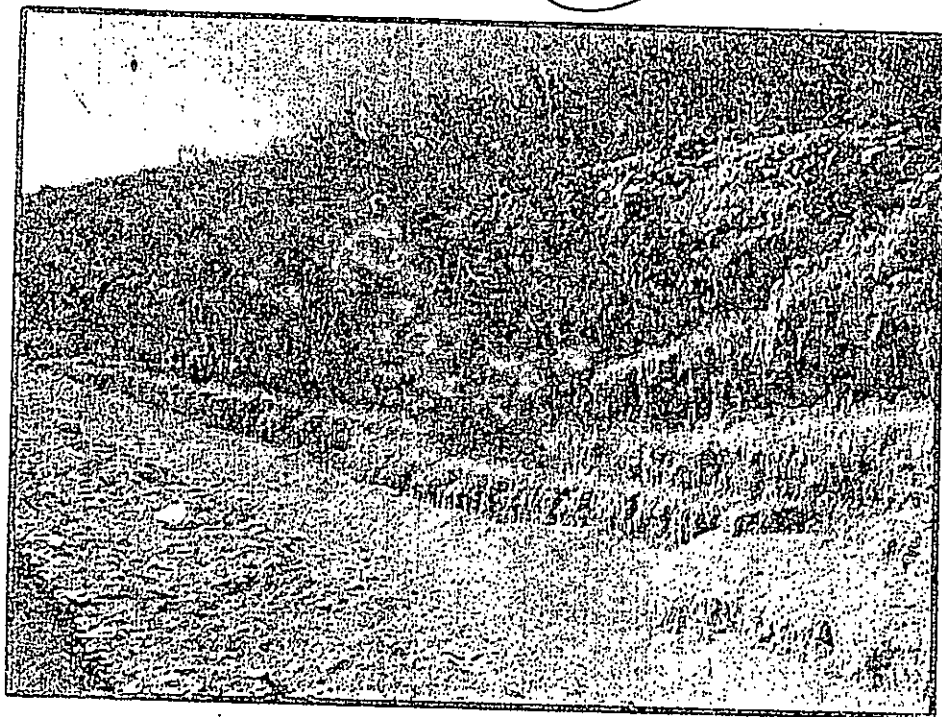


Fig. 2. A. road section showing shale exposure, B. Splintery shale

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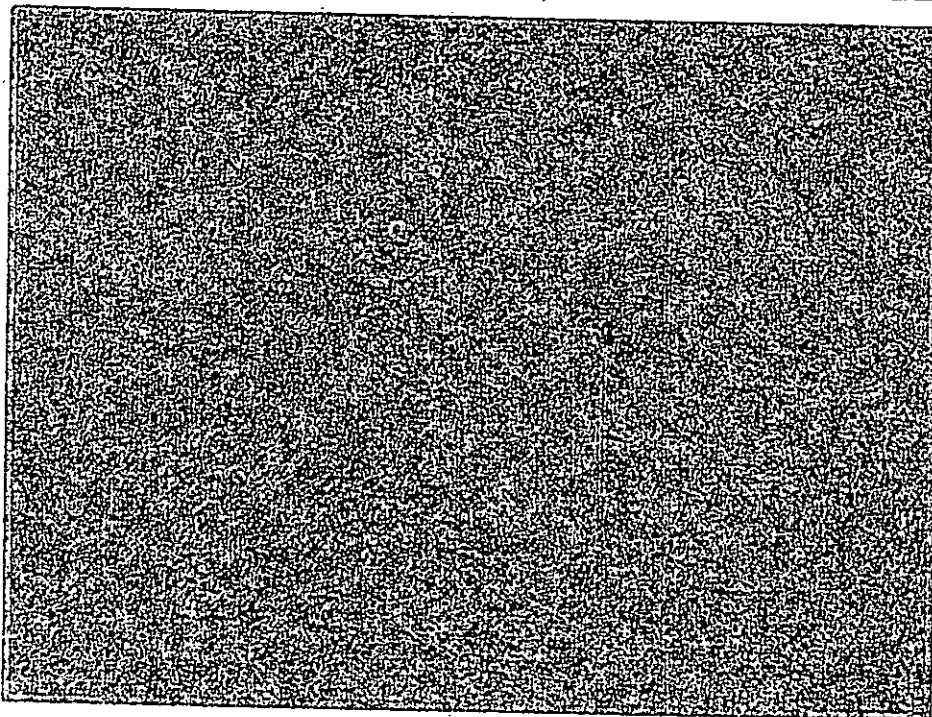
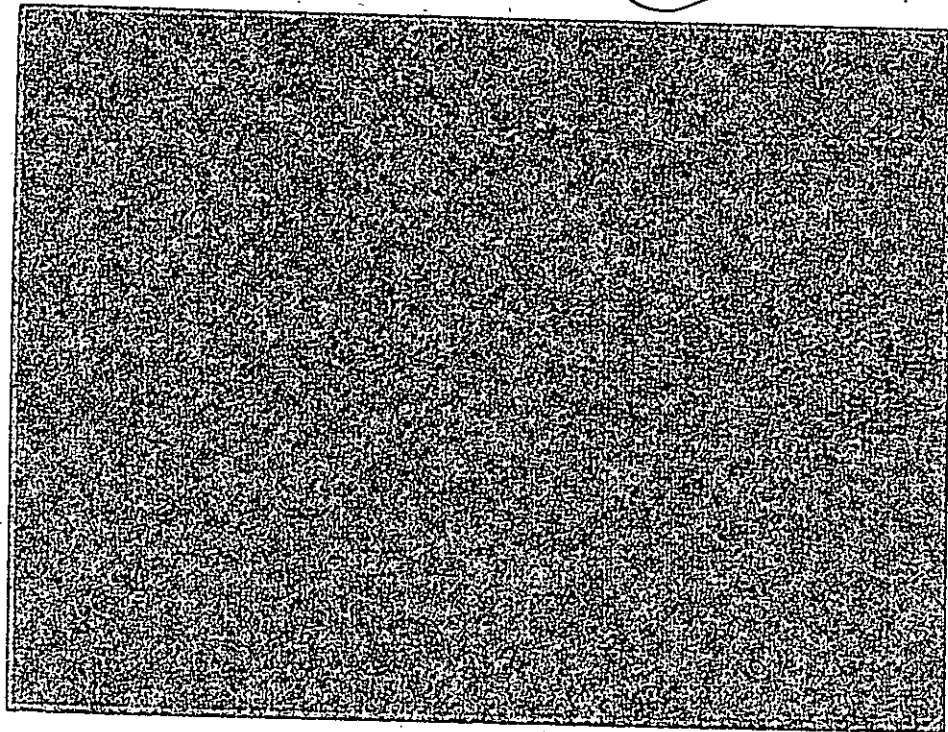


Fig.3. A. Greensh shale having silty horizon in the middle

*M. S. Khan*  
Geologist  
Department of Geology  
University of Punjab  
Lahore

*AC*

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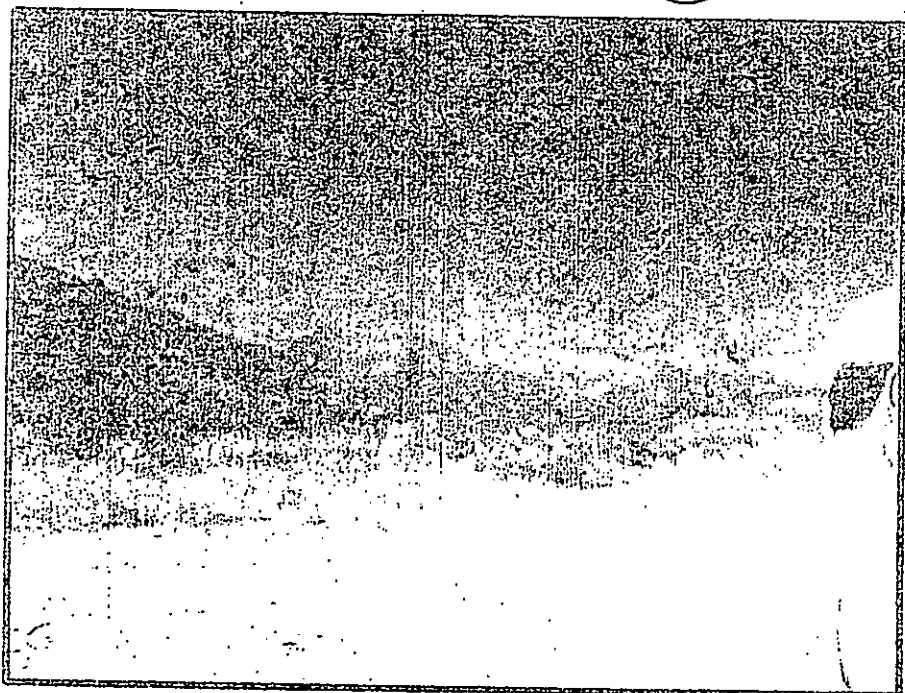


Fig.4. Showing open area in along road section, B. Yellowish green shale

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ENGINEER ANJUN  
Professor  
Department of Geology  
University of Jharkhand

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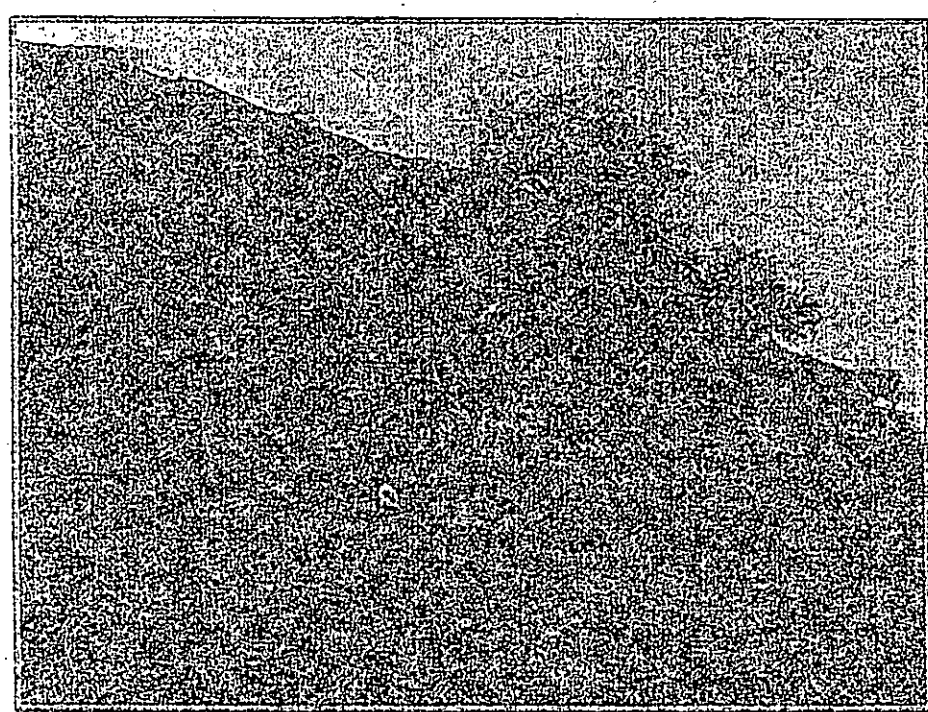
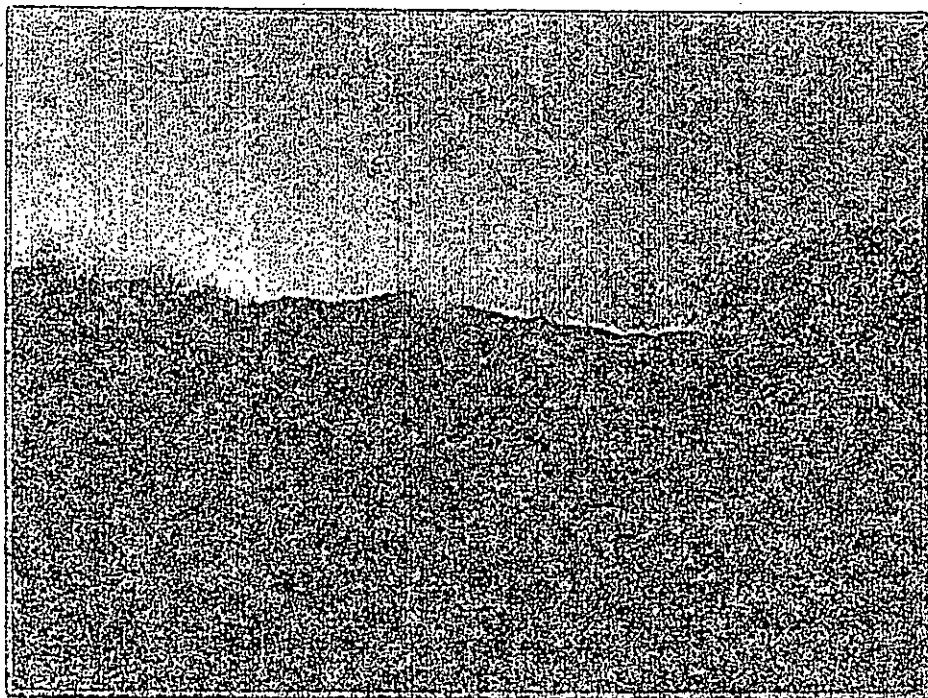


Fig. Road cut showing gravel shingle (Limestone and sandstone fragments embedded in mud

B: Gravel shingle showing 2.8 meters conglomerate bed at the top

*[Signature]*  
Professor  
Department of Geology  
University of Rajasthan  
*A/c*

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Table showing detail of different lithologies along the Chinarak Thora Woray Road section

RDS	Distance /Road length including both open and cut length	Cumulative length Gravel-Shingle	Cumulative Length Shale	Type of Rock/Material	Volume cut (as per C & W own data)
0+175	175meters	175	-	Gravel Shingle with mud matrix	
0+175-0+215	40 metres	175	40	Greenish-Shale	
0+215-0+250	35meters	210	-	Gravel Shingle	
0+250-0+325	75meters	285	-	Gravel shingle	
0+325-0+450	125meters	285	165	Shale	
0+450-0+600	150meters	285	315	Shale	
0+600-0+700	100meters	385	-	Gravel Shingle	
0+700-0+725	25meters	385	340	Shale	
0+725-0+775	50meters	435	340	Gravel Shingle	
0+775-0+800	25meters	435	365	Shale	
0+800-0+850	50meters	435	415	Shale	
0+850-0+900	50meters	460	440	Mixed Gravel Shingle and Shale (50:50)	
0+900-0+925	25meters	485	440	Gravel/Shingle	
0+925-1+25	200meters	635	490	Shingle/Shale (80:25)	
1+25-1+100	075meters	635	515	Shale	
1+100-1+225	125meters	760	515	Gravel Shingle	
1+225-1+475	250meters	760	765	Shale	
1+475-1+810	335meters	1085	865	Gravel-Shingle	
1+810-1+850	40meters	1085	805	Shale	
1+850-2.00	150meters	1235	805	Gravel shingle	
2.00-2+50	50meters	1285	805	Gravel shingle	
2+50-2+775	-----	-----	-----	Wide and Open area	
2+775-2+800	25 meters	1310	805	Gravel/Shingle	

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2+800-3.00	200meters	1510	805	Gravel Shingle with 200 long and avg. 2.8 meters thick medium hård conglomerate béd	
Total length having Gravel/Shingle=1510meters (2.8 meters*200meters conglomerate/medium hard rock)					
Total length having Shale=805 meters					

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**ABSTRACT OF COST**

KM-46

KM-47

KM-48

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ABSTRACT OF COST

Name of Work: Widening and Black Topping of 03 Kms Chinarrak Tora Woray Road, from Km 46 to 48 (Phase-IV) 03-Kms in Kurram Agency.

SH: 3 KMS (KM-46,47 & 48)					
		PC-1	Technical Sanction	Measured by Department	Measured by Inquiry Committee
S#	ITEM	AMOUNT	AMOUNT	AMOUNT	AMOUNT
1	EARTH WORK	25148666.8	27615990.49	25229158.16	13213343.52
2	ROADWORK	22920234.12	22920234.12		13634706.97
3	STRUCTURE WORK	17371782	14821734		
	TOTAL	65440682.92	65357958.61	25229158.16	26848050.49
	ADD 7% COST FACTOR	4580847.804	4575057.103	1766041.071	1879363.534
		70021530.72	69933015.72	26995199.23	28727414.02
	SAY	70000000		26995200	28727414.02
	Rs in Million	70	69.933	26.9952	28.7274
	Add escalation on Rs 45.00 m( Rs 70m-1st year allocation Rs 25.00 m) @ 6.5% for 2nd year (45/2) Rs 22.50m	1.4625	1.4625		
	Add escalation for 3rd year on 45/2 = 22.5 m @ 13%	2.925	2.925		
	Total	74.3875	74.3205		
	Add 0.5% contingency	0.3719375	0.349		
	Total		74.6695		
	D/D 10% below		7.46695	2699519.923	2872741.402
	Total		67.20255	24295679.31	25854672.62
	Add consultancy charges (L.S)	0.24	0.24	Already paid	24295679.31
	Grand Total	74.9994375	67.44255	Net Liability of contractor as per work done	1558993.313
	say	75.00 m	67.918	Say	1.559 m

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Name of Work: Widening and Black Topping of 03 Kms Chinarrak Tora Woray Road,  
from Km 46 to 48 (Phase-IV) 03-Kms in Kurram Agency.

SH: KM-46															
SW: 1 EARTH WORK		PC-1					Technical Sanction			Measured by Department			Measured by Inquiry Committee		
S#	ITEM	UNIT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	
1	Shingle/Gravel	M3	13320	249.6	3324672	10095.74	249.6	2519897.5	9117	249.6	2275603.2	24989.93	249.6	6237485.3	
2	Occasional Blasting	M3	13320	417.66	5563231.2	16826.24	417.66	7027645.6	21273	417.66	8884881.2				
3	Grade-III/IV	M3	6660	360.32	2399731.2	6730.495	405.04	2726119.7							
4	Earth Filling	M3	3300	65.69	216777	538.78	65.69	35392.458							
SUB TOTAL 1					11504411			12309056	30390		11160484			6237485.3	
SW: 2 EARTH WORK		PC-1					Technical Sanction			Measured by Department			Measured by Inquiry Committee		
S#	ITEM	UNIT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	
1	SUB BASE	M3	1024	944.55	967219.2	1024	944.55	967219.2				975	944.55	920936.25	
2	BASE COURSE	M3	975	1916.89	1868967.8	975	1916.89	1868967.8				929	1916.73	1780642.2	
3	PRE-MIX	M2	6401	697.89	4467193.9	6401	697.89	4467193.9				6097	697.89	4255035.3	
4	EARTH FILL BERMS	M3	1293	260.4	336697.2	1293	260.4	336697.2			0			6956613.8	
SUB TOTAL 2					7640078			7640078			0				
SW: 3 EARTH WORK		PC-1					Technical Sanction			Measured by Department			Measured by Inquiry Committee		
S#	ITEM	UNIT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	
1	2.5M SPAN CULVERT	No	3	1051318	3153954	1	1051318	1051318							
2	3M SPAN CULVERT	No	1	1280664	1280664	0	1280664	0							
3	SIDE DRAIN	PM	70	4,185	292950	686	4,185	2870910							
SUB TOTAL 3					4727568			3922228			0				
GRAND TOTAL (1+2+3)					23872057			23871362			11160484			13194099	

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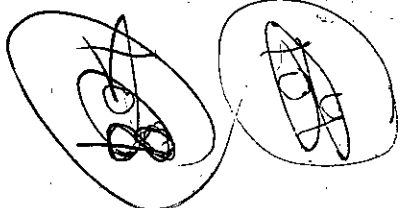


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Name of Work: Widening and Black Topping of 03 Kms Chinarrak Tora Woray Road, from Km 46 to 48  
(Phase-IV) 03-Kms in Kurram Agency.

SHE KM-47															
SW: 1	EARTH WORK			PC-1			Technical Sanction			Measured by Department			Measured by Inquiry Committee		
S#	ITEM	UNIT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	
1	Subgrade/Gravel	M3	5400	249.6	1347840	6258.99	249.6	1562243.9	5129.4	249.6	1280298	15124.9	249.6	3775175.04	
2	Occasional Blasting	M3	7200	417.66	3007152	10431.65	417.66	4356882.9	11958.6	417.66	4998805				
3	Grade-IV	M3	5400	405.04	2187216	4172.66	405.04	1690094.2							
4	Earth Filling	M3	14000	65.69	919660	1147.529	65.69	75381.18							
SUB TOTAL 1					7461868			7684602.2	17098		6279104			3775175.04	
SW: 2	EARTH WORK			PC-1			Technical Sanction			Measured by Department			Measured by Inquiry Committee		
S#	ITEM	UNIT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	
1	Sub BASE	M3	1024	944.55	967219.2	1024	944.55	967219.2				975	944.55	920936.25	
2	Sub COURSE	M3	975	1916.89	1868967.8	975	1916.89	1868967.8				929	1916.73	1780542.17	
3	Sub MIX	M2	6401	697.89	4467193.9	6401	697.89	4467193.9				3810	697.89	2658960.9	
4	Sub FILL BERMS	M3	1293	260.4	336697.2	1293	260.4	336697.2							
SUB TOTAL 2					7640078			7640078						5360539.32	
SW: 3	EARTH WORK			PC-1			Technical Sanction			Measured by Department			Measured by Inquiry Committee		
S#	ITEM	UNIT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	
1	2.75M SPAN CULVERT	No	3	1051318	3153954	1	1051318	1051318							
2	3.75M SPAN CULVERT	No	2	1280664	2561328	0	1280664	0							
3	Sub DRAIN	PM	90	4,185	376650	1131	4,185	4733235							
SUB TOTAL 3					6091932			5784553							
GRAND TOTAL (1+2+3)					21193878			21109233			6279104			9135714.36	

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**Name of Work: Widening and Black Topping of 03 Kms Chinarrak Tora Woray Road,  
from Km 46 to 48 (Phase-IV) 03-Kms in Kurram Agency.**

EARTH WORK		PC-1			Technical Sanction			Measured by Department			Measured by Inquiry Committee		
ITEM	UNIT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT
Gravel	M3	0	249.6	0	6042.323	249.6	1508163.7	6363.3	249.6	1588280	12823.25	249.6	3200683.2
Explosive Blasting	M3	13000	417.66	5429580	10070.54	417.66	4206060.9	14847.7	417.66	6201290			
Phase-IV	M3	0	405.04	0	4028.215	405.04	1631588.2						
Soil Filling	M3	11460	65.69	752807.4	4209.458	65.69	276519.3						
				6182387.4			7622332.1	21211		7789570			3200683.2
EARTH WORK		PC-1			Technical Sanction			Measured by Department			Measured by Inquiry Committee		
ITEM	UNIT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT
BASE	M3	1024	944.55	967219.2	1024	944.55	967219.2				475.65	944.55	449275.2075
COURSE	M3	975	1916.89	1868967.8	975	1916.89	1868967.8				453	1916.73	868278.69
MIX.	M2	6401	697.89	4467193.9	6401	697.89	4467193.9						
SOIL FILL BERMS	M3	1293	260.4	336697.2	1293	260.4	336697.2						
				7640078			7640078						1317553.898
EARTH WORK		PC-1			Technical Sanction			Measured by Department			Measured by Inquiry Committee		
ITEM	UNIT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT	QTY	RATE	AMOUNT
1.5M SPAN CULVERT	No	3	1051318	3153954	1	1051318	1051318						
1.5M SPAN CULVERT	No	2	1280664	2561328	0	1280664	0						
DRAIN	PM	200	4,185	837000	971	4,185	4063635						
				6552282			5114953						
TOTAL (1+2+3)				20374747			20377363			7789570			4518237.098

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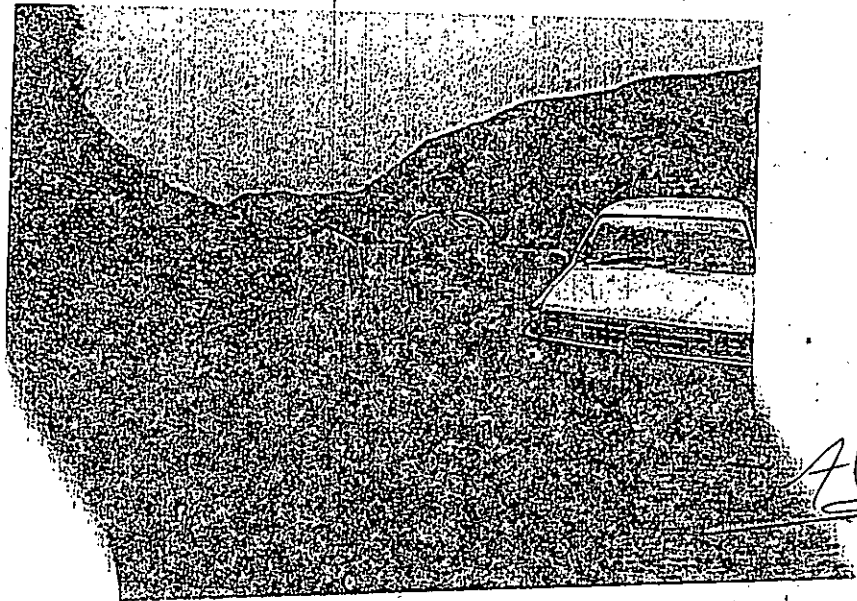
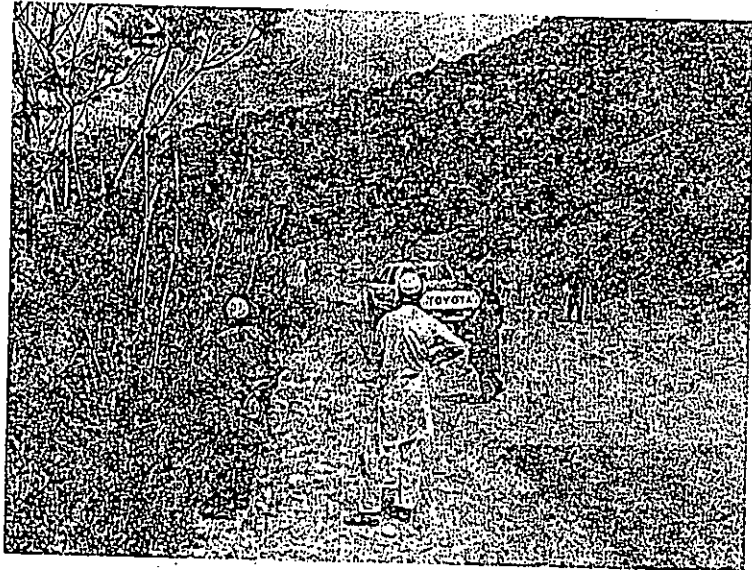
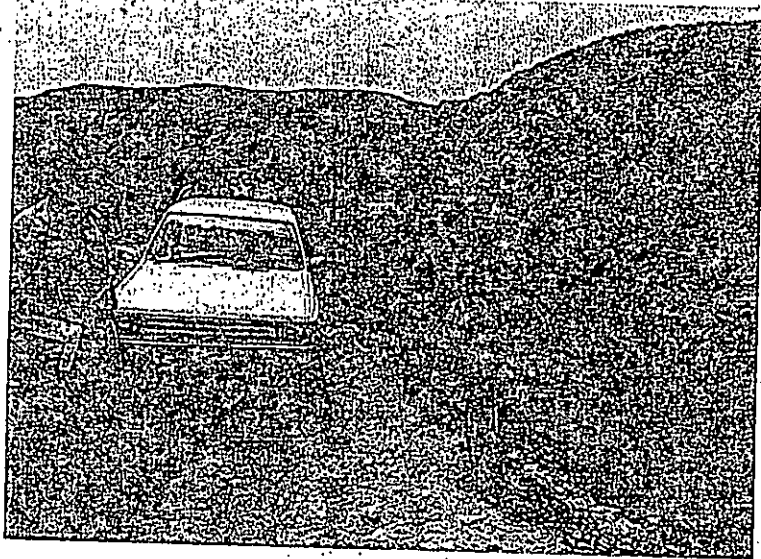
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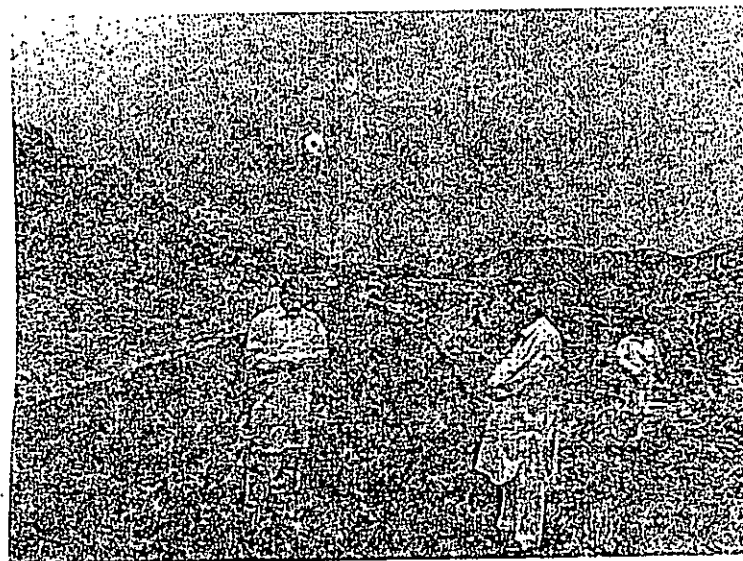
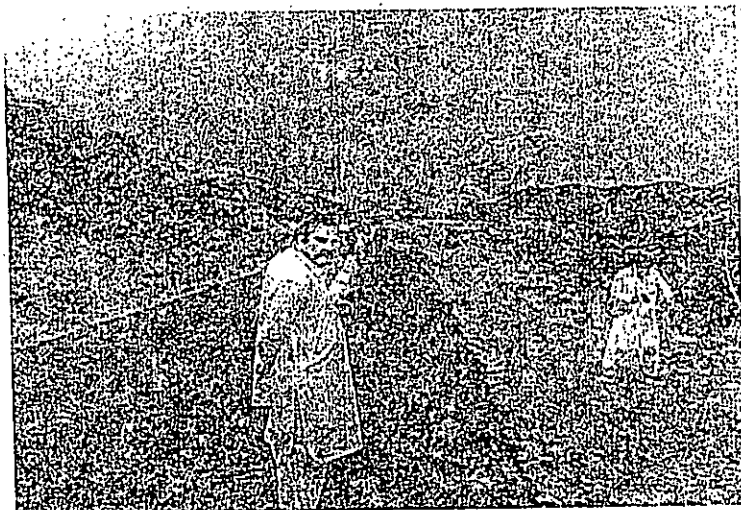
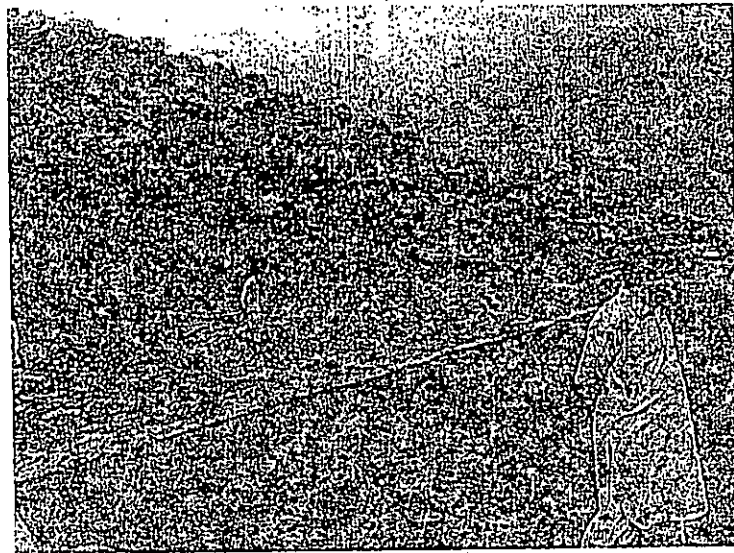
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GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the November 24, 2017

**ORDER:**

No. SOE/C&WD/8-29/2015: In supersession of this Department's order of even number dated 22.02.2017, the Competent Authority under Rule-2(a) of Rule-17 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 is pleased to review the major penalty of "Reduction to a lower post/pay scale" imposed upon Engr. Azmatullah XEN (BS-18) C&W Department and converted into minor penalty of "Stoppage of two annual increments for two year".

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Accountant General PR (sub office) Peshawar
3. Secretary, (AI&C) FATA Sectt Warsak Road, Peshawar
4. Chief Engineer (FATA) W&S Peshawar
5. All Chief Engineers, C&W Peshawar
6. Chief Engineer (East) C&W Abbottabad
7. Managing Director PKHA Peshawar
8. Superintending Engineer (Northern/Southern) C&W FATA Circle Bannu/Peshawar
9. Executive Engineer Highway FATA Division Kurram Agency
10. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar
11. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
12. Agency Accounts Officer Kurram Agency
13. PS to Secretary, C&W Department Peshawar
14. PA to Additional Secretary, C&W Department Peshawar
15. PA to Deputy Secretary (Admn), C&W Department Peshawar
16. Officer concerned
17. Office order File/Personal File

  
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SECTION OFFICER (Estb)

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Annex K

Shall have no claim in respect of any such scaffolding, huts, godowns, shelters, or surplus materials as aforesaid except for any sum actually realized by the sale thereof.

Payment on intermediate certificate to be regarding as advances

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

Bill to be submitted monthly

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

Bill to be printed forms

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

Store supplied by Government

Clause 10. If the specification or estimate of the work provides for the use of any special description of material to be supplied from the Engineer-in-Charge's stores or if it is required that the contractor shall use certain stores to be provided by the Engineer-in-Charge, or if any special tools and plant and prices and hire charges to be charged therefore as hereinafter mentioned. Being so far as practicable for the convenience of the contractor, but not so as in any way to control the meaning or effect of this contract, specified in any schedules or memorandum hereto annexed) the contractor shall be supplied with such material stores and special and special tools and plant as required from time to time for the purpose of the contract only and the value of the full quantity of materials and Stores, so supplied and the hire charges of the special tools and plants and the rates specified in the said schedules or memorandum, may be set off or deduct from any sums due or thereafter become due to the contractor under the contract or otherwise or against or from the security deposit or the proceeds of sale thereof, if the same is held in Government securities the same or a sufficient portions thereof being in case sold for the purpose. All materials and special tools and plant specified in Schedules A and C will remain the absolute property of the Government. All materials specified in Schedule B, which are issued and charged to contractor shall remain the property of the contractor but shall not on any account be removed from the site of the work without the written permission of the Engineer-in-Charge and shall at all times be open to inspection by him. Any such material unused and in perfectly good condition at the time of the completion or determination of the contract shall be returned to the Engineer-in-Charge's store if by a notice in writing under his hand he shall so required.

Works to be executed in accordance with specification orders, etc. drawings

Clause 11. The contractor shall execute the whole and every part of the work in the most substantial and workman like manner, and both as regards materials and otherwise in every respect in such accordance with the specifications. The contractor shall also conform exactly, fully and faithfully to the designs, drawings and instructions in writing relating to the work signed by the Engineer-in-Charge and lodged in his office and to which the contractor shall be entitled to have access at such officer at the site of the work for purpose of inspection during office hours, and the contractor shall if he so requires be entitled at his own expense to make or cause to be made copies of the specifications and of all such designs, drawings and instructions aforesaid.

Alteration in specification and designs

Clause 12. The Engineer-in-Charge shall have power to make any alteration in or addition to the original specifications, drawings, designs and instructions, that may appear to him to be necessary or advisable during the progress of the work and the contractor shall be bound to any out the work accordance with any instructions which may be given to him in writing signed by the Engineer-in-Charge, and such alteration shall not invalidate the contract and any additional

Do not invalidate contract.

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OFFICE OF THE CHIEF ENGINEER (FATA)  
Works & Services Department,  
Police Road, Peshawar  
Phone No. 091-9211725, 9211835 FAX 9211482

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**MOST IMMEDIATE**  
**CONFIDENTIAL**

No. 3842/2/46-E  
Dated Peshawar the 18/8/2016

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To

Annex 'L' 75

The Section Officer (E),  
C&W Department Khyber Pakhtunkhwa,  
Peshawar.

Subject: **INQUIRY REPORT**  
Ref: Your letter No. SOE/C&WD/8-29/2015, dated 22.7.2016

As per report of Executive Engineer, C&W FATA Division Mohmand vide his letter No. 931/1-E, dated 3.8.2016 (copy enclosed), the excess amount of Rs. 12.120 million in respect of earth work as intimated by the Inquiry Committee has already been recovered and credited to work vide Transfer Entry Order No.01 for the month of 8/2016.

There is no loss to the Government as the recoverable amount as pointed by the Inquiry committee was lying in PW Deposit-II and not paid to the contractor.

Encl:/As above

  
(Engr. Muhammad Shahab Khattak)  
Chief Engineer

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Annex M<sup>3</sup> (76)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. No. SOE/C&WD/8-29/2015  
Dated Peshawar, the Jan 15, 2018

(Handwritten initials)

To

Engr. Azmatullah  
Executive Engineer  
C&W Department  
C/O CE (FATA) W&S Peshawar

Subject: **REVIEW PETITION AGAINST THE ALLEGATIONS AND PENALTY ORDER NO.SOE/C&WD/8-29/2015 DATED 24.11.2017 C&W DEPARTMENT IMPOSED UPON THE UNDERSIGNED IN THE SCHEME TITLED "WIDENING AND BLACKTOPPING OF 03 KMS CHINARAK TORA WORAY ROAD FROM KM 46 TO 48 (PHASE-IV 03 KMS) IN KURRAM AGENCY"**

I am directed to refer your review petition dated 26.12.2017, which was examined under Rules-17 "Departmental appeal and review" of E&D Rules, 2011 and to apprise that you have already availed remedy under the ibid rule, therefore, your instant review petition cannot be entertained, as there is no provision for second time appeal/review petition in the rules, under reference.

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SECTION OFFICER (Estb)

Endst even No. & date

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

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SECTION OFFICER (Estb)

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II-Measurement Books

45: The measurement book must be looked upon as a most important record since it is the basis of all accounts of quantities, whether of work done by labour or by the piece or by contract, or of materials received, which have to be counted or measured. The description of the work must be lucid, so as to admit of easy identification and check.

- (2) Detailed measurement may also be dispensed with in the case of periodical repairs when the quantities are recorded in efficiency maintained standard measurement books.
- (3) Detailed measurements may also be dispensed with in exceptional circumstances when there is no time to carry out detailed measurement and in such cases payments on account of work actually executed can be made on the certificate of the Divisional Officer to the effect that not less than the quantity of work paid for has actually been done, and in such cases he will be held personally responsible for any overpayment which may occur on the work in consequence. A second advance payment should not be made unless detailed measurements have been recorded in respect of any such advance payment previously made. Final payment should, however, in no case be made without detailed measurements.

*NOTE-The payment made without the detailed measurement should in no case exceed 75 per cent of the work actually done. Detailed measurements should then be taken within one month of making advance payment at the latest. The Divisional Accountant shall be personally responsible to bring the infringement of the above rules to the notice of the Executive Engineer.*

- (4) Similarly the detailed measurements may be dispensed with in connection with the works done on lump sum contract if a responsible officer (not below the rank of the Divisional Officer) certifies in the bill that by a superficial and general measurement or in some other suitable method, which should be specified, he has satisfied himself that the value of the work done is not less than a specified amount in conformity with the contract agreement, and that, with the exception of authorized additions and alternations, the work has been done according to the prescribed specifications. Detailed measurements must immediately be taken in respect of additions and alterations.
- (5) Every Officer making or ordering payment on behalf of Government should satisfy himself that work has been actually done in accordance with the bill submitted for payment. He should inspect personally all the most

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important works before authorizing final payment, and should check the measurements made by his subordinates as per scale laid by the Chief Engineer.

*Check measurement-(a).* As measurements from the basis of all payments, a Sub-Divisional Officer must make all measurements himself for works the estimated cost for which is more than Rs.25000/- (Twenty-Five thousands). The Sub-Divisional Officer must check measure personally not less than the following percentage of the measurements made by his subordinates:-

- (i) Works costing more than Rs.5,000 and up to Rs.25,000 a Sub Divisional Officer to check measure 35 per cent of the cost of all such works.
- (ii) Works costing Rs.200 to Rs.5,000 a Sub-Divisional Officer should check measure not less than 50 (fifty) per cent of the cost of all such works.
- (b) The above limits apply to settled sub-divisions and must in all cases be considered as the minima. At large construction works it shall be within the discretion of the Divisional Officer to fix such limits as he may consider sufficient to ensure adequate control over the expenditure.
- (c) (c) When a check measurement is made by a Sub-Divisional Officer, the fact should be noted under his dated initials in the measurement book thus:-

'Check measurement made by me on ..... vide Measurement Book No..... Page..... The subordinate concerned was / were not present when the measurement was made.'

- (d) (d) The check measurements should be made promptly and must be made within four weeks of presentation of Measurement Book by subordinate to Sub-Divisional Officer at the latest.
- (e) (e) Ordinarily, the subordinate who did the original necessary check measurements if possible, before the subordinate a subordinate is under orders of transfer, the Sub-Divisional Officer should make a special round of the section and do the necessary check measurements if possible, before the subordinate leaves.
- (f) (f) The Divisional Officer is expected to keep in close touch with such check measurements in order to see that the Sub-Divisional Officers do them efficiently and promptly.
- (g) (g) With a view to safeguard against the risk of double payment check measurements made by the Sub-Divisional Officer should be entered in a separate Measurement Book which should be labeled 'Check Measurement Book' and at the end of each measurement the Sub-Divisional Officer should record the following information:-

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- (1) The number and the name of the estimate.
- (2) Date of Final payment.
- (3) Number and page of subordinates Measurement Books.
- (4) The quantity measured by the subordinate with date.
- (5) Proportion of the work checked by the Sub-Divisional Officer.
- (6) Difference in quantities and reasons for any difference.
- (h) No payments are to be made on entries in a 'Check Measurement Book' but it should be submitted for inspection, audit and annual scrutiny in the same way as the ordinary measurement books.
- (i) The part selected for checking should be measured by the Sub-Divisional Officer in his own Check Measurement Book without reference to the original measurements and the totals compared. Cross reference should invariably be given. The quantity measured should be such as forms a check on the whole (e.g. to measure the door and windows on of a rest house is no check on the whole). When the Sub-Divisional Officer's Check reveals differences not exceeding 2 per cent in the case of original works, 5 per cent in the case of repairs and 10 per cent in the case of earth work whether it is in connection with original work or repairs the subordinate's entries for the portion checked should only be rectified according to the check measurements and a note to the following effect inserted:-

'Corrected in accordance with check Measurement Book  
No.....Pages .....

But when the differences exceed the above limits the whole work should be re-measured by the Sub-Divisional Officers him self and payment made thereon the case being reported to the higher authorities for action against the subordinate.

~~(j) Check measurement by Divisional Officer.~~

The Divisional officer ~~must check at least full 24 bills in a Financial year or 10 per cent of the total payment made in his Division in a financial year.~~ Which is more each final bill should have an abstract of check measurements relating to the work billed for attached to it besides the usual certificate original measurements. The Divisional Account shall be personally responsible to see that this abstract is attached with every final bill. Omissions if any should be brought by him prominently to the notice of the Divisional Officer.

- (k) In each office of Sub-Divisional and Divisional Officers a record should be kept of payments made or measurements recorded per month and check measurements made by Sub-Divisional and Divisional Officers. This be totaled at the end of the financial year and put up to Divisional Officer and Inspecting Audit Officer and Superintending Engineer respectively at the time of Office inspections.

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## CHAPTER II.—DEFINITIONS.

4. Unless there be something repugnant in the subject or context, the terms defined in this chapter are used in this Code in the sense here explained.

(1) **Accountant General** means the head of an office of Accounts and Audit subordinate to the Auditor General of Pakistan who keeps the accounts of Government and, when used in relation to a Public Works division, the head of the office to whom the accounts of the division are rendered.

(2) **Administrative Approval**.—This term denotes the formal acceptance, by the administrative department concerned, of the proposals for incurring any expenditure in the Public Works Department on a work initiated by, or connected with, the requirements of such administrative department. It is, in effect, an order to the Public Works Department to execute certain specified works at a stated sum to meet the administrative needs of the department requiring the work. See also clause (62).

(3) **Advance Payment** means a payment made on a running account to a contractor for work done by him but not measured. See paragraph 229.

(4) **Appropriation**.—See rules 27 to 30 and 35 in Appendix 6.

(5) **Assets**.—In the accounts of works this term indicates all outstanding or anticipated credits, which have to be taken in reduction of final charges. Examples: Recoveries of advances or recoverable payments, and sale-proceeds or transfer value of surplus materials.

(6) **Bank**.—The term "The Bank" means the State Bank of Pakistan, or any office or agency of the State Bank of Pakistan and includes any branch of the Imperial Bank of India acting as agent of the State Bank of Pakistan in accordance with the provisions of the State Bank of Pakistan, order 1948.

(7) **Book Transfer**.—This term is applied to the process whereby financial transactions which do not involve the giving or receiving of Cash, or of Stock materials, are brought to account. Such transactions may either affect the books of a single accounting officer, or they may involve operation on the books of more than one accounting officer whose accounts are ultimately incorporated in the accounts of Government. They usually represent liabilities and assets of Government brought to account either by way of settlement or otherwise, but they may also represent corrections and amendments made in Cash, Stock, or Book Transfer transactions previously taken to account.

(8) **Commercial Department**.—See Chapter 4 of the Account Code, Volume I.

(9) **Competent Authority**.—The term "Competent Authority" means Government or any other authority to whom the relevant powers may be delegated by Government.

vances up to an amount not exceeding 75 per cent. of the value (as assessed by themselves) of such materials, provided that they are of an imperishable nature and that a formal agreement is drawn up with the contractor under which Government secures a lien on the materials and is safeguarded against losses due to the contractor postponing, the execution of the work or to the shortage or misuse of the materials, and against the expense entailed for their proper watch and safe custody. Payment of such advances should be made only on the certificate of an officer, not below the rank of Sub-divisional Officer, that the quantities of materials upon which the advances are made have actually been brought to site, that the contractor has not previously received any advance on that security and that the materials are all required by the contractor for use on items of work for which rates for finished work have been agreed upon. The officer granting such a certificate will be held personally responsible for any overpayment which may occur in consequence. Recoveries of advances so made should not be postponed until the whole of the work entrusted to the contractor is completed. They should be made from his bills for work done as the materials are used, the necessary deductions being made whenever the items of work in which they are used are billed for.

(b) Cases in which, in the interest of works, it is absolutely necessary to make petty advances. In such cases advances up to Rs. 50 may be allowed by subordinates.

(c) In all other cases only with the sanction of Government which may, in exceptional circumstances, authorise such advances as may be deemed indispensable, taking the necessary precautions for securing Government against loss and for preventing the system from becoming general or containing longer than is absolutely essential.

229. An advance payment [see paragraph 4. (3)] for work actually executed may be made on the certificate of a responsible officer (not below the rank of Sub-divisional Officer) to the effect that not less than the quantity of work paid for has actually been done, and the officer granting such a certificate will be held personally responsible for any overpayment which may occur on the work in consequence. Final payments may, however, in no case be made without detailed measurements.

## IV.—Payments to Work-charged Establishment.

## (a) Conditions of Employment.

230. Rules for the entertainment of work-charged establishment are laid down in paragraphs 10 to 12 of the Central Public Works Department Code. Subject to such general or special orders as may be issued by Government, previous sanction of the Divisional Officer or the Superintending Engineer, as the case may be, is necessary which should specify in

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3/H: - 0191-019120(Other) Demand No.138 (OWBC)

Name of work: Widening & B/T of 83 Kms road from Chinarak to Torawaray from Km 46-48 Phase-IV Kurram Agency. CPWA-26

Section Officer

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

### RUNNING ACCOUNT BILL Ac.P.W.A-26

(Central P.W.A Code, Paragraph 212, 215 and 217)

For Contractor:- This form provide for (1) Advance Payments (2) secured Advances, and

Division: Highway FATA Kurram

Sub Division :- Highway FATA Central Kurram Sadda

Cash book voucher No. 43 CK Dated 29-6-2015

Name of contractor.

Mr. Amanullah Govt: Contractor

Name of work.

As above.

Serial No of this bill

1st Running bill

No. Date of previous bill

Reference Agreement No

Date of written order to commence of work.

28-05-2015

Date of Completion of work.

In progress.

1. Account of work executed.

Advance payment for the work not yet measured			Item of work (Grouped under sub heads and	Unit	Rate.	Quantity executed up to date as per measurement book.	Payment on the actual measurement.		Remarks (with reasons for delay in adjusting payments shown in column)
Total as per previous bill	Since pervious bill	Total up to date.					Up-to date	Since previous bill	
1	2	3	4	5	6	7	8	9	10
<b>(I) EARTH WORK</b>									
1) Excvn: as in any kind of soil etc.									
(i) Occasional blasting									
(ii) Shingle gravel.									
				M3	417.66	48089.00	20084851.74	20084851.74	03-09-a 03-12-b
				"	249.6	20610.00	<u>5144256.00</u>	<u>5144256.00</u>	
Total							25229107.74	25229107.74	
Add 07% cost factor							<u>1766037.54</u>	<u>1766037.54</u>	
G. Total							26995145.28	26995145.28	
D/d 10% below							<u>2699514.53</u>	<u>2699514.53</u>	
Net							24295630.75	24295630.75	
Say							24295631.00	24295631	

Whenever there an entry in column 9 on the basis of actual measurement. The whole of the amount previously paid with out detailed measurement should be additional by a minus entry in column 2 equivalent to the amount shown in column 1 so that "total up to date" in column 3 may become nil.

When there two or more entries in column 9 relation to each sub head of estimate they should in the case of works the

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*Amir*

Advance payment for the work not yet measured			Item of work (Grouped under sub heads and	Unit	Rate.	Quantity executed up to date as per measurement book.	Payment on the actual measurement.		Remarks (with reasons for delay in adjusting payments shown in column)
Total as per previous bill	Since pervious bill	Total up to date.					Up-to date	Since previous bill	
1	2	3	4	5	6	7	8	9	10

*(Handwritten mark)*

**Certified that:-**

1. All the items of work i/c in this bill have been jointly carried out at site according to PWD specification.
2. All the items of work i/c in this bill have been jointly measured by me with Sub Engineer Incharge.
3. The Contractor is local Tribe.
4. Cent percent arithmetically checked.

**82**

*9c*

**SUB ENGINEER.**

**SUB DIVISIONAL OFFICER  
HIGHWAY FATA SUB DIVISION  
CENTRAL KURRAM**

Total amount outstanding as per this amount

Deduct-amount outstanding as per entry (C) of previous Bill

Net:- Amount since previous Bill (in wards)- Rupees

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

Entries in columns 8 show the money values of the total quantities outstanding as per column.

**II - Certified and Signature**

1. The measurements on which are based the entries in column 4 to 8 of account I were made by **Mushtaq Ali** Sub Engineer

On 10-06-2015 and are recorded at page 184-195 MBNo.1151/H.W

2. Certified that in addition to and quite apart from the quantities of work actually executed as shown in column 7 of account I some work has actually been done in connection with several items and the value of such work is in no case less than the advance payment as per column 3 Account 1 made or proposed to be made for the convenience of the contractor in mitigation of and subject to the result of detail measurement, which will be made as soon as possible.

Certified (1) that the plus quantities of material shown in column of Account-II above have actually been brought by the Contractor to site of the work, and the contractor has not previously received any advance on their security (2) that these material are of an in perishable nature & are all required by the contr: for use of the work in connection with items for which rates for furnished work have been agreed upon and (3) that a formal agreement in Form-31, signed & executed by the contr: in accordance with paragraph 228 (a) of the Central Public Works Accounts Code, is recorded in the Divisional Office.

*Amir*

DATE OF SIGNATURE OF OFFICE  
PERTAINING THE BILL

*9c*

**SUB DIVISIONAL OFFICER  
HIGHWAY FATA SUB DIVISION  
CENTRAL KURRAM**

Date of signature of Contractor.

Dated Signature of Officer Authorising the payment

**Executive Engineer  
Highway FATA Division  
Kurrum**

These certificate must be signed by the Sub Divisional or Divisional Officer.  
This signature is necessary only when the officer who prepares the bills not the other who authorize the payment in such a case two signatures are essential.

*Att*

*(Signature)*  
**ATTESTED**

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Advance payment for the work not yet measured			Item of work (Grouped under sub heads and	Unit	Rate.	Quantity executed up to date as per measurement book.	Payment on the actual measurement.		Remarks (with reasons for delay in adjusting payments shown in column)
Total as per previous bill	Since pervious bill	Total up to date.					Up-to date	Since previous bill	
1	2	3	4	5	6	7	8	9	10

**Certified that:-**

- All the items of work i/c in this bill have been jointly carried out at site according to PWD specification.
- All the items of work i/c in this bill have been jointly measured by me with Sub-Engineer in charge.
- The Contractor is local Tribe.
- Cent percent arithmetically checked.

SUB ENGINEER.

*o/c*   
**SUB-DIVISIONAL OFFICER  
HIGHWAY FATA SUB DIVISION  
CENTRAL KURRAM**

Total amount outstanding as per this amount

Deduct amount outstanding as per entry (C) of previous Bill

Net:- Amount since previous Bill (in wards)- Rupees

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

Entries in columns 8 show the money values of the total quantities outstanding as per column.

**II - Certified and Signature**

1. The measurements on which are based the entries in column 4 to 9 of account I were made by **Mushtaq Ali** Sub Engineer

On 10-06-2015 and are recorded at page 184-195 MBNo.1151/H.W

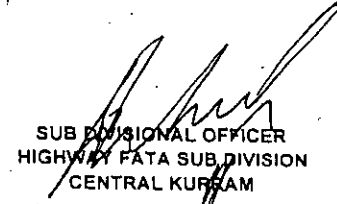
2. Certified that in addition to and quite apart from the quantities of work actually executed as shown in column 7 of account I some work has actually been done in connection with several items and the value of such work is in no case less than the advance payment as per column 3 Account 1 made or proposed to be made for the convenience of the contractor in mitigation of and subject to the result of detail measurement, which will be made as soon as possible.

Certified (1) that the plus quantities of material shown in column of Account-II above have actually been brought by the Contractor to site of the work, and the contractor has not previously received any advance on their security (2) that these material are of an in perishable nature & are all required by the contr: for use of the work in connection with items for which rates for furnished work have been agreed upon and (1) that a formal agreement in Form-31, signed & executed by the contr: in accordance with paragraph 228 (a) of the Central Public Works Accounts Code, is recorded in the Divisional Office.

*Ainuk* DATE OF SIGNATURE OF OFFICE PERTAINING THE BILL

Date of signature of Contractor.

Dated Signature of Officer Authorising the payment

*o/c*   
**SUB-DIVISIONAL OFFICER  
HIGHWAY FATA SUB DIVISION  
CENTRAL KURRAM**

~~Executive Engineer~~  
**Highway FATA Division**  
**KURRAM**

These certificate must be signed by the Sub-Divisional or Divisional Officer.  
This signature is necessary only when the officer who prepares the bills not the other who authorize the payment in such a case two signatures are essential.

  
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11. Procedure to be followed by inquiry officer or inquiry committee.---(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

(4) Statements of witnesses and departmental representative(s), if possible, will be recorded in the presence of accused and vice versa.

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.

(6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.

(7) The inquiry officer or the inquiry committee, as the case may be, shall submit his or its report, to the competent authority within thirty days of the initiation of inquiry:

Provided that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of the inquiry.

12. Powers of the inquiry officer or inquiry committee.---(1) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act No. V of 1908), in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;

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- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be the judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

13. Duties of the departmental representative.---The departmental representative shall perform the following duties, namely:

- (a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused, and with the permission of the inquiry officer or inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and
- (c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

14. Order to be passed on receipt of report from the inquiry officer or inquiry committee.---(1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rule.

(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall-

- (a) Inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;

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(b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him: provided that the accused shall, in his reply to show cause notice, indicate as to whether he wants to be heard in person or not;

(c) Provide a copy of the inquiry report to the accused; and

~~(d) Direct the departmental representative to appear, with all the relevant record, on the date of hearing.~~

(5) After affording personal hearing to the accused the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or inquiry committee, as the case may be, facts of the case and defense offered by the accused during personal hearing, by an order in writing-

(i) Exonerate the accused, if charges had not been proved; or

(ii) Impose any one or more of the penalties specified in rule 4 if charges have been proved.

(6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee.

(7) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the competent authority shall decide the case within a period of fifteen days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.

(8) If the case is not decided by the competent authority within the prescribed period of fifteen days, the accused may submit an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period.

15. Personal hearing.---The competent authority may, by an order in writing, call the accused and the departmental representative, alongwith relevant record of the case, to appear before him, for personal hearing on the fixed date and time.

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- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

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(2) The proceedings under these rules shall be deemed to be the judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

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13. Duties of the departmental representative.---The departmental representative shall perform the following duties, namely:

- (a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused, and with the permission of the inquiry officer or inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and
- (c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

14. Order to be passed on receipt of report from the inquiry officer or inquiry committee.---(1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

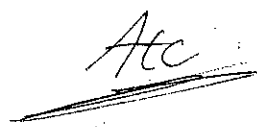
(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rule.

~~(4)~~ Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall-

- (a) Inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;

  
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- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him; provided that the accused shall, in his reply to show cause notice, indicate as to whether he wants to be heard in person or not;
- (c) Provide a copy of the inquiry report to the accused; and
- (d) ~~Direct the departmental representative to appear, with all the relevant record, on the date of hearing.~~

(5) After affording personal hearing to the accused the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or inquiry committee, as the case may be, facts of the case and defense offered by the accused during personal hearing, by an order in writing-

- (i) Exonerate the accused if charges had not been proved; or
- (ii) Impose any one or more of the penalties specified in rule 4 if charges have been proved.

(6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee.

(7) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the competent authority shall decide the case within a period of fifteen days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.

(8) If the case is not decided by the competent authority within the prescribed period of fifteen days, the accused may submit an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period.

15. Personal hearing.---The competent authority may, by an order in writing, call the accused and the departmental representative, alongwith relevant record of the case, to appear before him, for personal hearing on the fixed date and time.

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SUMMARY FOR CHIEF MINISTER

Subject: INQUIRY REPORT

FATA Sectt has forwarded a copy of facts finding report along-with draft charge sheets/SOAs against the following officers/official for further proceedings under E&D Rule, 2011 (Annex-I). FATA Sectt: has requested for disciplinary action under E&D Rule, 2011 against them:

- a. Engr. Azmatullah (BS-18) XEN Highway FATA Division Kurram Agency
- b. Mr. Fazal-Rehman (BS-17) SDO Highway FATA Sub Division Central Kurram Agency
- c. Mr. Mushtaq Ali (BS-11) the then SDO Highway Sub Division Lower Kurram repatriated to C&W Department vide FATA Sectt Notification dated 01.10.2015

2. In the inquiry report it has recommended inter-alia that:

- i. Bill of amount of Rs.23.209 million was passed against which amount of Rs.5,000/- released to the contractor and the balance amount of Rs.23.204 million kept in the Deposit-II. This act of the department clarifies that the expenditures was booked in advance. Due to such like or similar practice in Central Kurram all the projects are under inquiries. For stream lining the development process. Instantly it is recommended that competent authority may post out the Sub Engineer from Kurram Agency.
- ii. Inter-Departmental action under the rules must be initiated against the concerned officers/officials involved in the clarification of illegal bill preparations, by the un-authorized Sub Engineer presently post as SDO (OPS) Lower Kurram.
- iii. As a way forward the amount Rs.23.04 million may be recovered from Deposit-II and the same amount be credit to the work or any other option may be used for payment of this amount to the contractor after re-measurement.

3. In view of above, it is suggested that disciplinary action may be initiated against the aforementioned officers/official under E&D Rules, 2011. The Chief Minister Khyber Pakhtunkhwa is requested to appoint inquiry officer/committee, out of panel of the following officers and incorporate name(s) of the officer in the statement of allegations and sign the charge sheets/statement of allegations against officers/official.

- a. Engr. Shahid Hussain (BS-19) SE C&W Department
- b. Engr. Muhammad Iqbal SE (BS-19) Irrigation Department Peshawar

4. Para-3 ante is submitted for perusal and orders of the Chief Minister please.

ADVISOR TO CM FOR C&W

CHIEF SECRETARY

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SECRETARIES  
C&W  
10/11/15

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*(Handwritten signature)*  
AKBAR AYUB KH  
Advisor to Chief Minister  
Communication & Work  
Khyber Pakhtunkhwa

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*(Handwritten signature)*  
NPP *(Handwritten initials)* HC

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5. Summary for Chief Minister has been examined. The Additional Chief Secretary FATA constituted a committee comprising Mr. Imran Gulzar Dy Director Infrastructure & Mian Zakiullah Dy Director, Directorate of Monitoring & Evaluation FATA Secretariat to investigate and probe into a complaint lodged by Local Elders of Central Kurram Agency against Mr. Mushtaq Ali SDO Highway FATA Sub Division Central Kurram Agency vide (Flag-A). According to the enquiry report (Annex-II), bill of amount of Rs.23.209 million was passed against which amount of Rs.5,000/- paid to the contractor and the balance amount of Rs.23.204 kept in deposit-II. This act of the Department clarifies that the expenditures was booked in advance.

6. FATA Secretariat forwarded a copy of fact finding report alongwith draft charge sheets/statement of allegations and requested to initiate disciplinary proceedings under E&D Rule, 2011 against the following officers/official:-

1. Engr. Azmatullah, XEN (BS-18) Highway FATA Division Kurram Agency.
2. Mr. Fazal Rehman SDO (BS-17) Highway FATA Sub Division Centre Kurram Agency.
3. Mr. Mushtaq Ali (BS-11) the then Sub Engineer Highway Sub Division Lower Kurram Agency.

7. C&W Department has forwarded charge sheets and statement of allegations and a panel of the officers to be appointed as enquiry officer/committee for initiation/disciplinary proceedings under E&D Rule, 2011 against the accused officers/officials.

8. The Chief Minister Khyber Pakhtunkhwa, may like to approve initiation of disciplinary action against the accused officers/officials as proposed in Para-3, may sign charge sheets and statements of allegations as flagged and incorporate name(s) of technical officer from the panel at Para-3 of the summary and non-technical officer from the following panel as enquiry committee/officer:-

1. Lt. Rtd. Islam Zeb (PAS BS-19) DG Projects FATA.
2. Mr. Dawood Khan (PCS SG BS-19) Addl. Secretary Law Deptt.

*[Signature]*  
Secretary Establishment  
10 December, 2015

Chief Secretary  
Khyber Pakhtunkhwa

Chief Minister

*Needful done.*

*[Signature]*  
12/12/2015  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

*[Signature]*  
SECY/CRW

P.T.O

*[Signature]*  
23/11  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

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22/12/15  
Chief Minister  
Khyber Pakhtunkhwa

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Para 1-9/N refers

10. In compliance to para-9 of the summary, Mr. Dawood Khan Additional Secretary Law Department Peshawar and Engr. Muhammad Iqbal Superintending Engineer Irrigation Department, Peshawar was appointed as inquiry committee to conduct formal inquiry under E&D Rules, 2011 against officers/official of C&W Department. The inquiry officer (Dawood Khan) member inquiry committee in his letter (Annex-III) mentioned that inquiry committee will visit the subject scheme under inquiry "Construction of Chinarak Tora Waray Road (03 KM) Kurram Agency". In this regard an advance team including the accused has been sent for measurement of the work done on site. However, due to security situation of the area and clearance of Army it will take some time. Therefore he has requested that the Competent Authority may be approached for extension in time limit for another period of 30 days so that the inquiry proceedings could be completed.

11. In view of above explanation, the C&W Department proposes that time limit for finalization of inquiry proceedings against the accused officers/official may be extended upto February 28, 2016.

12. Proposal contained in para-11/N is submitted for perusal and approval of the Chief Minister please.

*[Signature]*  
SECRETARY  
C&W  
8/2/16

~~ADVISOR TO CM FOR C&W~~

~~CHIEF SECRETARY~~

*[Signature]*  
AKBAR AYUB KHAN  
ADVISOR TO CM/CF MINISTER,  
FOR COMMUNICATION & WORKS DEPT.  
KHYBER PAKHTUNKHWA

*[Signature]*  
ATTESTED

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13. Summary for Chief Minister regarding inquiry report against Engr. Azmatullah XEN (BPS-18) Highway FATA Division Kurram Agency & others has been examined. The competent authority appointed Mr. Daud Khan Additional Secretary Law Department and Engr. Muhammad Iqbal Superintending Engineer Irrigation Department as inquiry committee on 29-12-2015 to initiate proceedings against the accused officers/officials under Khyber Pakhtunkhwa Government Servants E&D Rules 2011 and to submit report within 30 days positively (Annex-IV). The inquiry officer on 01-02-2016 has stated that the inquiry committee will visit the subject scheme under inquiry "Construction of Chinarak, Tora Woray Road 3 km Kurram Agency". In this regard an advance team including the accused has been sent for measurement of work done on the site. However, due to the security situation in the area, clearance of army, the same may take some time. Therefore, time for the inquiry may be extended for another 30 days so that the proceeding could be completed (Annex-III).

14. Rule-11(7) of E&D Rule 2011 regarding submission of report by inquiry officer or inquiry committee provided that:-

"The inquiry officer or the inquiry committee, as the case may be, shall submit his or its report, to the competent authority within thirty days of the initiation of inquiry:

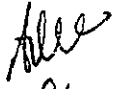
Provided that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of the inquiry" (Annex-V).

15. The date i.e 28<sup>th</sup> February, 2016 for which extension has been requested has already lapsed. The Administrative Department may submit the inquiry report for the orders of the competent authority.

  
 (Humaira Ahmad)  
 Secretary Establishment  
 09 March, 2016

Chief Secretary  
Khyber Pakhtunkhwa

Secy C&W

  
 9/3/2016  
 Chief Secretary  
 Govt: of Khyber Pakhtun



P.T.O



**ALISTED**

Para 1-15/N refers

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16. In compliance of para-9 of the summary, Mr. Dawood Khan Additional Secretary Law Department, Peshawar and Engr. Muhammad Iqbal Superintending Engineer Irrigation Department, Peshawar were appointed as inquiry committee to conduct formal inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 against the accused officers/official. The committee has submitted the report (Annex-VI). The inquiry committee has mentioned in the conclusion that:

- i. The charges leveled against Engr. Azmatullah XEN Highway FATA Division Kurram Agency regarding allegation No. (i) could not be proved from the record provided by the Department.
- ii. The total extra cost paid to the contractor due to extra quantities and adaption of higher rates for the excavation work, worked out to Rs.1,21,20,935/- is recoverable from the contractor in the next running bill being a running work.
- iii. The project site is located in the red zone high sensitive area. The Army troops have been stationed at different locations throughout the project area in the surroundings hills and the locals are not residing in the vicinity.
- iv. Project supervision of the work could not be carried out in such like situations therefore the statement of the SDO incharge and the Sub Engineer regarding taking measurements of the work done in a hurry is agreed to large extent.
- v. During the site visits it has been verified that the excavation work has almost been finalized and the contractor has started work on the granular sub base course component of the road.

17. The report has been examined by the Department and found that the inquiry committee has not clearly concluded that which charges are proved against accused officers/official separately, if the Department agrees with the conclusion of the inquiry committee and propose penalty i.e minor or major upon the accused then the accused might agitate that the inquiry committee has not proved him guilty of the charges. Therefore, the C&W Department is of view that the inquiry report may be returned back to the inquiry committee to re-examine the report and clearly conclude that either the charges are proved against the accused or otherwise.

18. The proposal contained in para-17 ante is submitted for perusal and orders of Chief Minister please.

ADVISOR TO CM FOR C&W

CHIEF SECRETARY

*[Signature]*  
SECRETARY  
25/3/16

*[Signature]*

24-3-16  
ADVISOR TO CHIEF MINISTER,  
FOR COMMUNICATION & WORKS DEPT.  
KHYBER PAKHTUNKHWA

P.T.D.

*[Signature]*  
ATTESTED

*[Signature]*  
A.C.

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19. Summary for Chief Minister Khyber Pakhtunkhwa regarding inquiry report against Engr. Azmatullah XEN (BPS-18) Highway FATA Division Kurram Agency & others has been examined. The competent authority appointed Mr. Daud Khan Additional Secretary Law Department and Engr. Muhammad Iqbal Superintending Engineer Irrigation Department as inquiry committee on 29-12-2015 to initiate proceedings against the accused officers/officials under Khyber Pakhtunkhwa Government Servants E&D Rules 2011 and to submit report within 30 days positively (Annex-IV). The inquiry committee has submitted the report vide (Annex-VI). The Administrative Department has examined the report vide Para-16-17 of the summary and is of the view that the enquiry committee has not clearly concluded as to which charges are proved against the accused officers/officials. Therefore, Administrative Department is of the view that the enquiry report may be returned back to the enquiry committee to re-examine the report and clearly conclude that either the charges are proved against the accused or otherwise. Establishment Department endorses the proposal of Administrative Department contained at Para-17 of the summary for appropriate orders of the Chief Minister Khyber Pakhtunkhwa.

*Humaira Ahmad*  
 (Humaira Ahmad)  
 Secretary Establishment  
 30 March, 2016

Chief Secretary  
Khyber Pakhtunkhwa

20- Para 17 is endorsed.

Chief Minister

*Humaira Ahmad*  
 3/4/2016  
 Chief Secretary  
 Govt. of Khyber Pakhtunkhwa

Para 17 is approved.

*Humaira Ahmad*  
 4/4/2016  
 Chief Minister  
 Khyber Pakhtunkhwa

SECRETARY CSW

*Humaira Ahmad*  
 5/4/16  
 Chief Secretary  
 Govt. of Khyber Pakhtunkhwa

P.T.O

*Humaira Ahmad*

Atc

**ATTESTED**

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Para 1-21/N refers

22. In compliance of para-21 of the summary, the inquiry committee comprising Mr. Dawood Khan Additional Secretary Law Department and Engr. Muhammad Iqbal Superintending Engineer Irrigation Department has submitted the revised report (Annex-VII). The inquiry committee has mentioned in the finding that:

- i. Mr. Mushtaq Ali (BS-11) SDO (OPS) Lower Kurram was not allowed by Engr. Azmatullah XEN (BS-18) C&W Department to prepare bill amounting to Rs.24.290 million as a Sub Engineer for the work "Construction of Chinarak Torà Wory Road (03 KM) Kurram Agency", rather Mr. Mushtaq Ali Sub Engineer (BS-11) was already working in same area since 03.07.2014.
- ii. Mr. Mushtaq Ali SDO (OPS) Highway Lower Kurram was directed by Mr. Shaukat Ali Shah the then XEN Highway FATA Division Kurram Agency letter dated 03.07.2014 for conducting survey, preparation of PC-I/detailed cost estimate and taking the work in hand.
- iii. Mr. Mushtaq Ali Sub Engineer SDO (OPS) Highway Sub Division Lower Kurram Agency also performed as Sub Engineer of the project for the period since 03.07.2014 to 01.10.2015
- iv. During field visit and re-measurement of the work done it has verified that only earthwork excavation has been carried out at site for widening of the road. The site visit further revealed that the rate for excavation work have not been adopted as per geological condition of the site. The detail of the quantities paid to the contractor and the actual quantities as verified at site:

- Quantity recorded in 1 <sup>ST</sup> running bill	=	68699 M <sup>3</sup>
- Quantity verified at site	=	50651 M <sup>3</sup>
<b>Difference:</b>		<b>18048 M<sup>3</sup></b>
- Cost of the work paid to the contractor	=	Rs.24,295,630/-
- Cost of the work verified at site	=	Rs.12,174,694/-
<b>Difference/overpayment:</b>		<b>Rs.12,120,935/-</b>
- Excess cost paid to the contractor in quantities	=	Rs. 4,338,125/-
- Excess cost paid to the contractor in rates	=	Rs. 7,782,810/-
<b>Total overpayment to the contractor</b>		<b>Rs.12,120,935/-</b>

23. The inquiry committee has concluded that:

- i. The charge No.(i) against Engr. Azmatullah BS-18 has not been proved.
- ii. The charge No. (ii) has been proved to the extent that total measurement of work accepted and passed for payment by Engr. Azmatullah is Rs.24.290 million, out of which the work not executed at site is costing Rs.12.121 million. For the above charges, the following officers/officials are responsible:

Sl. No.	Name of Officer/Official	Designation
1	Engr. Azmat Ullah (BS-18)	Executive Engineer Highway FATA Division Kurram Agency
2	Mr. Fazal Rehman (BS-17)	SDO Highway FATA Sub Division Central Kurram Agency
3	Mr. Mushtaq Ali (BS-11)	Sub Engineer of the project

*Atc*

*Attested*

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iii. The aforementioned officers/officials are responsible for incorrect measurement of work by Mr. Mushtaq Ali, Sub Engineer, incorrect check measurement by Mr. Fazal Rehman SDO and passing of incorrect measurement of work for payment to the contractor by Engr. Azmat Ullah XEN.

24. In view of the conclusion of the inquiry committee, the charge No.(i) is not proved, while the charge No. (ii) proved against all the accused i.e. Engr. Azmatullah, Fazal Rehman and Mushtaq Ali. Therefore, C&W Department proposes that minor penalty of "stoppage of one annual increment for one year" may be imposed upon all the accused as they have not followed the laid down procedure and kept the amount in the Deposit-II. Show cause notices are placed at Annex VIII, IX & X. So far, excess amount of Rs.12.120 million is concerned, in this regard Chief Engineer FATA W&S Peshawar has reported that the said amount in respect of earthwork as intimated by the inquiry committee has credited to work vide transfer entry No.01 for the month of August 2016. There is no loss to the Government as the amount pointed by the inquiry committee was lying in PW Deposit-II and not paid to the contractor (Annex-XI).

25. The proposal contained in para-24/N is submitted for perusal and approval of the Hon'able Chief Minister please.

ADVISOR TO CM FOR C&W

CHIEF SECRETARY

SECRETARY  
C&W  
6/10/16

13-10-16  
AKBAR AYUB KHAN  
Advisor to Chief Minister for  
Communication & Works  
Khyber Pakhtunkhwa

next page please.

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26. Summary for Chief Minister Khyber Pakhtunkhwa regarding inquiry report against Engr. Azmatullah XEN (BPS-18) Highway FATA Division Kurram Agency & others has been examined. The competent authority returned the inquiry report to inquiry committee with the direction to re-examine the report and clearly conclude either the charges are proved against the accused or otherwise (Para-21 of the summary refers). The inquiry committee has re-submitted the revised report on 16-05-2016 vide (Annex-VII).

27. The Administrative Department has examined the report vide Para 22-25 of the summary and is of the view that as per findings of the enquiry committee, charge No.(i) is not proved while charge No.(ii) proved against the accused officers/officials. Administrative Department has therefore proposed minor penalty of "Stoppage of one annual increment for one year".

28. Regarding the excess amount of Rs. 12.121 million as per findings of the inquiry committee, the Administrative Department has clarified that the said amount has already been recovered and credited to work vide Transfer Entry Order No.01 for the month of 08/2016. As such there is no loss caused to the government exchequer as the amount was lying in PW Deposit-II and not paid to the contactor (Annex-XI).

29. Inquiry Committee in revised report (Annex-VII) has concluded that charge No.(ii) has been proved to the extent that the total measurement of work accepted and passed for payment by the Engr. Azmatullah is Rs. 24.290 million, out of which the work not executed at site is costing Rs. 12.121 million. Therefore Establishment Department endorses the proposal of Administrative Department contained in Para-24 read with Para-25, of the summary. As regards proposal of Administrative Department for award of minor penalty, it is the prerogative of competent authority to decide on the basis of findings of the inquiry whether to impose a minor or major penalty (Annex-XIV).

30. Chief Minister, Khyber Pakhtunkhwa being competent authority under Rule-14 (4) of (Efficiency & Discipline) Rules-2011 (Annex-XII), may sign show cause notices placed at (Annex- VIII, IX & X) to be served upon the accused officer/officials and insert penalty ibid therein or any other penalty from the list of penalties at (Annex-XIII).

(Dr. Syed Akhtar Hussain Shah)  
Secretary Establishment  
11 November, 2016

Chief Secretary  
Khyber Pakhtunkhwa

Ali Iqbal

15.11.2016  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

Chief Minister

Signed & verified done

Ali Iqbal

Chief Secretary  
Govt. of Khyber Pakhtunkhwa

Chief Minister  
Khyber Pakhtunkhwa

Secy CEW

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Paras 1 to 31 refer

32. In compliance of para-31 of the summary, show cause notices for imposition of major penalty of "removal from service" were served upon officers/official to submit their replies. The accused have submitted their replies to the show cause notices (Annex XV, XVI & XVII).

A- Engr. Azmatullah XEN

- i. All PWD works are executed under well defined standing orders. The measurement book (MB) is issued to Sub Engineer concerned, who is responsible for carrying out the measurement at site. After necessary measurement by the Sub Engineer, the same is checked by the SDO In-charge and his associated account staff. Thereafter, the bill pre-audited by Divisional Accounts Clerk and Divisional Accounts Officer for its accuracy and completion of codal formalities. If the Divisional Officer finds any shortcomings, he brings the same into the notice of Divisional Officer/XEN. In case of difference in opinion between XEN and Divisional Accounts Officer, the Divisional Accounts Officer operates Form-60 where all necessary shortcomings if noticed are recorded. According to clause-7 of the approved contract agreement duly printed by the Government Press, the 1<sup>ST</sup> running bill rather all running bills/intermediate payments shall be regarded as payment by way of advance against the final payment on which no claim whatsoever could be established.
- ii. He has been made responsible for incorrect measurement and intension of imposing major penalty whereas in light of his aforesaid explanation, the responsibility of measurement rests upon the Sub Engineer and SDO along-with their associated staff. Besides, the Divisional Accounts Officer in the capacity of audit representative and advisor to the XEN have also not brought in his notice nor operated Form-60.

B- Fazal Rehman SDO

- i. The inquiry committee had acted beyond its power because according to the condition of contract agreement which empowered and permits the SDO for intermediate payments which regarded as payment by way of advance against the final payment only and not as payments for work done. However, it can be safely observed from the bill that no overpayment has been made but the contractor only received Rs.5,000/- through cheque No.A119252 dated 29.06.2015 so the question of overpayment does not arise.
- ii. He has unblemished career throughout his service period and the inquiry committee had only charge him for mere irregularities which cannot be termed as misconduct. No irregularities has been committed. However the bill has already been corrected and satisfied and no allegation left against him.
- iii. He has sustained no loss to Government exchequer because no payment whatsoever has been made to the contractor for the work which has not been executed at site and the second running bill was paid in which the incorrect measurements were corrected.
- iv. In spite of that the contract allows the Engineer for making any correction, modification which properly be made to any previous payment certificate. A payment certificate shall not be deemed to indicate the Engineers acceptance, approval, a consent or satisfaction.

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ATTESTED

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C- Mushtaq Ali Sub Engineer

- i. Technical committee visited the site on 26.01.2016 and found the process satisfactory. According to the re-measurement excavation done at site is 76705.3 M<sup>3</sup> and earth filling done at site is 7601 M<sup>3</sup>
  - ii. The intellectual dishonesty of the inquiry committee is a clear cut variation in so-called quantities is 26054.3 M<sup>3</sup> still less than the actual work done by 8006.3 M<sup>3</sup> (76705.3 - 68699) in excavation and 7601 M<sup>3</sup> in filling.
  - iii. The specification of the soil don by the XEN, as it is his exclusive prerogative is 30% shingle and 70% rock. According to this specification excavation in shingle gravel soil comes to 23011.59 M<sup>3</sup> (76703.3 x 0.30) and excavation in rock requiring occasional blasting comes to 53693.71 M<sup>3</sup> (76705.3 x 0.7). In addition to this less payment of the contractor he has not been paid a single penny for 7601 M<sup>3</sup> in filling.
  - iv. The documentary proof of excavation done under his supervision in the form of cross sectional survey. Moreover Rs.5,000/- payment is made to the contractor by XEN while the balance amount of Rs.24,290,630/- is placed in deposit account by XEN, because only XEN has to deposit account and not Sub Engineer nor even the SDO.
33. The aforesaid accused officers/official have requested for exoneration and personal hearing
34. The replies to show cause notices were examined by the Department. The replies of the officers/official to the show cause notices are not convincing, as the inquiry Committee has clearly proved charge No.(ii) against all the accused. Therefore, it is proposed that tentative major penalty of "removal from service" already imposed upon the aforesaid officers/official may be confirmed. The Competent Authority may allow opportunity of personal hearing as requested.
35. Proposal contained in para-34 ante is submitted for perusal and approval of Chief Minister please.

ADVISOR TO CM FOR C&W

CHIEF SECRETARY

*Asif*  
SECRETARY  
C&W  
20/12/16

**AKBAR AYUB KHAN**  
Advisor to Chief Minister for  
Communication & Works  
-Khyber Pakhtunkhwa

*Next Page Pl.*

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*[Signature]*  
**ATTESTED**

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36. Summary for Chief Minister Khyber Pakhtunkhwa regarding inquiry report against Engr. Azmatullah XEN (BPS-18) Highway FATA Division Kurram Agency & others has been examined.

37. In compliance of Para-31 of the summary show cause notices were served upon the accused officers/official Engr. Azmatullah XEN (BS-18), Mr. Fazal Rehman SDO/Assistant Engineer (BS-17) and Mr. Mushtaq Ali Sub Engineer (BS-11) to submit their replies. They have submitted their replies to the show cause notices vide (Annex-XV, XVI, XVII). The replies have been examined by Administrative Department vide Para 32-35 of the summary and found not convincing. The Administrative Department has proposed that major penalty of "removal from service" already tentatively imposed upon the accused may be confirmed.

38. Establishment Department is of the view that as per instructions dated 28-03-2014 (Annex-XIX) it is the prerogative of the competent authority to decide the case on the basis of findings of the inquiry whether to impose a minor or major penalty or exoneration.

39. In terms of Sub Rule-5(ii) of Rule-14 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 (Annex-XII) Chief Minister, Khyber Pakhtunkhwa being competent authority may confirm the penalty "removal from service" already tentatively imposed upon the accused officers Engr. Azmatullah XEN (BS-18), Mr. Fazal Rehman SDO/Assistant Engineer (BS-17) and Mr. Mushtaq Ali Sub Engineer (BS-11), or any other penalty from the list of penalties (Annex-XIII), providing opportunity of personal hearing to the accused officers/official, in terms of Rule-15 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 (Annex-XVIII), so as to fulfill the legal requirement.

*[Signature]*

(Dr. Syed Akhtar Hussain Shah)  
Secretary Establishment  
18th January, 2017

~~Chief Secretary  
Khyber Pakhtunkhwa~~

*Ali Husein*

19.1.2017

Chief Secretary  
Govt of Khyber Pakhtunkhwa

~~Chief Minister~~

Secretary Relief is authorized to give opportunity of personal hearing to the accused officers on my behalf.

*[Signature]*  
28.1.2017

*Ali Husein*

30.1.2017

Chief Secretary  
Govt of Khyber Pakhtunkhwa

Chief Minister  
Khyber Pakhtunkhwa

~~SECRETARY RRES~~

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41. Vide para 40 of the summary, the Hon.ble Chief Minister authorized the undersigned to give opportunity of personal hearing to the accused officers / officials on his behalf.

42. The accused officers / officials were summoned on 7<sup>th</sup> February, 2017.

43. A detailed and patient hearing was conducted. Relevant record including enquiry committee reports, statements, evidence etc were thoroughly examined and perused.

44. The accused officers could not bring any fresh evidence and prudent justification and the interaction was mere repetition of their earlier stance.

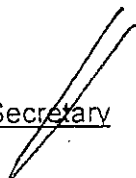
45. It transpires that the rules and procedure as enunciated in the Building & Roads Code have been seriously violated and well defined standing orders have been completely ignored coupled with dereliction of duty and lack of supervision and due financial propriety with public money.

46. In order to make an informed decision it is highlighted that the illegal practice of keeping government money during the close of financial year in deposit-II and passing of bills without proper measurement book (MB) is a common vice / practice in FATA for which Additional Chief Secretary FATA needs to issue clear instructions to all concerned.


47. The imposition of major penalty of removal from service on the following officers / officials is proposed. Their further retention in the service is detrimental to public interest and service.

- i. Fazal Rehman  
Sub Divisional Officer  
Highway FATA Sub Division  
Central Kurram at Sadda
- ii. Mushtaq Ali  
Sub Engineer C/O  
Chief Engineer (FATA)  
W&S Peshawar

48. The major penalty of reduction to a lower post / pay scale is proposed for Engr. Azmatullah, XEN, Highway FATA Division Kurram Agency.

Chief Secretary  


Ali Iqbal  
08/2/2017  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

Secretary RR&SD  
7.2.16  


Chief Minister  


Paras 47 & 48 are approved  
Ali Iqbal  
14/2/2017  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

Chief Minister  
Khyber Pakhtunkhwa

SECRETARY ICEW

Attested  
**ATTESTED**

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Subject:

INQUIRY REPORT

In furtherance of a PL

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OFFICE OF THE CHIEF ENGINEER (FATA)  
WORKS & SERVICES DEPARTMENT PESHAWAR

To

No. 010  
Dated Peshawar the 19/5/2005

All Executive Engineers  
In Development/Maintenance Cell C&W  
In FATA.

Maintenance  
Cell FATA  
M/works

Subject: IRREGULAR/DEFECTIVE MAINTENANCE OF M.Bs.

Ref: In continuation of this office No. 1767/56-B, dt: 06/1/2005.

Please refer to the above and to state that it has been observed at various occasions that the Divisional Offices neither maintain the M.Bs. properly nor prepare the Contractors bills in accordance with the instructions/rules contained in Para 4.5 of the B&R Code.

You are therefore directed once again that all the SDOs and Sub-Engineers working under your control should maintain Check/Measurement Books and M.Bs. respectively on regular basis as laid down in Para 4.5 (a) ibid duty amended. The D.A.O should not pre-audit the Contractors bills without fulfillment of above code requirements.

You are further directed to inform all the subordinates that S.D.Os will maintain separate check measurement books as per rules.

(ENGR. AMIR SHAHEZ KHAN)  
CHIEF ENGINEER

Copy forwarded to all the Divisional Accounts Officers in Dev/Maintenance Cell C&W FATA for strict compliance.

CHIEF ENGINEER

No. 440/10 / dt. 26/5/2005

Copy of the above is forwarded to the SDOs and all WVA branches for their information & action.

A/C

ATTESTED

No. 11/901 P  
D.A.O  
for strict compliance  
All SDOs  
from WVA  
M/works  
M/works  
M/works

**MOST IMMEDIATE**



GOVT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-29/2015  
Dated Peshawar, the February 06, 2017

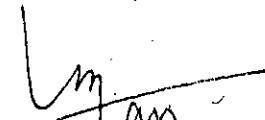
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To

The Chief Engineer FATA  
W&S Peshawar

Subject: **PERSONAL HEARING --- INQUIRY REPORT**

I am directed to refer to the subject noted above and to enclose herewith a copy of Relief, Rehabilitation & Settlement Department Peshawar letter No.PS/ Secy RRS/Inq C&W/2017 dated 31.01.2017 with the request to inform the officers/official mentioned in the referred letter to appear before the Secretary Relief, Rehabilitation and Settlement Department Peshawar on 07.02.2017 at 11:00 AM for personal hearing please.

  
(USMAN JAN)  
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to the:


1. PS to Secretary Relief, Rehabilitation & Settlement Department Peshawar
2. PS to Secretary C&W Department, Peshawar

All the 3 officers  
are informed on phone.  
6/2/17

SECTION OFFICER (Estb)

CE FATA W&S Deptt:	
Diary No	386
Date	6-2-2017
Case No:	
C.E. W&S	/
S.E. HQ	
TO	2/968
D.E. (B)	
D.E. (R)	
D.E. (Water Supp.)	
AO	✓

ACC

  
**ATTESTED**





(105)

Government of Khyber Pakhtunkhwa  
Relief, Rehabilitation & Settlement Department  
Civil Secretariat Peshawar

No: PS/Secy-RRS/Inq C&W/2017  
Dated Pesh: the 31<sup>st</sup> January, 2017

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(Handwritten signature)

(Handwritten signature)

- To
1. Engr. Azmatullah  
XEN, Highway FATA Division  
Kurram Agency
  2. Fazal Rehman  
Sub Divisional Officer  
Highway FATA Sub Division  
Central Kurram at Sadda
  3. Mushtaq Ali  
Sub Engineer C/O  
Chief Engineer (FATA)  
W&S Peshawar

Distt No: 2117  
Date: 3/2/17  
Secretary C&W Deptt.  
Khyber Pakhtunkhwa

AS/DCA

1228  
3/2

Subject: Personal Hearing

I am directed to state that Competent Authority i.e. Chief Minister Khyber Pakhtunkhwa has been pleased to authorize Secretary Relief, Rehabilitation and Settlement Department, Government of Khyber Pakhtunkhwa to give you opportunity of personal hearing on his behalf. Therefore, you are directed to appear before the Secretary Relief, Rehabilitation and Settlement Department Civil Secretariat Peshawar on Tuesday 7<sup>th</sup> February, 2017 at 1.00 am.

(Signature)  
(Sher Nawab Khattak)  
Section Officer (Estt)

Endst. Of even No & Date

Copy forwarded to:

1. Secretary to Govt. of Khyber Pakhtunkhwa, C&W Department.

S.O(E)

(Signature)  
Section Officer (Estt)

ATC

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ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-29/2015  
Dated Peshawar, the April 03, 2017

To

The Chief Engineer (FATA)  
W&S Peshawar

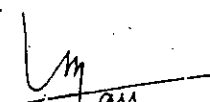
- Subject: (i) Review Petition Against the penalty order bearing No. SOE/C&WD/8-29/2015 dated 22.02.2017 C&W Department "Removal from Service" in the scheme titled "widening and blacktopping of 03 KMs Chinarak Tora Woray Road, from KM 46 to 48 (Phase-IV 03 KMs) in Khyber Agency" filed by Mr. Mushtaq Ali the then Sub Engineer and Mr. Fazal Rehman the then SDO C&W Department
- (ii) Review Petition Against the penalty order bearing No. SOE/C&WD/8-29/2015 dated 22.02.2017 C&W Department "reduction to a lower post/pay scale" in the scheme titled "widening and blacktopping of 03 KMs Chinarak Tora Woray Road, from KM 46 to 48 (Phase-IV 03 KMs) in Khyber Agency" filed by Engr. Azmatullah C&W Department

I am directed to refer to the subject noted above and to enclose a departmental appeal of Mushtaq Ali Ex-Sub Engineer C&W Department addressed to Chief Minister Khyber Pakhtunkhwa (copy enclosed). In the appeal, the applicant has requested that inquiry report may be repealed and another technical team may be assigned the task to re-verify the work done at site by the contractor to absolve him of the charges and to re-instate him as he has not done any irregularity during his entire service.

2. Similarly Mr. Fazal Rehman Ex-SDO C&W Department and Engr. Azmatullah the then XEN Highway Division Kurram Agency has also submitted departmental appeals (copy attached).

3. The case is therefore forwarded for re-inquiry in the light of the Chief Minister Khyber Pakhtunkhwa directions (copy attached).

Annexures: attached

  
(USMAN JAN)  
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to the:

1. Section Officer (Establishment) FATA Sectt: Warsak Road Peshawar
2. PS to Secretary C&W Department, Peshawar

SECTION OFFICER (Estb)

  
ATTESTED



107  
Immediate/Confidential

**FATA SECRETARIAT**  
(ADMINISTRATION, INFRASTRUCTURE & COORDINATION DEPARTMENT)

No. FS/R/2648-49  
Dated 04-04-2017

The Chief Engineer (FATA)  
Works & Services Department  
FATA Secretariat  
Peshawar.

- Subject: i) Review Petition against the penalty order bearing No. SOE/C&WD/8-29/2015, dated 22-2-2017 C&W Department "Removal from Service" in the scheme titled "Widening and Black Topping of 03 Kms Chinarak Tora Worary Road, from Km 46 to 48. (Phase-IV 03 Kms) in Kurram Agency" filed by Mr. Mushtaq Ali the then Sub Engineer and
- ii) Review Petition against the penalty order bearing No. SOE/C&WD/8-29/2015, dated 22-2-2017 C&W Department "Reduction to a lower post/Pay scale" in the scheme titled "Widening and Black Topping of 03 Kms Chinarak Tora Worary Road, from Km 46 to 48 (Phase-IV 03 Kms) in Kurram Agency" filed by Engr. Azmatullah C&W Department.

Please refer to your letter No. 4733/2/46-E dated 04-04-2017 on the captioned subjects. It is observed that:

The Chief Minister has ordered to re-inquiry when review petitions were submitted under Rule -17 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. At this stage the Chief Minister (being Competent Authority) has the following powers:

- i) to uphold the order of penalty and reject the appeal or review petition; or
- ii) to set aside the orders and exonerate the accused; or
- iii) to modify the orders or reduce the penalty.

2- The powers of re-inquiry or de-novo inquiry is vested under Rule 14 (6) of the Rules ibid i.e. at the stage when the inquiry report is submitted and Show Cause Notice is yet to be served upon the accused officers.

3- The C&W Department however, after having received the orders of Chief Minister has referred the case to you for re-inquiry. Since the task has been assigned to you for technical input, it is therefore, incumbent upon you to conduct it at your level. This does not require approval of the undersigned for constituting the proposed inquiry Committee.

  
Secretary Admn, Infr. & Coord

C.C

Secretary, C&W Department, with reference to his Department's letter No. SOE/C&WD/8-29/2015 dated 03-04-2017 and Chief Engineer (FATA) letter quoted above.

  
ATTESTED



108

OFFICE OF THE CHIEF ENGINEER (FATA)  
WORKS & SERVICES DEPARTMENT PESHAWAR

Phone: 091-9211725, 091-9211835 Fax: 091-9211482, E-Mail: c.engineer.fata@gmail.com

No 4738/2/46-E

Dated Peshawar the <sup>05</sup> /04/ 2017

To

The Secretary,  
C&W department,  
Khyber Pakhtunkhwa,  
Peshawar

Subject: (i) Review Petition against the penalty order bearing No. SOE/C&WD/8-29/2015, dated 22.2.2017 C&W Department "Removal from Service" in the scheme titled "Widening and Black Topping of 03 Kms Chinarak Tora Woray Road, from Km 46 to 48 (Phase-IV 03 Kms) in Kurram Agency" filed by Mr. Mushtaq Ali the then Sub Engineer and  
(ii) Review Petition against the penalty order bearing No. SOE/C&WD/8-29/2015 dated 22.2.2017 C&W Department "Reduction to a lower post/Pay scale" in the scheme titled "Widening and Black topping of 03 Kms Chinarrak Tora Woray Road, from KM 46 to 48 (Phase IV 03 Kms) in Kurram Agency" filed by Engr. Azmatullah C&W Department  
Ref: Secretary AI&C Department, FATA Secretariat Peshawar letter No. FS/E/2648-49, dated 4.4.2017 (copy enclosed)

This office proposed a Technical Committee comprising the following officers to re-inquire the work done at site by the contractor and submit report within 15 days positively:-

1. Engr. Abdul Sattar,  
Superintending Engineer,  
Northern C&W FATA Circle, Peshawar. Chairman
2. Engr. Noor-us-Saeed Shah  
Superintending Engineer (H.Q.)  
o/o Chief Engineer FATA,  
Works & Services Department Peshawar. Member
3. Engr. Noor Sahib Khan,  
Executive Engineer,  
Building FATA, Division Mohmand at Ghallanai Member

The Secretary AI&C FATA Secretariat has raised the following observations:-

The Chief Minister has ordered to re-inquiry when review petitions were submitted under Rule-17 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule-2011. At this stage the Chief Minister (being Competent Authority) has the following powers:-


- i) to uphold the order of penalty and reject the appeal or review petition; or
- ii) to set aside the orders and exonerate the accused; or
- iii) to modify the orders or reduce the penalty.

The powers of re-inquiry or de-novo inquiry is vested under Rule 14(6) of the Rules ibid i.e at the stage when the inquiry is submitted and show cause Notice is yet to be served upon the accused officers.

He further stated that the C&W department however, after having received the orders of Chief Minister has referred the case to you for re-inquiry. Since the task has been assigned to you for technical input, it is incumbent upon you to conduct it at your level. This does not require approval for constituting the proposed inquiry committee.

In view of the foregoing it is requested that establishment section may please be consulted on the subject to proceed further in the matter.

Encl:/As above

  
(Engr: Muhammad Shahab Khattak)  
Chief Engineer

Copy to Secretary, AI&C Department FATA Secretariat Peshawar w/r to his letter No. quoted above for information.

Chief Engineer

  
ATTESTED

129

~~168~~



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT.

No. SOE/C&WD/8-29/2015  
Dated Peshawar, the April 19, 2017

*[Handwritten initials]*

To

The Chief Engineer (FATA)  
W&S Peshawar

Subject: REVIEW PETITION

I am directed to refer to your office letter No.4738/2/46-E dated 05.04.2017 on the subject noted above and to state to add your views/comments in light of Rule-17(2) of the E&D Rules, 2011 please.

*[Signature]*  
(USMAN JAN)  
SECTION OFFICER (Estb)

Endst even No. & date

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

*[Signature]*  
SECTION OFFICER (Estb)

*[Handwritten signature]*

*[Handwritten signature]*  
ATTESTED

MOST IMMEDIATE

110

OFFICE OF THE  
SUPERINTENDING ENGINEER,  
NORTHERN C&W FATA CIRCLE PESHAWAR

No. 4991 /SE(P)/Kurram Dated 24 /04/2017

To  
The Executive Engineer  
Highway FATA Division (By Name)  
Kurram Agency.

Subject:- (i) Review Petition against the penalty order bearing No.SOE/C&WD/8-29/2015, dated 22.2.2017 C&W department "Removal from Service" in the scheme titled "Widening and Black Topping of 03-Kms Chinarak Tora Woray Road, from Km 46 to 48 (Phase-IV 03-Kms) in Kurram Agency" filed by Mushtaq Ali the then Sub Engineer and Mr.Fazal Rehman the then SDO C&W Department.  
(ii) Review Petition against the Penalty order bearing No.SOE/C&WD/8-29/2015 dated 22.2.2017 C&W Department "Reduction to a lower post/pay scale" in the scheme titled "Widening and Black Topping of 03-Kms Chinarak Tora Woray Road, from Km 46 to 48 (Phase-IV 03-Kms) in Kurram Agency" filed by Engr. Azmatullah C&W Department.  
Refnce:- Chief Engineer (FATA) W&S Dept: Peshawar office order No.4785/2/46-E Dated 20.04.2017 (received on 21.4.2017)

To re-inquire the work done at site by the contractor, the following documents/record may be provided within 02-days positively repeat 02-days positively, so as to proceed further in the matter, and fix date for visit/inspection.

- 1- Approved PC-I/Detailed Cost Estimate.
- 2- A.A. letter issued from the competent authority.
- 3- Tender documents (in original)
- 4- Contract agreement (in original)
- 5- Technical Sanction accorded (in original)
- 6- TS letter issued from the competent authority.
- 7- Approved X-Sections & Long Sections as per Technical Sanction Estimate.
- 8- The X-Section of Improvement & Widening from the Measurement Books by Auto CAD.
- 9- All paid Bills/Vouchers (in original)
- 10- All Measurement Books (MBs).
- 11- Marking of RDs clearly showing the start and end point as per interval mentioned in the M.B. during Improvement & Widening.
- 12- Other related record (if any).
- 13- Photo graphs during execution of work (if any)

-Sd-  
(Engr:Abdul Sattar)  
Superintending Engineer/Chairman

Copy to the:-

- 1- Chief Engineer (FATA) Works & Services Department Peshawar w/r to above for information please.
- 2- Engr: Noor-us-Saeed Shah SuperIntending Engineer HQ O/O Chief Engineer (FATA) w/r to discussion on 24.4.2017 for information please.
- 3- Engr:Noor Sahib Khan Executive Engineer C&W FATA Division Mohmand Agency w/r to discussion on 24.4.2017 for information.

Sd-  
Superintending Engineer/Chairman

AFC

ATTESTED



(111)

(Signature)

**Executive Engineer  
Highway FATA Division Kurram**

Main Thall Parachinar Road Parachinar Phone No. 0926310619/Fax No. 0926310619 -  
email [hwkurram@gmail.com](mailto:hwkurram@gmail.com)

No. 2847 / 11-10-17

Dated Parachinar the 24/4 /2017

To

The Superintending Engineer(N)  
C&W FATA Circle Peshawar

Subject:-

(i) Review Petition against the penalty order bearing No.SOE/C&WD/8-29/2015, dated 22.2.2017 C&W department "Removal of Service" in the scheme titled "Widening and Black Topping of 03-Kms Chinarak Tora Woray Road, from Km 46 to 48 (Phase-IV 03-Kms) in Kurram Agency" filed by Mushtaq Ali the then Sub Engbneer. and Mr.Fazal Rehman the then SDO C&W Department.

(ii) Review Petition against the Penalty order bearing No.SOE/C&WD/8-29/2015 dated 22.2.2017 C&W Department "Reduction to a lower post/pay scale" in the scheme titled "Widening and Black Topping of 03-Kms Chinarak Tora Woray Road, from Km 46 to 48 (Phase-IV 03-Kms) in Kurram Agency" filed by Engr. Azmatullah C&W Department.

Ref'nce:-

Your letter No.4991/SE/P/Kurram dated 24/4/2017

As desired the detail documents for the above subject work are submitted herewith for favour of further disposal please.

- 1- Approved PC-II/Detailed Cost Estimate. ✓
- 2- A.A. letter issued from the competent authority. ✓
- 3- Tender documents (in original) ✓
- 4- Contract agreement (in original) ✓
- 5- Technical Sanction accorded (in original) ✓
- 6- TS letter issued from the competent authority. ✓
- 7- Approved X-Sections & Long Sections as per Technical Sanction Estimate. ✓
- 8- The X-Section of Improvement & Widening from the Measurement Books by Auto CAD. ✓
- 9- All paid Bills/Vouchers (in original). ✓
- 10- All Measurement Books (MBs). ✓

**Executive Engineer  
Hihway Fata Division Kurram**

Copy to the:-

- 1- Chief Engineer (FATA) Works & Services Department Peshawar w/r to above for information please

(Signature)  
**Executive Engineer  
Hihway Fata Division Kurram**

*Received*  
*25/4/17*  
*Supdt (N) Circle*

*Acc*

*(Signature)*  
**ATTESTED**

112

*[Handwritten signature]*

Dated Parachinar the 22-05-2017

To,

Abdul Satar Khan,  
Chairman of the Inquiry Committee,

*[Handwritten signature]*

Noor Saeed Shah,  
Member of the Inquiry Committee

Asad Ali,  
Member Inquiry Committee

Subject: - RE-INOQUIRY OF WIDENING & B/T OF CHINARAK TORA WORAI ROAD (03 KMS) IN KURRAM AGENCY.

It is humbly submitted that detail quantity survey has been carried out by your good self by the latest equipment of total station and it was time and again communicated to you verbally at site and in office that survey has been carried out on the black topped surface and the quantities received by you from the quantity surveyor is without deduction of thickness of premix, WBM and pitrun gravel from the formation level ( of 14 inches and 12 inches) which may considerably affect the quantities of cutting in the subject road.

You are therefore, once again requested to consider formation of the subject road below the black topped road surface level and take into account the additional quantities due to the true procedure and concept of quantity surveying prior finalization of the inquiry report and true justice may be made in this regard.

In absence of additional quantities due to formation level below road level, the quantities received by your good self is questionable, not acceptable and is considered injustice in respect of the undersigned please.

*[Signature]*  
FAZAL REHMAN  
22/5/17

*[Signature]*  
23/5/17

*[Signature]*  
AZMATULLAH  
22/5/17

*[Signature]*  
MUSHTAQ ALI  
22/5/17

ATC  
*[Signature]*  
ATTESTED



113

Dated: 05-06-2017

To,

Engr. Abdul Satar Khan,  
Chairman of the Inquiry Committee,

Engr. Noor Saeed Shah & Engr. Asad Ali  
Members of the Inquiry Committee

~~Handwritten scribble~~

78

Subject: RE-INQUIRY OF WIDENING & B/T OF CHINARAK TORA WORAI ROAD FROM KM: 46 TO 48 (03 KMS) IN KURRAM AGENCY.

It is humbly submitted that detail quantity survey has been carried out by your good self through your technical team of quantity surveyor namely Sadiq Afridi and Zahid Afridi of Geo Exploration Tech (GET) with a latest equipment of total station in the presence of the undersigned on 03-05-2017.

The technical team and quantity surveyors after detail calculations of the subject road, provided you quantities of earth work including its long and X-sections. The quantity of earth work provided to you was 76020 M3 (65388 M3 as per X-sections + 10632 M3 additional quantity of earth work by considering the formation level below Black topped and WBM road surface).


Similarly, the aforementioned quantity of earth work (10632 M3) including long sections and X-sections duly signed by your technical team of quantity surveyor, (Geo Exploration Tech (GET) has been provided to the undersigned and the same has been submitted and discussed with Chief Engineer FATA on 26-05-2017. (Copy enclosed as Annex: A).


Similarly, black topped and WBM road work completed at site and checked by your good self in the presence of the undersigned was 1625 meter and 1275 meter respectively.

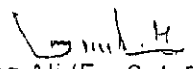
It is pertinent to mention here, that rock classification may please be made as per PC-1, TS or MB as cutting has already been made by the contractor and classification of rock could not be truly ascertained at this stage.

It is, therefore, requested that the aforementioned quantities which are jointly measured at site may please be followed in the finalization of the Re-Inquiry report. The alteration, manipulation and absence of aforementioned quantities of earth work and road work in the Re-Inquiry report of the subject road will not only lead to biased, partial report but will also be not acceptable to the undersigned being contrary to the true facts and grounds please.


- Copy to Chief Engineer FATA Works & Services Deptt. Peshawar for information and necessary action please.

  
Fazal Rehman  
Ex. SDO Highway Central Kurram

  
05/6/17  
Azmatullah  
The Then XEN Highway Kurram

  
Mushtaq Ali (Ex. Sub. Engr)  
Highway Central Kurram

Received  
Supriya

  
**ATTESTED**

114

113

قیمت  
50 روپے

15899

ایڈوکیٹ: سید

بار کونسل ایسوسی ایشن نمبر: BC-10-7747

رابطہ نمبر: 0333-9125557

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سروس ٹریڈ سول سٹاؤ

مخائب: <u>سائلہ عصفیہ</u>	دعویٰ:
	علت نمبر:
بنام	مورخہ:
گوٹھ	جرم:
	تھانہ:

**باعث تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام پشاور کیلئے شان اخرا میڈیکل کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 22/2/2018العبد سید واہ شد العبدمقام پشاور کے لیے منظور ہے۔

Attested

Accepted سید

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

اکبر علیہ السلام

original

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.340 OF 2018**

Azmat Ullah S/O Hidayat Ullah Khan

(Appellant)....

V/S

Secretary Communication & Works Department  
Civil Secretariat Peshawar & others

(Respondents)....

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Deponent



Abdur Rauf,  
Section Officer (Litigation),  
C&W Department Peshawar

①

**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**  
**APPEAL NO. 340 OF 2018**

Azmat Ullah S/O Hidayat Ullah Khan  
Executive Engineer (C&W)  
Highway FATA Sub Division Lower Kurram --- Appellant  
(presently XEN Highway FATA Division Khyber Agency)

**VERSUS**

1. Chief Secretary  
Govt of Khyber Pakhtunkhwa
2. Secretary to Govt of Khyber Pakhtunkhwa  
C&W Department, Peshawar
3. Chief Engineer (FATA)  
Works & Services Peshawar --- Respondents

**Joint Parawise Comments on behalf of Respondents No. 1 to 3**

Respectfully Sheweth!

**Preliminary Objections**

1. That the instant appeal is incompetent in the present form
2. The appeal is bad for mis-joinder and non-joinder and the other necessary parties because in the whole case the appellant placed responsibilities on the Inquiry Committee even on the Technical Committee's report which was appointed/constituted on the Review of Appellant's application.
3. That the appellant has never challenged in time any order in which his rights were ignored
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal

**FACTS**

1. Pertains to record.
2. Correct.
3. The same as per para-2 above.
4. Correct to the extent that the Additional Chief Secretary (FATA) on the general Public/Elders complaint, about the mal-practice carried in the work at Kurram Agency deputed Monitoring Team for investigation. The Additional Chief Secretary (FATA) then reported the matter to Respondent No.2 (Secretary C&W) on 22.10.2015 (**Annex-I**) for taking disciplinary action against the officers/official who were connected with the works and supplied draft charge sheet and statement of allegations. Note, that the officers/officials though working in FATA are the employees of Provincial Government and shall ever be dealt with the rules/regulations and policies of the Provincial Government. So the case was processed. The Authority (Chief Minister) being competent, signed the charge sheet and statement of allegation which were served upon all the accused officers/official as per allegation described in para-4 of the Service Appeal of appellant.
5. Correct to the extent that one member was from Technical, while another was non-Technical.

- 6. Confirmative, charge No. (i) was not proved as per the inquiry report, while charge No. (ii) was said proved.
- 7. Correct to the extent that the show cause notice was about the tentative penalty "Reduction to a lower post/pay scale" but it is wrongly said imposed. That was not final orders to which he submitted reply to the Authority (Chief Minister).
- 8. Correct, power was resting with the Chief Minister (Authority) either to agreed being convinced with the replies to charge sheet & statement of allegation and reply to show cause as well or otherwise. However replies were not agreed and major penalty "Reduction to lower post/pay scale" was imposed on the appellant after its approval from the Authority (Chief Minister) vide order dated 22.02.2017 as annexed with the appeal by the appellant.
- 9. Correct, the appellant filed a Review Appeal/petition against the penalty as described in para-8 above to the Chief Minister (Authority).
- 10. Correct.
- 11. Correct as per record.
- 12. The same as above.
- 13. Seems correct as per Respondent No.3 (Chief Engineer FATA) letter dated 18.08.2016.
- 14. Correct to the extent that when the former orders dated 22.02.2017, the major penalty "Reduction to lower post/pay scale" were converted into minor penalty "stoppage of two annual increments for 02 years" vide orders dated 24.11.2017 as a result of his Review Petition/Appeal before the Authority (Chief Minister). So the 2<sup>ND</sup> Review Application was not entertainable because under Rule-17 of E&D Rules, 2011, no provision for the 2<sup>ND</sup> Appeal/Review is available.


**GROUND**

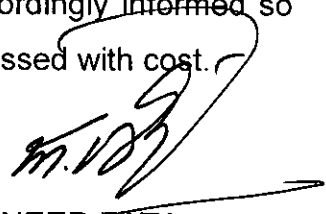
- A. It is to be said that the case was reported by the Additional Chief Secretary (FATA) and the Secretary C&W (Respondent No.2) was duty bound to place the case before the Competent Authority (Chief Minister) and that powers rested with the Authority to decide the fate of inquiry or otherwise.
- B. The same as replied at Para-1 of the Facts.
- C. In facts the appellant should have replied to the charge sheet and statement of allegation and have to stress for the so stated B&R Code and CPWA Code on which he at present makes a stance.
- D. The same as replied at para-C above.
- E. When the appellant by himself states, that the (2<sup>ND</sup>) Technical Committee (not the Inquiry Committee) had taken the aspect of Clause-7 of the Contract Agreement, thus the previous version of the former inquiry committee, becomes nullified. The point is to be noted that on the request of appellant for review against the penalty, the Authority (Chief Minister) passed remarks "for the review of inquiry to Respondent No.2 (Secretary C&W)", who then directed the Chief Engineer (FATA) W&S Peshawar (Respondent No.3) for his needful, who thereafter constituted a high level Technical Committee comprising, Engr. Abdul Sattar and Engr. Noor-us-Saeed Shah Superintending Engineers and one Engr. Noor Sahib Khan C&W FATA Division Mohmand Agency vide orders dated 20.04.2017 **(already Annexed at 'H' with the instant Service Appeal of Appellant).**

- F. Not correct. In this regard it is submitted that while the work was under execution, the contractor was added for advance measurement of "Earthwork", which was later on placed in Deposit-II through transfer entry of the contractor account, in order to able the contractor to claim the same at later stage of Security claim.
- G. Incorrect, how it can be assumed that on the service of charge sheet and statement of allegation and after submitting replies to the aforesaid charge sheet and statement of allegations, he had not been associated by the inquiry committee. If the case was so, then why he had not brought these facts in the notice of Authority when he replied to the show cause and also had to brought into the notice of Authority, the relevant version of B&R Code and Clause-7 of the Contract Agreement. There was not need to cross examination because the work for which payment was authorized was taken measured in advance by the Sub Engineer subordinate official. However the appellant was associated by the Technical Committee spot visit when work was re-measured.
- H. In this regard it is submitted that the presence of Departmental Representative under rule 14(4)(d) of the E&D Rules, 2011 is not mandatory nor can curtail the power of competent authority. The whole proceedings were conducted in the presence of the accused officers/official and in light of the available record of the case.
- I. Misconceiving. It is incorrectly assumed that sub-committee was constituted upon a Sub Engineer (BS-12). The Respondent No.3 assigned the task to Senior Engineers (02 Superintending Engineers and one XEN).
- J. As per para-I above
- K. Incorrect. The 1<sup>ST</sup> Inquiry Committee probably based his report i.e. visual measurement, but the technical committee as per the Respondent-3 composition, visited the sport and measured the works and found executed even noticed the contractor's liabilities against the Government.
- L. It is correct that according to B&R Code and Accounts Code, the duties are defined to different officers, but it is incorrect that Divisional Accounts Officer if have objections shall have to operate Form-60, but in this case the nature is different and the Divisional Accounts Officer was to calculate arithmetically the figures and he was not concerning with the works position either executed or otherwise.
- M. Misconceiving, after taking into account the review petition against the major penalty "Reduction to a lower post/pay scale" by converting into minor penalty "stoppage of two annual increments for two years", so wrongly impression that no time frame has been provided. The very point two year by itself is clear, whichever takes immediate effect meaning from 1<sup>ST</sup> December of the same year in which the penalty is ordered/issued. As the penalty after review, had been ordered vide order bearing No.SOE/C&WD/8-29/2015 dated 24.11.2017 so it became effective from 1<sup>ST</sup> December, 2017 and so on as per rules.
- N. Incorrect and misconceiving.
- O. Misconceiving, not tenable.

- P. Incorrect, the Enquiry Committee constituted for first time held one charge proved which was on account of "payment for not work done at site", probably the same had been recouped through a Transfer Entry credited to Deposit-II (Contractor's Account) and not credited to work account. There never said about a question of personal gain at any moment during disciplinary proceedings.
- Q. Correct to the extent that in the report of Technical Committee, it was then reported work executed at site and further pointed contractor's liabilities/claim against the department/Government.
- R. Not needs further comments as covered under clause-7 of the Contract Agreement.
- S. The Respondent No.3's reports were honoured by the Administrative Department (Respondent No.2) and apprised the Authority (Chief Minister) and as a result that major penalty was reduced to minor penalty "stoppage of two annual increments for two years".
- T. Incorrect. No such provision, under Rule-17 of E&D Rules, 2011 is available, hence the 2<sup>ND</sup> Review Application/Petition was not accredited and the Appellant was kept informed vide letter dated 15.01.2018.
- U. Being legal issue, fell within the domain of this Hon'able Court/Tribunal.

In view of the above explanation, it is humbly submitted that the former orders dated 22.02.2017 were recalled as a result of Review Petition and converted into minor penalty as described in the preceding paras. There was no provision for 2<sup>ND</sup> time Review under Rules-17 of E&D Rules, Appellant was accordingly informed so the instant appeal being devoid of merit, may graciously be dismissed with cost.

  
 SECRETARY  
 Govt of Khyber Pakhtunkhwa  
**C&W Department**  
 (Respondents No. 1 & 2)

  
 CHIEF ENGINEER FATA  
**W&S Peshawar**  
 (Respondent No.3)



(S)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.340 OF 2018**

Azmat Ullah S/O Hidayat Ullah Khan

(Appellant)....

V/S

Secretary Communication & Works Department  
Civil Secretariat Peshawar & others

(Respondents)....

**AFFIDAVIT**

I, Mr. Abdur Rauf Section Officer (Litigation) C&W Department Peshawar hereby affirm and declare that all the contents of the reply / comments are correct to the best of my knowledge and belief and nothing has been concealed.

Deponent



Abdur Rauf,  
Section Officer (Litigation),  
C&W Department Peshawar

6

CONFIDENTIAL



Establishment Section

**FATA SECRETARIAT**  
(ADMINISTRATION, INFRASTRUCTURE & COORDINATION DEPARTMENT)  
**WARSAK ROAD PESHAWAR**

No FS/E/100-23 (Vol-41)/Inq/Chinarak Road/14781-22  
Dated 27/10/2015

Secretary to Government of Khyber Pakhtunkhwa,  
Communication & Works Department, Peshawar.

18871  
27/10/2015

Subject: INQUIRY REPORT

Dear Sir,

AS/PSA  
27/10

I am directed to state that an Inquiry Committee was constituted vide FATA Secretariat Order No.FS/E/100-23 (Vol-41)/Inq/Chinarak Road/11524-29 dated 25-08-2015 with the following Terms of Reference (TOR) as per copy at Annex-I:-

- (1) To carry out inspection of "Chinarak Tora Oray Road (03 KM) Kurram Agency and verification of its contractual documents
- (2) Whether the payment made to the Contractor is commensurate to the physical work executed on site or otherwise.

2- The Committee has submitted a Facts Finding Report a copy of which is enclosed herewith **Annex-II** The following Field Staff has been found involved in the Inquiry:-

- 1. Engr. Azmatullah Executive Engineer Highway FATA Division Kurram Agency.
- 2. Mr. Fazal Rehman SDO Highway FATA Sub Division Central Kurram.
- 3. Mr. Mushtaq Ali the then SDO Highway FATA Sub Division Lower Kurram repatriated to C&W Department vide FATA Secretariat Notification No.FS/E/100-23(Vol-41)/13825-36 dated 01-10-2015.

3- Draft Charge Sheet and Statement of Allegations to be served upon the accused officers are enclosed herewith for proceeding further against them under E&D Rules 2011 under intimation to this Department.

Yours faithfully,

*[Signature]*  
Section Officer (Estab)

Encl: (As above)  
Copy to:-

- 1. Chief Engineer (FATA) Works & Services Department with reference to his letter No. 2598/2/46-E dated 05-10-2015 for information

Section Officer (Estab)

SA  
*[Signature]*  
28/10