

Sr. No	Date of order/ proceeding	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	03.01.2019	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Service Appeal No. 456/2018</p> <p style="text-align: center;">Date of Institution ... 04.04.2018 Date of Decision ... 03.01.2019</p> <p>Habib ur Rehman Sandeela, Ex-District Population Welfare Officer Kohistan/Deputy Demographer, DPW Office, Mansehra.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"> 1. The Chief Minister/Appellate Authority Chief Minister Secretariat Khyber Pakhtunkhwa Peshawar. 2. The Chief Secretary Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar. 3. The Secretary Population Welfare Department Khyber Pakhtunkhwa Peshawar. 4. The Director General, Population Welfare Department, Population House Phase-7, Hayatabad Peshawar. 5. Mr. Masood Younas, Deputy Secretary/Inquiry Officer ST&II Department Khyber Pakhtunkhwa Peshawar. <p style="text-align: right;">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member Mr. Hussain Shah-----Member</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER: -</u>Learned counsel for appellant and Mr. Riaz Paindakheil learned Assistant Advocate General for respondents present.</p> <p>2. The appellant (Ex-District Population Welfare Officer) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 08.11.2017 whereby he</p>

was awarded major penalty of removal from service on the charge that he appointed one Habib Ur Rehman son of Abdur Rehman as Driver on regular basis against project post.

3. Learned counsel for the appellant argued that the impugned order is against law, facts and norms of justice. Further argued that the post of Driver was lying on regular side as such the appointment of Driver was rightly made on regular basis after observing all the codal formalities. Further argued that letter of termination of services served upon Mr. Habib ur Rehman Driver was withdrawn and the said driver was reinstated in service on regular basis vide order dated 03.10.2013. Further argued that Show Cause Notice was issued to the appellant after three (03) years of the inquiry report. Further argued that the appellant was condemned without fulfillment of codal formalities and legal requirements. Further argued that in view of the recommendations of the inquiry officer and circumstances of the case, the extreme punishment of removal from service is unjust and harsh.

4. As against that learned Assistant Advocate General argued that as per record one post of Driver was lying vacant in the project titled RHS-A-Expansion Program sponsored by Ministry of Population Welfare Government of Pakistan reflected in PSDP and not on current side. Further argued that the appellant concealed the actual status of the post from the departmental selection committee and advertised the project post on regular/current side. Further argued that Mr. Habib ur Rehman Driver was reinstated as per

principle of *locus poenitentiae*. Further argued that since the appellant was already under disciplinary proceeding in another case therefore upon the completion of the same the instant disciplinary proceeding was reopened and Show Cause Notice was served upon the appellant. Further argued that proper departmental action was taken against the appellant in that the appellant was served with charge sheet which he replied, similarly the appellant was also served with Show Cause Notice alongwith inquiry report which he also responded.

5. Arguments heard. File perused.

6. Copies of charge sheet/statement of allegation, reply of the appellant to the charge sheet, inquiry report, Show Cause Notice and reply of the appellant to the Show Cause Notice are available on file hence from the documents on record, it is evident that the punishment was awarded to the appellant upon the fulfillment of codal formalities. In the inquiry report the inquiry officer gave finding that the appellant is guilty of misconduct by making irregular appointment against a project post. Learned counsel for the appellant could not demonstrate that the reasons assigned by the inquiry officer in inquiry report for his findings are perverse, arbitrary or otherwise actuated with malice. Likewise learned counsel for the appellant remained unable to substantiate his plea that one sanctioned vacant post of Driver on regular side fell vacant against which Mr. Habib ur Rehman Driver was appointed.

7. It is within the domain of the hi-ups of the respondent

department to keep their house in order. Consequently the appellant has not been able to make out his case for his reinstatement in service. As such the prayer of the appellant for his reinstatement is regretted. Keeping in view the recommendations of the inquiry officer in his inquiry report for minor penalty to the appellant and the length of service of the appellant, for the purpose of safe administration of justice the punishment of removal from service is modified and converted into compulsory retirement from service w.e.f the date of issuance of impugned order i.e. w.e.f 08.11.2017. The present service appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED
03.01.2019

08.05.2018

The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 03.07.2018.


Reader

03.07.2018

Clerk to counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 07.08.2018 before S.B.


(Ahmad Hassan),
Member

07.08.2018

Appellant Habib Ur Rehman in person alongwith his counsel Mr. Khushdil Khan; Advocate present and heard in limine.

Contends that the appellant has been wrongly treated as employed of a project whereas in fact he was recruited as regular employee and so the order of major punishment of removal from service is in the utter violation of the law.

Points raised need consideration. The appeal is admitted to full hearing, subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 10.09.2018 before S.B.





Chairman

Appellant Deposited
Security & Process Fee

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 456/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	04/04/2018	<p>The appeal of Mr. Habib-ur-Rehman presented today by Mr. Khushdil Khan Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR 4/4/18</p>
2	06/04/18,	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>16/04/18</u>.</p> <p style="text-align: right;"> MEMBER</p>
16.04.2018		<p>Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 08.05.2018 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 456 /2018

Habib ur Rehman Sandeela,
Ex-District Population Welfare Officer
Kohistan /Deputy Demographer,
DPW Office, Mansehra.Appellant


Versus

The Chief Minister/Appellate Authority
Chief Minister Secretariat,
Khyber Pakhtunkhwa, Peshawar & others-----Respondents


INDEX

S.N	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			01-07
2.	Copy of letter whereby NOC was issued for recruitment process to fill in the vacant posts.	07-12-2009	"A"	00-08
3.	Copy of the extract of Newspaper	07-02-2010	"B"	00-09
4.	Copy of recommendation of Departmental Selection Committee.		"C"	10-11
5.	Copy of Appointment order of Mr. Habib ur Rehman against the post of Driver.	19-04-2010	"D"	00-12
6.	Copy of letter therein directions was issued for termination of Driver.	31-05-2013	"E"	00-13
7.	Copy of termination order.	05-06-2013	"F"	00-14
8.	Copy of inquiry report conducted by Mr. Naseemullah, Assistant Director Population Welfare Department.	13-09-2013	"G"	15-17
9.	Copy of office order whereby the above name driver was reinstated into service.	03-10-2013	"H"	00-18
10.	Copy of covering letter whereby charge sheet with statement of allegation was communicated to appellant.	13-05-2014	"I"	19-21
11.	Copy of reply to charge sheet filed by appellant.	26-05-2014	"J"	22-24

S.N	Description of Documents	Date	Annexure	Pages
12.	Copy of letter thereby show cause notice with inquiry report was sent to appellatant.	15-06-2017	"K"	25-30
13.	Copy of reply to show cause notice filed by appellatant .		"L"	31-32
14.	Copy of the impugned order thereby major penalty of Removal From Service was imposed upon appellatant.	08-11-2017	"M"	00-33
15.	Copy of Departmental Appeal filed by appellatant before the respondent No.1.	06-12-2017	"N"	34-36
16.	Copy of letter therein shown the posts in current budget of 2009-10.	08-04-2010	"O"	37-41
17.	Wakalat Nama			


Appellant

Through


Khush Dil Khan
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 091-2213445

Dated: 03 10 /2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 456 /2018

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 486

Dated 04/04/2018

Habib ur Rehman Sandeela,
Ex-District Population Welfare Officer
Kohistan /Deputy Demographer,
DPW Office, Mansehra.Appellant

Versus

- 1- The Chief Minister/Appellate Authority
Chief Minister Secretariat,
Khyber Pakhtunkhwa, Peshawar
- 2- The Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat Peshawar.
- 3- The Secretary,
Govt of Khyber Pakhtunkhwa,
Population Welfare Department,
Civil Secretariat, Peshawar.
- 4- The Director General,
Population Welfare Department,
Population House Phase-7, Hayatabad,
Peshawar.
- 5- Mr. Masood Younas,
Deputy Secretary/Inquiry Officer
ST&IT Department Khyber Pakhtunkhwa,
Peshawar.Respondents

Filed to-day
Registrar
4/4/18

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE IMPUGNED ORDER DATED 08-11-2017
THEREBY IMPOSED MAJOR PENALTY OF
"REMOVAL FROM SERVICE" UPON APPELLANT BY**

RESPONDENT NO.2 AGAINST WHICH HE FILED DEPARTMENTAL APPEAL BEFORE RESPONDENT NO.1 ON 06-12-2017 BUT SAME WAS NOT DECIDED WITHIN STATUTORY PERIOD OF NINETY (90) DAYS.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:

- 1- That appellant is holding the post of District Population Welfare Officer BPS-17. He was posted on 13-01-2010 to District Kohistan as such. Before his posting a letter dated 07-12-2009 (**Annexed A**) therein directed them to accelerate the recruitment process for filling in vacant posts in BPS-1 to BPS-5. In pursuance of which appellant published an advertisement in the local newspaper dated 07-02-2010 (**Annexed B**) through Information Department and invited applications from eligible candidates for various posts. A Departmental Selection Committee was constituted which interviewed the eligible candidates and merit list was prepared, two of them in the driver cadre were recommended for appointment as evident from (**Annexed C**) in pursuance of which their appointments order were issued by the appellant on 19-04-2010 separately who joined duties after completing codal formalities including medical fitness certificate. The copy of appointment order of Habib ur Rehman driver is attached as (**Annexed D**).

- 2- That appellant was transferred from District Kohistan on 01-10-2010 and then posted District Population Welfare Officer, Charsadda. Meanwhile a letter dated 31-05-2013 (**Annexed E**) was sent to his successor (District Population Welfare, Kohistan) therein issued directions for the termination of services of Sadaf Rani, FWA(F), Habib ur Rehman (Driver) and Seema Younas (Helper) which was acted upon and

termination orders were issued to all concerned on 05-06-2013 (**Annexed F**). During this process an inquiry was conducted by Mr. Naseem Ullah, Assistant Director (FWC) who submitted his report on 13-09-2013 (**Annexed G**). In pursuance of which termination order of Habib ur Rehman Driver was withdrawn and he was reinstated into service by order dated 03-10-2013 (**Annexed H**).

- 3- That a charge sheet with statement of allegations was communicated to appellant under covering letter dated 13-05-2014 (**Annexed I**) which contained the charges reproduced as under;

(i) *You appointed one Habib-ur-Rehman s/o Abdur Rehman as driver (BPS-4) on regular basis against the project post.*

(ii) *This was an irregular recruitment, which has now put the department in embarrassing position.*

- 4- That appellant submitted detailed reply on 26-05-2014 (**Annexed J**) therein rebutted the alleged charges in toto.

- 5- That inquiry was conducted on 15-06-2014 but the same was not acted upon as at the relevant time appellant was removed from services on the basis of other alleged baseless charges against which he approached to this Hon'ble Tribunal through Service Appeal No.1309/2014 which was accepted and the impugned order was set aside with the direction to reinstate him in service with the option to conduct de novo inquiry. Accordingly he was reinstated in service but in fresh inquiry he was again awarded major penalty of "**reduction to lower stage in the time scale for a maximum period of three years**" vide order dated 03-04-2017.

- 6- That after lapse of three years, the respondent No.2 issued show cause notice to appellant under covering letter dated 15-06-2017 (**Annexed K**) with the copy of findings of inquiry officer to which he submitted a detailed reply (**Annexed L**) and objected the proceedings of inquiry officer and denied the same.
- 7- That a notification dated 08-11-2017 (**Annexed M**) communicated to appellant under the signature of respondent No.3 therein imposed major penalty of "**Removal from Service**" upon him appellant against which he filed departmental appeal on 06-12-2017 (**Annexed N**) which was not decided within statutory period of ninety (90) days.

Hence the present appeal is submitted on the following amongst others grounds;

- A) That appellant was blamed in the charge sheet that the post of driver was a project post but he appointed him on regular basis which was quite incorrect and misconceived. The post of driver was lying on regular side which was rightly made on the regular basis after observing all the codal formalities. Hence the charge is not tenable being baseless and liable to be set aside.
- B) That in the matter of appointment of driver (Habib Ur Rehman) an inquiry was conducted to probe whether his appointment was rightly made on regular basis. In the inquiry report, the appointment was declared rightly and on the basis of which termination order was withdrawn and he (Habib ur Rehman, Driver) was reinstated into service with immediate effect on regular basis vide order dated 03-10-2013. The charge sheet was issued 13-05-2014 which was unjustified when once the inquiry officer declared the appointment as correct, therefore the impugned charge sheet is tainted with malafide intention.

- C) That the post of driver was on regular side of budget as evident from the letter dated 08-04-2010 (**Annexed O**) with attached appendix thus the appellant acted rightly to make appointment of the incumbent on regular basis but the authority has misconceived the matter which is not sustainable.
- D) That no proper inquiry has been conducted and no fair opportunity has been given to appellant to defend his case. Thus the impugned order based on such unfair inquiry has no legal sanctity and of no legal effect and liable to be set aside.
- E) That the inquiry officer recommended minor penalty in its recommendations but respondent No.2 acted contrary to and in arbitrary manner major penalty "Removal from Service" was imposed upon appellant which has no legal justification, unfair, unjust and not sustainable being violative of fundamental rights of appellant.
- F) That the entire proceedings have been conducted in glaring violation of Articles 4 and 10A of the Constitution, 1973 and thus the impugned order based on such illegal proceedings is not warranted.
- G) That the impugned order has been passed at the back of appellant and he was condemned unheard. Thus the impugned order is without lawful authority and void ab initio being violative of the principle of nature justice.
- H) That respondent No.1 has also acted in arbitrary manner and the Departmental Appeal of appellant was not considered within the stipulated period which is unfair and unjust.

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned order dated 08-11-2017 may graciously be declared illegal, without lawful authority, malafide, and violative of principle of natural justice and be set aside and appellant may kindly be reinstated into service with all back benefits.

Any other relief as deemed appropriate in the circumstances of the case may graciously be granted.



Appellant

Through

Khush Dil Khan,
Advocate,
Supreme Court of Pakistan

Dated: 03 / 04 / 2018

Room 4
Acc. DPWD
in KPLK

[Handwritten signature]

Government of NWFP
Directorate General Population Welfare
Post Box No. 235

Annex A

P. 8

F.No. 4(35)/97-07/Admn-Vol-XIV / 10069-10100
Dated Peshawar, the 07/12/ 2009

1. All District Population Welfare Officers,
In NWFP
2. CMO, LRH Training Centre, Peshawar.

Subject: - NOC

I am directed to refer to Establishment Department Govt. of NWFP letter No. SO (S.POOLS&GAD) 1-21/2000 dated 02/12/2009 (copy attached) on the above subject and to state that recruitment process for filling of vacant posts in BPS-1 to BPS-5 may be initiated / completed accordingly at the earliest possible please.

[Handwritten signature]
(Naseem Ullah)

Assistant Director (Admn)

Copy to the:-

1. All Directors, PWD, NWFP, PHQr, Peshawar.
2. PS to Minister for Population Welfare NWFP, Peshawar.
3. PS to Secretary to Govt. of NWFP, PWD, Peshawar.
4. PS to Director General, Population Welfare Department, NWFP, Peshawar.
5. Master file.

[Handwritten signature]

Assistant Director (Admn)

[Handwritten signature]

Annex C P-10
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MINUTES OF THE DEPARTMENTAL SELECTION COMMITTEE'S MEETING HELD ON 26th March, 2010 AT 09:00 A.M FOR THE SELECTION OF DRIVER (BPS-4) ON TEMPORARY BASIS IN DISTRICT POPULATION WELFARE OFFICE, KOHISTAN UNDER THE CHAIRMANSHIP OF DISTRICT POPULATION WELFARE OFFICER, KOHISTAN.

A meeting of the Departmental Selection Committee was held on 26th March, 2010 at 09:00 A.M in the office of District Population Welfare Officer, Kohistan under his Chairmanship for interview in order to recruit suitable candidates against the vacant posts of Driver (BPS-4) in District Population Welfare Office, Kohistan on temporary basis as per Government of NWFP policy / prescribed criteria.

a) Driver (BPS-4) 02 Post

The Committee comprising the following officers attended the meeting

1. Mr. Habib-ur-Rehman Sandeela, Chairman
District Population Welfare Officer,
Kohistan.
2. Mr. Bakhtiar Khan, Member-I
District Population Welfare Officer,
Haripur.
3. Mr. Kahisf Fida, Member-II
Superintendent (Admn)
Directorate General,
Population Welfare Department,
NWFP, Peshawar.

The Chairman of Departmental Selection Committee welcomed the members and apprised them about the above available mentioned posts.

Driver (BPS-4)

Total Numbers of 07 applications were received for the post of Driver BPS-4 & all of them attend the interview. One of them was illiterate as well as low age.

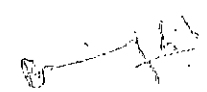
After thorough examination /evaluation of the candidates in accordance with the prescribed criteria the below 02 candidates were recommended for selection against the available two post of Driver BPS-04.

S.No	Name of Candidate, Father Name with Qualification	Domicile	Marks obtained	Remarks
1	Hazrat Bilal S/O Ali Akbar, Matric, HTV & PSV license	Kohistan	07	(Selected) (Upper age limit relaxed being in-service Government servant vide Establishment Department Govt. of NWFP Notification NO. SOE-III(E&AD)2-1/2007 dated 1.03.2008).
2	Habib-ur-Rehman S/O Abdur Rehman. Matric, LTV license	Kohistan	06	(Selected)

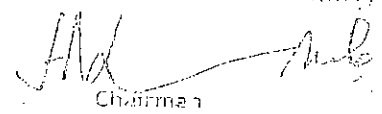
The meeting ended with mutual vote of thanks.



Member
Mr. Bakhtiar Khan,
District Population Welfare Officer,
Haripur.



Member-II
Mr. Kahisf Fida,
Superintendent (Admn)
Directorate General,
Population Welfare Department,
NWFP, Peshawar.



Chairman
Mr. Habib-ur-Rehman Sandeela,
District Population Welfare Officer,
Kohistan.

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Statement showing list /status of Candidates interviewed on 26-3-2010 by the selection committee for recruitment to the posts of Drivers BPS-4 under the DPW-OFFICE Kohistan (according to advertisement in Daily Cheeta & Shemla dated 7-2-2010)

S.N o.	Name.	Father/Husband Name	C.N.I.C No.	Complete Home Address.	Domicile	D.O.Birth.	Qualif.	Interview Marks					Remarks/Short coming.	
								Licence Yes/No	Clas.	Mem	Mem	Grand Total.		
1	Shardil	Kachkol	13401-2859567-3	Vill. Sco Kohistan		17/1967		LTV	0	0	0	0	0	not due to un-educatd
2	Fazal Robt	Samandar Khan	13401-1510417-1	Vill. Sco Kohistan	Kohistan	20-3-1984	Middte	LTV	0.5	1	0.5	2	2	Failed
3	Bakht Rehman	Sharbat	13401-6246019-3	Vill. Sco Kohistan	Kohistan	17/4/1986	Mtric	LTV	0.5	0.5	0.5	2	2	Failed
4	Mohammad Zareen	Mohammad Gulzar	13401-4479248-1	Vill. Jalkol	Kohistan	1/2/1987	Middle	LTV	0.5	1	0.5	2	2	Failed
5	Noor Mohammad	Mohammad Suleemna	13403-0390213-3	Vill. Sco Taj Cheena Super store Kohistan	Kohistan	1/4/1986	Middle	Motor car Jeep	0.5	1	1	2.5	2.5	Failed
6	Habib ur Rehman	Abdur Rehman	13401-9010228-1	Vill. Sco Dessu	Kohistan	2/2/1984	Malric	LTV	3	2	1	6	6	Suitable
7	Hezrat Batal	Ali Akbar	13401-1510687-3	Karakuram House Dessue	Kohistan	14-3-1973	Matric	HTV	3	2	2	7	7	Suitable

MR KASHIF FIDA, Supr. P.O. (Member)

MR. BAKHTIAR KHAN, P.W.O. HARIPUR (MEMBER)

HABIB UR REHMAN SANDEELA, DPWO, KOHISTAN, (CHAIRMAN)

OFFICE OF THE
DISTRICT POPULATION WELFARE OFFICER
KOHISTAN

Dated Kohistan the 19/4/2010

Amer D
P. 12

OFFER OF APPOINTMENT

F.No.1(2)2009-10/Admn: Consequent upon the recommendations of the Departmental Selection Committee you are offered of appointment as Driver BPS-4 on the following terms and conditions:-

1. You shall get pay at the minimum of pay scale BPS-4 (3240-140-7440) including usual allowances as admissible under the rules. You will also be entitled to annual increment as per existing policy.
2. You shall be governed by the NWFP Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and rules made there under.
3. You shall, for all intents and purposes, be civil servant except for purpose of pension or gratuity. In lieu of pension and gratuity, you shall be entitled to receive such amount contributed by you towards Contributory Provident Fund (CPF) Fund alongwith the contribution made by Government to your account in the said fund, in the prescribed manner.
4. Your employment is purely temporary as per Govt: rules / policy your services are liable to be terminated without assigning any reason at fourteen (14) days notice or on the payment of 14 days salary in lieu of the notice. In case you wish to resign at any time, 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.
5. You shall, initially, be on probation for a period of one year extendable upto two years.
6. You shall produce a medical certificate of fitness from Medical Superintendent/ Executive District Officer (Health), Kohistan before reporting yourself for duty as required under the rules.
7. You have to join duty at your own expenses.
8. If you accept the above terms and conditions, you should report for duty to the District Population Welfare Officer, Kohistan within 15 days of the receipt of this offer failing which your appointment shall be considered as cancelled

(Habib-ur-Rehman Sandeela)
District Population Welfare Officer,
Kohistan

Mr. Habib-ur-Rehman S/O Abdur Rehman,
Vill: Sco Dassu.

Copy forwarded to the:-

1. District Accounts Officer, Kohistan.
2. PS to Director General, PWD, NWFP, PHQr, Peshawar
3. Accounts Assistant (local), DPW Office, Kohistan.

District Population Welfare Officer,
Kohistan

Annex: E

P.13

GOVERNMENT OF KHYBER PAKHUNKHWA
POPULATION WELFARE DEPARTMENT
POST BOX NO. 235
FC TRUST BUILDING SUNEHRI MASJID ROAD
2ND FLOOR PESHAWAR CANTT.

F.No.4(35)2012-I3/Admn.

Dated Peshawar, the 15/6/2013

To

The District Population Welfare Officer
Kohistan

Subject:- TERMINATION OF SERVICES.

I am directed to enclose herewith specimen letter regarding termination of services of the following Addl: RH employees of your district recruited against the posts of Addl: RH Project to be completed on 30.6.2013.

1	Sadaf Rani	FWA(F)	05	Kohistan
2	Habib-ur-Rehman	Driver	05	-do-
3	Seema Younas	Helper	01	-do-

The same may be signed and served to the concerned employees before 15.06.2013 under intimation to this Directorate.

(Kasirif Fida)

Assistant Director (Admn)

Copy to:-

PS to Director General, PWD KPK, Peshawar.

Assistant Director (Admn)

OFFICE OF
THE DISTRICT POPULATION WELFARE OFFICER
KOHISTAN

Annex F
P. 14

F.No.1 (2)/2012-13/Admn

Dated Kohistan, the 5/6/2013

To

Mr. Habib-ur-Rehman
S/O Abdur Rehman
Driver, BPS-4,
District Population Welfare Office
Dassu, Kohistan

Subject: TERMINATION OF SERVICES

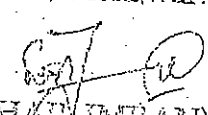
The Services of Mr. Habib-ur-Rehman S/O Abdur Rehman appointed as Driver, BPS-4 under Adl-RH project shall stand terminated w.e.f. 30/6/2013 on the completion of the project.

This may be considered as 15 days prior notice as per project policy of Khyber Pakhtunkhwa.

(SOHAIL/IMRAN)
District Population Welfare Officer
Kohistan

Copy forwarded to the:

1. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Population Welfare Department, Peshawar.
- ✓ 2. PS to Director General, Population Welfare Department, Peshawar.


(SOHAIL/IMRAN)
District Population Welfare Officer
Kohistan

Oh

Government of Khyber Pakhtunkhwa,
Directorate General Population Welfare
Post Box No. 235

FC Trust Building Sunehri Masjid Road,
Peshawar Cantt. Ph: 091-9211536-38

Annex: G
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To,

F.No.1(17)/2013/DT:-
Dated Peshawar the 13/9/2013.

The Director General,
Population Welfare Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: - INQUIRY REPORT REGARDING TERMINATION OF MRS. SADAF RANI, EX-FWA (F) & MR. HABIB-UR-REHMAN, EX-DRIVER OF DISTRICT KOHISTAN

In compliance of office order No. 4 (35) / 2012 / Admn / MSU/Additional RHS dated 19-08-2013, the inquiry report (02 pages) alongwith annexures A to H is submitted for further necessary action please.

(Nasim Ullah)

Assistant Director (FWC)

Copy forwarded to the:-

1. Assistant Director (Admn), Peshawar with reference to his office order referred to above.

Assistant Director (FWC)

On

-1-

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**INQUIRY REPORT REGARDING TERMINATION OF MRS. SADAF RANI EX-FWA (F)
AND MR. HABIB-UR-REHMAN, EX-DRIVER OF DISTRICT KOHISTAN**

In pursuance of office order No. 4(35)/2012/Admn/MSU/Addl:RHS dated 19/8/2013, to investigate recruitment and status of Mrs. Sadaf Rani, Ex-FWA (F) of DPW Office Kohistan, the undersigned also investigate the case during the visit of physical verification of medicine on 27/8/2013. In addition, as per directives of the competent authority conveyed through Deputy Director (Admn) on phone dated 26-08-2009 to investigate the case of Mr. Habib-ur-Rehman S/O Abdur Rehman, Ex-Driver, BPS-4 terminated in pursuance of closure of Additional RH Project.

Back Ground:-

Mrs. Sadaf Rani, Ex-FWA (F) and Mr. Habib-ur-Rehman, Ex-Driver who were appointed in the year 2010 in District Kohistan amongst others and subsequently terminated vide letter of DPWO Kohistan F. No. 1(2)/2012-13/Admn dated 5/6/2013 at Annex-A & B. They approach to the competent authority that they have illegally been terminated.

After going through examination of the following record, advertisement at Annex-C, list of applied candidates Annex-D, copy of minutes of DSC Annex-E, copies of offer of appointment Annex-F, pay slip Annex-G, and statement of Mrs. Sadaf Rani Annex-H, the undersigned has been observed the following points:-

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Findings:-

1. The advertisement at Annex-C has not mentioned the word project as well as breakup of the posts.
2. Out of 7 number FWA (F) so recruited, Mrs. Sadaf Rani Stands at S.No. 06 of the merit list placed at Annex-E, although she was supposed to be at S.No. 1 of the merit list as per record and statement of Mrs. Sadaf Rani placed at Annex-H.
3. The offer of appointments issued to both the appellants at Annex-F issued as a regular civil servant and no word of Additional RH Project is mentioned.

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P.17 435

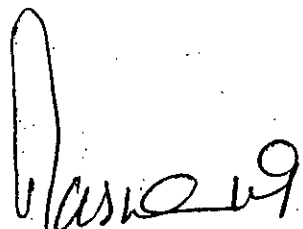
2

4. Pay slips of the official at Annex-G shown that C.P fund and other deduction have been made which cover them as regular employees.
5. Minutes at Annex-E also silent as there is no breakup of the regular and project post, nor any further explanation.
6. Mrs. Sadaf Rani at S.No. 6 although supposed to be at S.No. 01 of the merit list deserves for regular FWC post.
7. Simply their posting at Additional RHSC-A, cannot determine them as project employees.

Recommendations:-

1. The above facts make the termination order of Mrs. Sadaf Rani & Mr. Habib-ur-Rehman, Ex-Driver as null and void having no legal status; hence it is recommended that their termination order may be withdrawn to avoid any litigation for the department.
2. Action is also proposed against those officers who have concealed the factual position and violated the rules.

01


Naseem Ullah

Assistant Director (FWC)

- 2 -

Amir H
P. 18

POPULATION WELFARE DEPARTMENT
OFFICE OF THE DISTRICT POPULATION WELFARE OFFICER
DASSU KOHISTAN

Dated Kohistan the 03/10/2013

No.1 (2)/2013-14/Admn


OFFICE ORDER

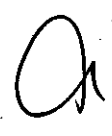
In compliance with Assistant Director (Admn) Population Welfare Department letter F.No.4 (35)/2012/Admn/MSU-RHS dated 02/10/2013, the letter of termination of services served to Mr.Habib-ur-Rehman Driver vide this office letter F.No.1 (2)/2012-13/Admn dated 05/8/2013 is hereby withdrawn with immediate effect and the said Driver is reinstated into service from the date of termination being appointed on regular basis instead of Additional RH Project.

District Population Welfare Officer
KOHISTAN

Copy to:-

1. PS to the Director General Population Welfare Deptt: Peshawar for information.
2. District Account Officer Kohistan for information and further necessary action please.
3. Assistant Director (Admn) Population Welfare Deptt: Peshawar for information.
4. Official concerned for information.


(SOHAIL IMRAN)
District Population Welfare Officer
KOHISTAN



70
CHIEF MINISTER'S SECRETARIAT INVESTMENT PROMOTION CELL
KHYBER PAKHTUNKHWA PESHAWAR

Annex: 1 P. 19
No. SO/IPC/CMS/General//1-21/2013/ 4051

Dated Peshawar: 13-05-2014

To

Mr. Habib-Ur-Rehman,
The then District Population Welfare Officer, Kohistan,
Now posted as Dy. District Population Welfare,
Officer (Non-Tech), Mardan.

Subject:

CHARGE SHEET AND STATEMENT OF ALLEGATIONS-
DISCIPLINARY PROCEEDING AGAINST MR. HABIB-UR-
REHMAN SANDEELA(EPS-17), THE THEN DPW OFFICER,
KOHISTAN, NOW POSTED AS DY. DISTRICT POPULATION
WELFARE OFFICER, MARDA..

With reference to the letter No.SOE (PWD) 1-81/2011/PF/2320-23 dated 04th November, 2013, pertaining to the above cited subject you are hereby directed to appear in person on 20-05-2014 at 11:00 am for recording your written statement / defence.

2. In case of non-appearance by you, it will be considered that you have no written defence to be recorded with reference to the charge sheet. (Copy enclosed for your information and necessary action) and enquiry report will be furnished to Competent Authority.

Deputy Secretary
Chief Minister's Secretariat

Copy to:-

1. DG Population Khyber Pakhtunkhwa with the request to inform Mr. Habib-ur-Rehman.
2. Mr. Naseem Ullah, Assistant Director Population Deptt.
3. PS to Secretary to Govt. of Khyber Pakhtunkhwa Population Deptt.

Deputy Secretary
Chief Minister's Secretariat

CHARGE SHEET

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I, Muhammad Shehzad Arbab, Chief Secretary, Khyber Pakhtunkhwa as competent authority, hereby charge you, Mr. Habib-ur-Rehman Sandeela (BPS-17), Ex-District Population Welfare Officer (BPS-17) as follows:

That you, while posted as District Population Welfare Officer, Kohistan with effect from 13-01-2010 to 01-10-2010 committed the following irregularities:

- (i) You appointed one Habib-ur-Rehman S/O Abcur Rehman as driver (BPS-4) on regular basis against the project post.
- (ii) This was an irregular recruitment, which has now put the Department in embarrassing position.

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

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/inquiry committee as the case may be.

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

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.


CHIEF SECRETARY
Khyber Pakhtunkhwa
Competent Authority

Mr. Habib-ur-Rehman
The then District Population Welfare Officer, Kohistan
Now posted as Dy. District Population Welfare
Officer (Non-Tech), Mardan

Received 15/5/2014
Hd 15/5/2014



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DISCIPLINARY ACTION

I, Muhammad Shehzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, am of the opinion that Mr. Habab-ur-Rehman Sandeela (BPS-17), the then DPW Officer, Kohistan now posted as Deputy District Population Welfare Officer (Non-Tech), Mardan has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011:

STATEMENT OF ALLEGATIONS

That he while posted as District Population Welfare Officer, Kohistan with effect from 13-01-2010 to 01-10-2010 committed the following irregularities: -

- (a) He appointed one Habib-ur-Rehman S/O Abdur Rehman as driver (BPS-4) on regular basis against the project post.
- (b) This was an irregular recruitment, which has now put the Department in embarrassing position.

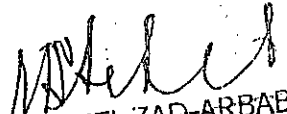
For the purpose of inquiry against the said accused with reference to the above allegations, the inquiry officer / inquiry committee, consisting of the following is constituted under rules 10(1) (a) of the abid rules.

- (i) Masood Zain
- (ii) _____

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

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




(MUHAMMAD SHEHZAD-ARBAB)
CHIEF SECRETARY,
Govt: of Khyber Pakhtunkhwa
Competent authority

To,

The Enquiry Officer,
Deputy Secretary,
Chief Minister Secretariat,
Khyber Pakhtoonkhwa, Peshawar.

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Annex "J"
P. 22

Subject: Charge Sheet

Respected Sir,

With reference to Charge Sheet dated: Nil received through your good self letter No. SO/IPC/CMS/General//1-21/2013/4061, dated: 13-05-2014, respectfully Shweth as under:-


1. The statement of allegations, as mentioned in the charge sheet in last Para, is not forthcoming with the charge sheet.
2. Regarding charge no. 1, it is stated that the Appointment Order, dated: 19-04-2010, signed by me of Mr. Habib ur Rehman as a Driver, does not contain any where any hint of appointment on regular basis. The above said order at Annex "1", contrary to the allegations, shows that the appointment is on temporary basis and liable to termination without assigning any reason on 14 days notice or in lieu thereof forfeiture of 14 days pay. Hence, the charge is ab initio unfounded, frivolous and concocted. The selection committee contained 2 other members apart from undersigned, (1) District Population Welfare Officer, Haripur and the other rep of Directorate General Population Welfare Office, Peshawar. Both of these officers did not advise me in Writing or verbally specifying terms and conditions of appointments other than contained in the office order. If in the view of administrative department I was guilty of appointment on regular basis against project post then the other two member of the selection committee were equally responsible for this allegation. I have been charged for on this account but the other two members of the committee were set free, this clearly shows the act of administrative department as biased & Unjust. There were no such instructions for appointment on project posts under specific terms and conditions provided to the undersigned by the Administrative department as well as the Directorate General




3)

standard one for me and another for my successor. I appointed the Driver on temporary basis while my successor in office ordered to reinstate the above said driver on regular basis. P-13 P-22

4. If at all it is correct, as alleged in the charge sheet, the appointment of aforesaid Driver was ordered on regular basis by the undersigned (although it is not) the same has been admitted by the Population Welfare department by reinstatement of Driver on regular basis. Now where the charge levelled against me stands. The simple reply is "No where".
5. I may kindly be provided chance of personal hearing.


(Habib ur Rehman Sandeela) 26/9 2014
Dy: Distt: Population Welfare Officer,
Mardan (under suspension)



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE GENERAL POPULATION WELFARE
Plot No.18, Sector E-8, Phase-VII, Hayatabad, Peshawar

P-14

Annex: 14

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F.No.4(21)/2017/Admn

Dated Peshawar the 15/6/2017


To,

Mr. Habib-Ur-Rehman,
Ex-DPWO Kohistan, now DDPWO Haripur.

Subject:- INITIATION OF DISCIPLINARY PROCEEDINGS AGAINST MR. HABIB-UR-REHMAN (BPS-17), THE THEN-DPWO, KOHISTAN/ SHOW-CAUSE-NOTICE

I am directed to refer to Admn Department letter No. SOE (PWD) 1-81/2016/PF/3793-95 dated 09.06.2017 on the above noted subject and to convey you the show cause notice issued to you by the Chief Secretary, Khyber Pakhtunkhwa in the irregular appointment case of Mr. Habib-ur-Rehman, S/O Abdur-Rehman, during your period as DPWO Kohistan.

You are further directed to furnish this office the acknowledgement receipt of this show cause within 03-days for onwards submission to the Admn Department.


(Hidayat Khan)
Deputy Director (Admn)

Copy forwarded to the:-

1. Section Officer (Estab), w/r to his letter as quoted above.
2. DPWO Kohistan, to ensure the provision of acknowledgment receipt to return fax within stipulated time.
3. PS to Director General, PWD, KP, Peshawar.
4. PA to Advisor to CM for PWD, KP, Peshawar.


Deputy Director (Admn)

SHOW CAUSE NOTICE

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I, Abid Saeed, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve you, Mr. Habib-ur-Rehman Sandeela (BS-17), the then District Population Welfare Officer, Kohistan now posted as DDPW Officer (Non-Tech), Haripur as follows:-

1. (i) that consequent upon the completion of inquiry conducted against you by the Inquiry Officer for which you were given opportunity of hearing vide communication SO/IPC/CMS/General/1-21/2013 dated 13/05/2015; and
- (ii) on going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defence before the inquiry officer.

I am satisfied that you have committed the following acts commission specified in rule-3 of the said rules:

- (a) That you appointed one Habib-ur-Rehman S/o Abdur Rehman as Driver (BPS-4) on regular basis against the project post;
- (b) This was an irregular recruitment, which has now put the Department in embarrassing position.

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 Khyber Pakhtunkhwa, Govt. Servants (Efficiency and Discipline) Rules, 2011.

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

4. If no reply to this notice is received within seven (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defense 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.



Abid Saeed
01/6/2017
(Abid Saeed)
Chief Secretary
Khyber Pakhtunkhwa

INQUIRY REPORT

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Subject:

CHARGE SHEET AND STATEMENT OF ALLEGATIONS-
DISCIPLINARY PROCEEDING AGAINST MR. HABIB-UR-
REHMAN SANDEELA(BPS-17), THE THEN DPW OFFICER,
KOHISTAN, NOW POSTED AS DY. DISTRICT POPULATION
WELFARE OFFICER, MARDAN.

Consequent upon approval by Chief Secretary, Govt. of Khyber Pakhtunkhwa, the Population welfare Department, tasked the undersigned to probe into the allegations leveled against the then District Population Welfare Officer (DPWO) Kohistan Mr. Habib-ur-Rehman Sandeela (BPS-17) under Efficiency & Discipline Rules 2011, submit findings, and frame recommendations (Annex/A). As per the charge sheet, the accused appointed one Mr. Habib-ur-Rehman S/O Abdur Rehman as driver in BPS-4 on regular basis against the project post. The said recruitment was irregular and subjected the population welfare department to an embarrassing situation. Mr. Naseem Ullah Assistant Director, Population Welfare Directorate rendered assistance during the inquiry proceedings and furnished all the relevant record in the capacity of departmental representative.

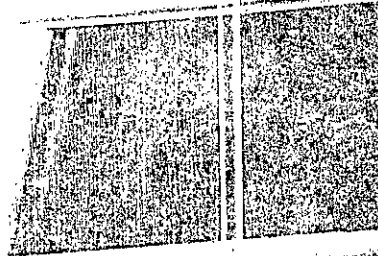
2. As per the record furnished by the concerned department, Mr. Habib-ur-Rehman Sandeela, a BPS-17 Officer of Population Welfare Department was posted as District Population Welfare Officer(DPWO), Kohistan (BPS-18) in his own pay & scale from 13-01-2010 to 01-10-2010 (Annex/B). During the said period he advertised certain posts for recruitment in a local newspaper pertaining to various categories and grades, including that of driver without mentioning the project under which the vacancies were being filled (Annex/C). The Provincial Government delegated the powers of recruitment against posts in BPS-01 to BPS-05 in District population welfare offices to District population welfare officer vide a notification dated 12-2-2004 (Annex/D). The departmental selection committee after performing the due process of selection selected two drivers and one of them was Mr. Habib-ur-rehman (Annex/E). The appointment order issued to him (Annex/F) does not mention the name of the project under which he was appointed. As per the record this post was actually approved in the PC-1 of the project titled "Reproductive Health Services Centers-A Type Expansion Programme - NWFP" sponsored by Ministry of Population Government of Pakistan and reflected in the PSDP(Annex/G). The staffing requirement for a single RHSC is at (Annex/H). The driver should have been employed in the light of office

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Khyber Pakhtunkhwa.

SECTION OFFICER (ESTABLISHMENT)
Phone # 091-9212991



INQUIRY REPORT

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memorandum dated 12th August 2008, issued by regulation wing of Finance division Government of Pakistan. The said document prescribes the terms & conditions for the project staff directly recruited for development projects funded from PSDP(Annex/I). The Directorate General Population welfare vide a letter (Annex/J) forwarded a specimen letter to DPWO Kohistan for termination of services of employees recruited against approved posts of the "Reproductive Health Services Centers-A Type Expansion Programme - NWFP" project at RHSC Kohistan, inclusive of the Driver, Mr. Habib Ur Rehman. Paradoxically the Driver who was recruited in Grade-04 has been shown in Grade-05 in the said letter. The driver made a departmental representation (Annex/K). After a departmental inquiry the Driver was reinstated into the service on regular basis (Annex/L).

3. Mr. Habib-ur-Rehman Sandeela was asked to appear before the inquiry officer to record his written statement. Directorate General Population welfare vide letter dated 3-12-2013(Annex/M) informed that, Deputy District population welfare officer, Bunner has confirmed that Mr. Habib ur Rehman Sandeela is in judicial lockup. Later on the DPWO Bunner was directed by Directorate General population welfare that charge sheet be served upon the accused through jail authorities and accordingly acknowledge receipt of the same (Annex/N). The said order was complied, in response Mr. Habib ur Rehman Sandeela returned the charge sheet in original with the remarks that he is having no record and is not in a position to give reply of the charge sheet and requested that the reply will be given after his bail from Peshawar High court(Swat Branch)(Annex/O).

4. The accused after grant of bail, in response to letter dated 13-5-2014 and 20-05-2014 respectively (Annex/P) submitted his statement which is at (Annex/Q). The para wise reply of the accused and the clarification/remarks are as under:

S No.	Claims by the Accused	Reply/Clarification
1.	<ul style="list-style-type: none"> The appointment order does not contain any hint of appointment on regular basis. The appointment was on temporary basis and liable to 	<ul style="list-style-type: none"> The claim of Mr. Habib ur Rehman Sandeela is not maintainable as the appointment order should have been issued in the light of

a

SECTION OFFICER (ESTABLISHMENT)
Phone # 091-9212991

INQUIRY REPORT

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<p>termination on 14 days Notice.</p> <ul style="list-style-type: none"> The other two members of the selection Committee should also be held responsible for the irregularity. The letter of 2nd July 2008 of Establishment department Govt of NWFP, containing instructions regarding appointment against projects, kept in shelve by the Population welfare department from 2nd July 2008 till 13-6-2012. This letter was forwarded to Director General population Welfare office on 30-5-2012 and subsequently the Director General Population welfare endorsed the same to District Population welfare offices on 13-6-2013. 	<p>memorandum of the Finance division (Annex/I), while categorically mentioning the name of the Project under which the driver was being appointed. Another grave violation is that it was mentioned in the appointment order that the services of the driver would be governed by civil servant act 1973(Annex/F).</p> <ul style="list-style-type: none"> The members of the selection Committee cannot be held accountable as the power of appointment in BPS-01 to BPS-05 were delegated to the District population welfare officers (Annex/D). This claim of the accused is neither logical nor based on facts as the Directorate General of Population welfare has categorically mentioned it its letter that the Policy being circulated is meant for regulating recruitment in approved development Projects under the Provincial Government. i-e those projects that are reflected in Annual development programme of the Khyber Pakhtunkhwa government and approved from the relevant Forum.
<p>2.</p> <ul style="list-style-type: none"> The appointment order of the driver dated 19-4-2010 was endorsed to Director General Population welfare. The Director General remained silent and did not object on the contents of the said order, till the end of my tenure in Office as DPWO Kohistan on 30-9-2010. 	<ul style="list-style-type: none"> The claim of the accused is correct up to some extent, but it needs to be properly investigated as to whether the copy of the order was received by the then Director General Population or otherwise. However this plea does not relieve him of the charge.

On

Khyber Pakhtunkhwa.
SECTION OFFICER (ESTABLISHMENT)
Phone: 091-9212991

INQUIRY REPORT

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5. FINDINGS:-

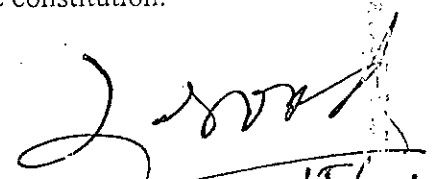
- Mr. Habib-Ur-Rehman Sandeela the then District Population Welfare Officer, Kohistan is guilty of misconduct in terms of rule-2 clause L (vi) of efficiency & discipline Rules 2011 by making irregular appointment against a project post, and is liable to be proceeded under the said rules.
- The capacity of the employees of the Population welfare department is very low in realms / areas of Public sector Finance and Planning.

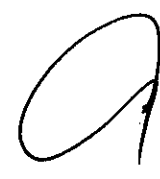
6. RECOMMENDATIONS:-

The accused District population Welfare Officer Mr. Habib-Ur-Rehman Sandeela (BPS-17) may be imposed Minor penalty under rule-4 clause (a) (ii) of Efficiency and Discipline Rules, 2011 i.e "Withholding for a maximum period promotion or increment subject to a maximum of three years".

7. Other Recommendations:

There is a dire need to build the capacity of the employees of Population welfare department in Public sector Finance & Planning to avoid irregularities and litigation in future. This is of paramount importance owing to devolution under 18th Amendment in the constitution.


(Masood Younas)
Deputy Secretary
15/8/14



SECTION OFFICER (ESTABLISHMENT)
Phone # 091-9212991

Pakhtunkhwa.



GOVERNMENT OF KHYBER PAKHTUNKHWA,
POPULATION WELFARE DEPARTMENT
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

Dated Peshawar the 08th November 2017

P. 33
Annex M

NOTIFICATION

To

The Hon'able Chief Secretary,
Govt: of Khyber Pakhtunkhwa.

Subject:- REPLY TO THE SHOW CAUSE NOTICE

Dear Sir,

Kindly refer to Directorate General Population Welfare Khyber Pakhtunkhwa letter No. 4(21)/2017/Admn dated 15.06.2017 received to me on 16.06.2017 and to submit para-wise reply to the show cause notice as under:-

- (a) That while posted as District Population Welfare Officer (DPWO) Kohistan w.e.f 13/01/2010 to 01/10/2010 some of the posts including 2 posts of drivers were lying vacant in the DPW-Office Kohistan. Prior to my posting as DPWO Kohistan, Assistant Director (Admn), Directorate General of Population Welfare Department, Khyber Pakhtunkhwa issued a letter to all the DPWOs in Khyber Pakhtunkhwa the then NWFP vide letter No 4(35)/97-07/Admn-Vol-XIV/ 10069-10100 dated 07/12/2009 for initiation/ completion of recruitment process for filling of vacant posts in BPS-01 to 05 at the earliest. Those days the whole budget of the department was provided through PSDP without bifurcating the project and non project posts. The Director General, Population Welfare Department and the Administrative Department as well didn't intimate the status of the vacant posts (Whether project or regular). Those days according to handing over note & perspective plan, no clear line was drawn by the department between Civil Servant/Govt Servant belonging to projects but the entire expenditure on the establishment charges was met out of the development budget. The department should also provide a copy of the handing over note and perspective plan 2002-2012 to verify or falsify my contention. In such a situation it was presumed that all posts are regular posts. In this regard the following codal formalities had been completed.
- The Posts were duly advertised in the newspapers.
 - Proper Call letters for test and interview were issued to the candidates.
 - Request was sent to Director General, Population Welfare Department, Khyber Pakhtunkhwa for nominating departmental representative as member of the Departmental Selection Committee (DSC).
 - Due to non availability of other officer in DPW-Office Kohistan, the Director General, Population Welfare Department also requested to nominate 2nd member as representative of the appointing authority.
- 2) The Director General, Population Welfare Department although nominated two officers but didn't intimate regarding availability of any project post at DPW-Office Kohistan nor any copy of PC-1 or project policy was provided to DPW-Office Kohistan/ the undersigned. The recruitment was neither made in project mode nor through Project Selection Committee. Post if any pertaining to the project was likely to be filled through Project Selection Committee under project policy and also was likely to be intimated by the Administrative department/ Director General, Population Welfare Department, Khyber Pakhtunkhwa along with provision of PC-1 and

P-18
P-17
Annex L P. 27
P. 31

On

To: *Am/Ala*
The Honorable Chief Minister,
Khyber Pakhtunkhwa, Peshawar

Annex N
P 34

Subject: *Received Special on 7/12/17*

APPEAL AGAINST IMPUGNED NOTIFICATION NO: SOE(PWD)1-81/2013/PF DATED 8th NOVEMBER, 2017.

Respected Sir,

2554
7/12/17
It is humbly requested that the undersigned was appointed in Population Welfare Department in the year 1982. After serving for 35 years in Population Welfare Department, on different posts, the undersigned was put in **Hot Waters** time and again by one way or the other. Some of the officers of the Department are so personal that number of baseless cases prepared and managed against the undersigned with mala fide intentions just to tease and give me mental torture.

06-12-2017
2. While posted as District Population Welfare Officer Kohistan, during the year 2010, the lower staff of District Office brought in my notice that letter No:4(35)/97-2007/ADMN-Vol-XIV/10069-10100 dated 7.12.2009 (**Annex:1**). Wherein, all the DPWOs were directed for the initiation/completion of the recruitment process from BPS 1-5 at the earliest possible time. At that time some of the posts including that of Drivers were lying vacant which were than advertised and accordingly recruitment were finalized and offer of appointment were issued to the appointees including two drivers. Those days salary of all the employees was met out of Development Budgets and employees were civil servants. Neither I was Project Director of any project nor I have made any recruitment against any project post on the ground that neither any separate PC-1 was under execution nor any PC-1 or Project post were conveyed by the Secretary Population Welfare Department/ Director General Population Welfare Department. After serving up to June 2013, one driver vide letter No: 4(35)/2012-13/Admn dated 31.5.2013 (**Annex:2**) namely Mr. Habib-ur-Rehman S/O AbdurRehman was terminated by the DPWO Kohistan vide his letter No:1(2)/2012-13/Admn dated 5.6.2013 (**Annex:3**), on the instruction of Director General Population Welfare Department at annex stated above.

3. But the said Driver was reinstated in to service vide DPW Kohistan office order No: 1(2)/2013-14/Admn dated 3.10.2013 (**Annex:4**) in pursuance to the letter No:4(35)/2012/ADMN/MSU/RHS dated 2.10.2013 (**Annex:5**) issued by Assistant Director Admn of Directorate General Population Welfare Department on regular basis from the date of termination with the withdrawal of termination order of the said driver.

After laps of 04 years of appointments of said driver, a charge sheet without statement of allegation was issued to the undersigned on 13.5.2014, leveling therein two charges against me which are reproduced as under:-

- i) I appointed one Habib-ur-Rehman S/O AbdurRehman as Driver (BPS-4) on regular basis against the project post.
- ii) This was an irregular recruitment, which has now put the department in embarrassing position.

More/2..

Honorable Sir,

4. The undersigned denies the charges of regular recruitment against project post and owned recruitment against regular post like that of other employees working against other post who are continuously serving the department. Sir, It is astonishing to bring to your kind notice that Two officers in the Administration section of Directorate General managed to initiate inquiry against me on the basis of personal grudges and astonishingly the said officer was acting as representative of Directorate General during the course of formal inquiry. The inquiry officer and the departmental Rep so tortured me and pressurized me that I could not defend myself in a fair and free atmosphere and rather I was forced to write my statement and signed just to copy the draft statement produced by the departmental representative. It is also added that one Mr. Naseemullah Assistant Director, Directorate General Population Welfare Department was also accompanied by the departmental representative during my personal hearing without any nomination by the department.

5. It is also to add that Honorable Chief Secretary did not hear me in person and nominated Secretary Establishment Department, who was working in the P&D Department in the past with the Departmental Representative, who was favoring Mr. Naseemullah, Assistant Director, having personal grudges with me since long.

06-12-2017

6. **Honorable Sir**, The charges on the basis of which, I have been removed from service is in-fact a concocted story against me based on false allegation. The department on **one side** has charged me for regular recruitment against project post and on **other side** termination and then reinstate into service of the said driver against the same post on which he was recruited. If the project post abolished on completion of project on 30.6.2013, then how was he reinstated into service on regular basis against abolished post without having any other regular post of driver BPS-4 in the District population welfare Office Kohistan. If I have been removed from service on the basis of regular recruitment against the project post then what action has been taken against the officers who reinstated a project employee against the same project post in the absence of No regular post and considering the abolished post as regular post against which is still in service.

7. Second charge above is embarrassing for the Department. In this regard I would like to say that is it justified to illegally reinstate a project terminated driver in to service on regular basis without any Lawful authority meaning thereby that the post was not the project post otherwise the concern officer have liable themselves for disciplinary action but no action has been taken against them.

8. **Honorable sir**, I am father of four children having 35 year length of service with 56 year of age and having No other source of income for lively hood of my innocent poor kids who are in the process of getting education. If they are deprived of education by removing me from service, they may not become useful citizen and become liability for country and the nation.

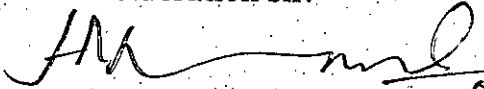
More P/3..

It is therefore most humbly prayed that I may be exonerated from the charges on the following grounds:

- I) In those days all the employees including driver were being paid from one line budget provided by the Federal Govt. out of PSDP allocations and all had the same status. Therefore complying with the direction of the Directorate General Population Welfare Department for initiation/completion of the recruitment process without intimating any separate project or providing me the PC-1 or declaring me as Project Director for the project post is not my fault and the above documents are the project documents and not Law on the basis of which to say that the ignorance from law is no excuse.
- II) I have not put the department in embarrassing situation but complied with the direction of the department which has mentally tortured me and finally suffered me from financial crunch on account of removal from service without having other source of income.
- III) The inquiry officer was directed in the statement of allegation with the approval of the then honorable Chief Secretary to submit recommendation of punishment or other appropriate action against the accused (Statement of allegation has been received under RTI act from the department on 22.11.2017). the inquiry officer has recommended minor penalty under rules-4 clause (ii) of Efficiency and Discipline rules, 2011 i.e withholding for a maximum period promotion or increment subject to maximum of three year" but conversely harsh punishment of removal from service has been awarded.
- IV) In the end your good self is most humbly prayed to look into the matter and convert my removal from service into exoneration from the charges leveled against me with all back benefit.

Respected Sir, I also want to be heard in person please.


Thanking you in anticipation for sympathetic consideration sir.


 (HABIB UR REHMAN SANDEELA) 06/12/2017
 Ex. Deputy Demographer

District Population Welfare Office Mansehra.
Cell No.0336-9143676

Copy to the:-

- 1. Honorable Chief Secretary, Govt. of Khyber Pakhtunkhwa.
- 2. The Secretary, Population Welfare Department, Khyber Pakhtunkhwa.
- 3. The Director General, Population Welfare Department, Khyber Pakhtunkhwa.

g/c




GOVERNMENT OF KHYBER PAKHTUNKHWA,
POPULATION WELFARE DEPARTMENT
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

P. 33
Annex 'M'

Dated Peshawar the 08th November, 2017

NOTIFICATION

No. SOE (PWD) 1-81/2013/PF: Whereas, Mr. Habib-ur-Rehman Sandeela (BS-17), the then District Population Welfare Officer, Kohistan now posted as Deputy Demographer, DPW Office, Mansehra was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Statement of Allegations;

AND WHEREAS, Mr. Masood Younas (PMS-18), Deputy Secretary, Chief Minister's Secretariat, Khyber Pakhtunkhwa was appointed as Inquiry Officer to conduct inquiry against the said officer for charges leveled against him in accordance with rules;

AND WHEREAS, the Inquiry Officer, after having examined the charges, evidence on record and explanation of the accused officer, submitted his report;

AND WHEREAS, on the basis of findings and recommendations of the Inquiry Officer, Show Cause Notice was served upon the accused officer to which he replied;

NOW, THEREFORE, the Competent Authority after having considered the charges, evidence on record, findings of inquiry officer, the reply of the accused officer to the Show Cause and hearing him in person on 23-10-2017, and exercising his powers under Rule-14 (5) (ii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose major penalty of "Removal from Service" upon Mr. Habib-ur-Rehman Sandeela (BS-17), the then DPWO, Kohistan now posted as Deputy Demographer, DPW Office, Mansehra with immediate effect.

SECRETARY
GOVT. OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT

Endst: No. SOE (PWD) 1-81/2013/PF/2295-2306

Dated: 08th November, 2017

Copy forwarded for information & necessary to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. All Administrative Secretaries, Khyber Pakhtunkhwa.
3. Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. Director General Population Welfare Department, Peshawar.
5. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
6. PA to Advisor to the Chief Minister for PWD, Khyber Pakhtunkhwa, Peshawar.
7. PS to Secretary, PWD, Khyber Pakhtunkhwa, Peshawar.
8. District PW-Officers, Kohistan & Haripur.
9. District Accounts Officers, Kohistan & Haripur.
10. Manager, Govt. Printing Press, Peshawar.
11. Officer concerned.
12. Master file.

SECTION OFFICER (ESTD)
Phone No. 091-9223623

Government of NWFP
Population Welfare Department
Post Box No.235

Annex: 0
P.37

Dated Peshawar the 8th April, 2010.

ORDER

No.SO(PW)2-1/2009, In continuation of this Department order of even Number dated 14th October, 2009, Sanction is hereby accorded to the Revised Estimates not exceeding Rs.497.452 million of Regular Programme and Rs.22.236 million for Additional.RHS at Tehsil Level as per details given in the attached statement during the current financial year 2009-10.

The expenditure involved is debit to the functional object classification 07-Health 074-Public Health 074107-Population Welfare Measures Fund No.NC-22066 during the current financial year 2009-10.

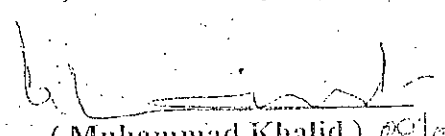
Secretary to Government of NWFP
Population Welfare Department

Endst. No.SO(PW)2-1/2009

Dated Peshawar the 8th March, 2010.

Copy alongwith a copy of the cost statement and breakup is forwarded for information and necessary action to:-

1. Additional Chief Secretary, NWFP, Peshawar.
2. Accountant General, NWFP, Peshawar.
3. The Deputy Director (Audit) Coord, NWFP, Peshawar.
4. The Officer I/C Provincial Budget Section O/O the A.G NWFP, Peshawar.
5. The Director General, Population Welfare Department, NWFP, Peshawar.
6. All District Accounts Officers in NWFP.
7. All District Population Welfare Officers in NWFP.
8. All Medical Officers I/C RHSCs-A in NWFP.
9. The Section Officer (Dev-I) Govt. of NWFP, Finance Department, Peshawar.


(Muhammad Khalid) 08/10
Section Officer (Budget)



P-38

**REVISED BUDGET AND BUDGET ESTIMATES & DETAIL OF SANCTIONED POSTS OF DISTRICT SET
KOHISTAN FOR 2009-10**

S.No.	Description of Posts	BPS	No. of Sanctioned Posts	Object Code	Budget Estimates for 2009-10	Revised Budget 10
1	District P.W. Officer					
2	District P.W. Officer					
3	Deputy District PW Officer (C&T)	18	1	A01101	184800	21819
4	DDPW (Technical)	17	1	A01101	110000	9580
5	Deputy Demographer	17	1	A01101	90000	9580
6	Assistant Dist. P.W Officer	17	1	A01101	90000	9580
7	Accountant					
Sub Total of Pay of Officer:-						
9	Stenographers				474800	246938
10	Stenotypist	12	1	A01151		
11	Projectionist	12	1	A01151	52260	10000
12	Assistant				54120	47000
13	Accounts Assistant					
14	Statistical Assistant	11	1	A01152	51030	8000
15	Senior Clerks	11	1	A01153	49380	44000
16	Storekeeper					
17	Junior Clerk	7	1	A01151	42360	6000
18	Drivers	7	2	A01151	84720	6000
19	Naib Qasid	4	2	A01151	126240	130000
20	Mali/Sweeper	2	1	A01151	48360	60000
21	Chowkidar	2	1	A01151	41760	60000
Sub Total of Pay of Staff:-						
					591990	431000
Regular Allowances						
				New Object	Budget 2009-10	Revised Budget 2010
Senior Post Allowance				A01201		
House Rent Allowance				A01202	290000	141864
Conveyance Allowance				A01203		
Dearness Allowance				A01205	42168	45787
Washing Allowance				A01207	1800	600
Dress Allowance				A01208	2100	500
Special Additional Allowance				A01209	14964	16751
Medical Allowance				A01217	72000	46193
Entertainment Allowance				A01224		
Un Attractive Area Allowance				A01233	36000	150849
Deputation Allowance				A01236		
Fixed TA				A01234		
Special Relief Allowance (2005)				A01244	33816	37149
Non Practice Allowance				AO1252		
15 % Adhoc Relief (2005)				A01262	33816	37149
Adhoc Relief (2009)					195000	103928
Fire Wood Allowance				A01284		
Intigrated Allowance				A01270		
Housing Subsidy Allowance				A012aa		
Sub Total:-					721664	580770
Other Allowances						
Honoraria						
Medical Charges				A01273		
Leave Salary				A01274	20000	84132
				A01278	10000	0
Sub Total:-					30000	84132
Grand total of Establishment Charges					1818454	1342840

A

Q

District Setup Kohistan

- 2 -

Operating Expenses			
Communication	A03	763,000	1,309,115
Postage & Telegraph	A032	44,000	27,615
Telephone & Trucnk Call	A03201	3,000	1,000
Courier & Pilot Services	A03202	40,000	25,615
	A03205	1,000	1,000
Utilities	A033	40,000	112,500
Gas	A03301		
Water	A03302		
Electricity	A03303	20,000	42,500
Hot & Cold Weather Charges	A03304	20,000	70,000
Occupancy Costs	A034	144,000	144,000
Rent of Office Building	A03402	144,000	144,000
Registration	A036		
Registeratin	A03603		
Travel & Transportation	A038	300,000	435,000
Travelling Allowance (Govt. Servant)	A03805	100,000	200,000
Transportation of Goods	A03806	10,000	15,000
POL Charges	A03807	190,000	220,000
Conveyance Charges	A03808		
CNG Charges (Government)	A03809		
General	A039	80,000	115,000
Stationery	A03901	25,000	40,000
Printing and Publication	A03902	20,000	30,000
Conference/Seminars/Workshop	A03903		
Newspapers, Periodical & Books	A03905		
Uniform & Protective Clothing	A03906		
Advertising & Publicity	A03907	15,000	15,000
In Country Training	A03915		
Exhibition Fairs & Other Nation Clebration	A03918		
Payment to other for service rendered	A03919		
Purchase of Drugs and Medicines	A03927		
Others	A03970	20,000	30,000
FINANCIAL ASSISTANT	A05		
Financial Assistants	A05216		
Physical Assets/Purchase of Durable Goods	A09		220,000
Purchase of Transport	A09501		
Purchase of Machinery	A09601		200,000
Purchase of Furniture	A09701		20,000
Purchase of Other Assets	A09801		
Purchase of Land and Building	A091		
Purchase of Land and Building	A09101		
Repair & Maintenance	A13	155,000	255,000
Transport	A13001	120,000	220,000
Machinery & Equipment	A13101	20,000	20,000
Furniture and Fixture	A13201	10,000	10,000
Computer equipment	A13701	5,000	5,000
Grand Total of Estt: & Operating Expenses:-		2,581,454	2,651,955

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REVISED BUDGET, BUDGET ESTIMATES & DETAIL OF SANCTIONED POSTS OF ADDITIONAL RHS KOHISTAN FOR 2009-10 ✓

S.No.	Description of Posts	BPS	No. of Sanctioned Posts	Object Code	Budget Estimates for 2009-10	Revised Budget for the year 2009-10
1	Women Medical Officer	17	1	A01101	118200	0
Sub Total of Pay of Officer:-					118200	0
2	Theatre Nurse	11	1	A01151	49380	12000
3	Family Welfare Counsellor	11	1	A01151	49380	12000
4	Accounts Assistant	11	1	A01151	49380	12000
5	Family Welfare Worker	8	1	A01151		
6	O.T Technical	7	1	A01151	43500	42650
7	Family Welfare Assistant(Female)	5	1	A01151	40080	15000
8	Dirver	4	1 ✓	A01151	38880	15000
9	Aya/Helper	1	1	A01151	35640	10000
10	Sweeprss	1	1	A01151	35640	10000
Sub Total of Pay of Staff:-					341880	128650

Regular Allowances	Now Object	Budget 2009-10	Revised Budget for the year 2009-10
Senior Post Allowance	A01201		
House Rent Allowance	A01202	20000	20000
Conveyance Allowance	A01203		
Dearness Allowance	A01205	15000	15000
Washing Allowance	A01207	720	720
Dress Allowance	A01208	1260	1260
Special Additional Allowance	A01209		
Medical Allowance	A01217	48000	22500
Entertainment Allowance	A01224		
Un Attractive Area Allowance	A01233	15000	15000
Deputation Allowance	A01236		
Fixed TA	A01234	3000	1500
Adhoc Relief (2005)	A01244		10000
Non Practice Allowance	A01252		
15 % Relief Allowance(2005)	A01262	10000	0
Adhoc Relief (2009)	A01284		
Intigrated Allowance	A01270		
Sub Total:-		112980	85980
Other Allowances			
Honoraria	A01273		
Medical Charges	A01274		5000
Leave Salary	A01278		
Sub Total:-		0	0
Grand total of Establishment Charges		573060	214630

Secretary
 Peshawar
 Peshawar

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Add: RHS Kohistan

- 2 -

Operating Expenses		355,000	202,375
Communication	A032	10,000	
Postage & Telegraph	A03201		
Telephone & Trucnk Call	A03202	10,000	
Utilities	A033	20,000	20,000
Gas	A03301		
Water	A03302		
Electricity	A03303	10,000	
Hot & Cold Weather Charges	A03304	10,000	20,000
Occupancy Costs	A034		
Rent of Office Building	A03402		
Registration	A036		
Registeratin	A03603		
Travel & Transportation	A038	55,000	
Travelling Allowance (Govt. Servant)	A03805	15,000	
Transportation of Goods	A03806	25,000	
POL Charges	A03807	15,000	
Conveyance Charges	A03808		
CNG Charges (Government)	A03809		
General	A039	100,000	20,000
Stationery	A03901	20,000	
Printing and Publication	A03902	25,000	
Uniform & Protective Clothing	A03906	15,000	
Advertising & Publicity	A03907	20,000	
In Country Training	A03915		
Purchase of Drugs and Medicines	A03927		
Others	A03970	20,000	20,000
FINANCIAL ASSISTANT	A05		
Financial Assistants	A05216		
Physical Assets/Purchase of Durable Goods	A09	170,000	162,375
Purchase of Transport	A09501		
Purchase of Machinery	A09601	100,000	100,000
Purchase of Furniture	A09701	50,000	40,000
Purchase of Other Assets	A09801	20,000	22,375
Purchase of Land and Building	A091		
Purchase of Land and Building	A09101		
Repair & Maintenance	A13		
Transport	A13001		
Machinery & Equipment	A13101		
Building Structure	A024		
Office Buildings	A12401		
Repair of Buildings	A-13301		
Transfer Payment	A060		
IRC A Type	A06470		
Entertainment & Gift	A063		
Entertainment Charges	A06301		
Grand Total of Estt: & Operating Expenses:-		928,060	417,005

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WAKALAT NAMA

IN THE COURT OF K. P. K Service Tribunal, Peshawar

Habib ur Rehman

Sandeela Appellant(s)/Petitioner(s)

VERSUS

The chief minister

Appellate Authority and others Respondent(s)

I/We Habib ur Rehman do hereby appoint **Mr. Khush Dil Khan, Advocate** Supreme Court of Pakistan in the above mentioned case, to do all or any of the following acts, deeds and things.

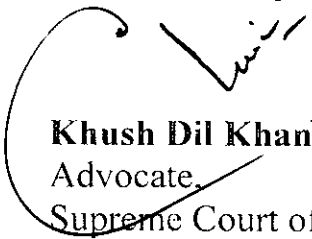
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

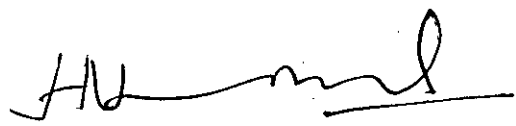
AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by


Khush Dil Khan,
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion
Off: Tel: 091-2213445


Signature of Executants

52

IN THE HONORABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR.

In Appeal No.456/2018.

Habib-ur-Rehman Sandeela Ex: DDPWO Kohistan/DDPWO Manshera (Appellant)

VS

Govt. of Khyber Pakhtunkhwa & others.....(Respondents)

JOINT PARA-WISE REPLY/COMMENTS ON BEHALF OF THE
RESPONDENTS NO.2 to 4.

Respectfully Sheweth,

Preliminary Objections.

1. That the appellant has got not locus standi to file the instant appeal.
2. That the Tribunal has no jurisdiction to adjudicate the matter.
3. That the instant appeal is baḍ in the eye of law.
4. That the appeal is based on distortion of facts and is not maintainable in its present form.
5. That the appellant has come to the Tribunal with un-cleaned hands.
6. That the appellant has been estopped by his own conduct to file the appeal.
7. That the appellant has no cause of action or locus standi.

On Facts.

1. Pertains to record need no comments.
2. Pertains to record need no comments.
3. Pertains to record need no comments.
4. Pertains to record need no comments.
5. Pertains to record need no comments.
6. Incorrect that disciplinary proceeding initiated vide letter No. SO/IPC/CMS/GENERAL/1-21/2013, dated 13-05-2014 and inquiry report submitted dated 15-06-2014 was kept pending as the appellant was already under disciplinary proceeding in another case as detail in Para-5 of the Service appeal. Upon completion of the said inquiry the instant disciplinary proceedings were re-opened and show cause was served accordingly.
7. Incorrect verbatim distortion of facts the appellant was awarded major penalty of Removal from Service after observing all codal formalities.

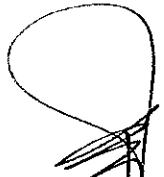
On Grounds

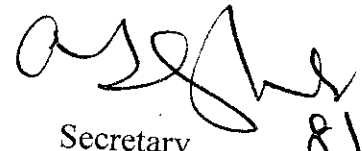
- A. Incorrect. As per record one post of Driver was laying vacant in the project titled RHS-A- expansion programme NWFP sponsored by the Ministry of Population Welfare Govt: of Pakistan reflected in the PSDP and not on current side. The driver should have been employed in the light of Office memorandum dated 12-08-2008, issued by Regulation wing of Finance Division Government of Pakistan. The appellant concealed the actual status of the post from the department selection committee and advertised the project post on regular/current side.
- B. Incorrect. Mr. Habib-ur-Rehman (Driver) was appointed as per advertisement wherein it was not mentioned as the project post. Therefore he was rightly been re-instated in to government Service as per **locus poenitentiae** . But the appellant being appointing authority concealed the status of the post.

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- C. Incorrect. Based on distortion of facts as explained in ground B above.
 - D. Incorrect the appellant was rightly removed from service after fulfillment of all codal formalities.
 - E. Incorrect. The appellant was served show cause notice by the competent authority for removal from Service to which the appellant replied. And the competent authority exercising his power under rule-14 (5) (ii) of Khyber Pakhtunkhwa Government Servant (efficiency and discipline) rules, 2011 imposed major penalty of Removal from Service as per show cause notice.
 - F. Incorrect all action taken according to law rules and regulation.
 - G. Incorrect. Personal hearing of appellant was held on 23-10-2017.
 - H. Incorrect. The appellant was treated according to Law.

PRAYER:-

Keeping in view the above, it is prayed that the instant appeal may kindly be dismissed with cost.


Director General,
Directorate General, Population Welfare
Respondent No 4


Secretary
Population Welfare Department,
Government of Khyber Pakhtunkhwa
Respondent No 3

8/10/18

IN THE HONORABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR.

In Appeal No. 456/2018.

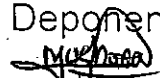
Habib ur Rehman Sandeela Ex: DDPWO Kohistan / DDPWO
Mansehra. Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa & others
..... Respondents

AFFIDAVIT

I, Mr. Sagheer Musharraf, Assistant Director (Litigation), Directorate General of Population Welfare Department do solemnly affirm and declare on oath that the contents of Para-wise comments / reply on behalf of respondents are true and correct to the best of my knowledge and available record and nothing has been concealed from this Honorable Tribunal.

Deponent

Sagheer Musharraf
Assistant Director
(Lit)

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 108 /ST

15/ 01 / 2019


To

The Secretary Population Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - JUDGMENT IN APPEAL NO. 456/2018, MR. HABIB UR RAHMAN.

I am directed to forward herewith a certified copy of Judgement dated 03.01.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.