

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No 536/2013

Date of Institution... 06.05.2013

Date of decision... 05.10.2017

Muhammad Farooq, Ex-Secretary Union Council Gwalerai/Beha District Swat.
... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Local Government
Election and RDD, Peshawar and 3 others. ... (Respondents)

MR. IMDADULLAH,
Advocate

...

For appellant.

MR. MUHAMMAD ZUBAIR,
District Attorney

...

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN,

...

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service vide impugned order dated 17.08.2012, against which he filed departmental appeal on 14.09.2012 which was rejected on 07.02.2013 and thereafter, the appellant filed the present service appeal on 06.03.2013. The charge against the appellant was unauthorized withdrawal of

government money from the bank through bogus signature of the Sub Divisional Magistrate Matta on the cheque.

ARGUMENTS

3. The learned counsel for the appellant argued that though the appellant had confessed his guilt in reply to the charge sheet on 26.7.2012 but he had fully explained the circumstances under which he was forced to withdraw the public money from the National Bank and which was promptly re-deposited by him. That the appellant should have been dealt with lenient due to his truthful confession.

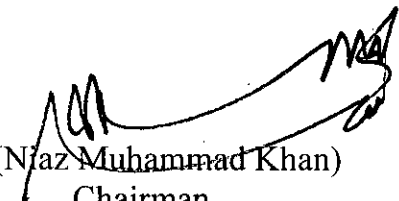
4. On the other hand, the learned District Attorney argued that the matter was reported by the Sub Divisional Magistrate on 27.4.2012 to the DCO. That a formal enquiry was conducted after framing charge sheet and statement of allegations. That the appellant in reply to the charge sheet confessed his guilt. That he was then served with show cause notice and a copy of enquiry was also supplied to him and then the authority rightly imposed the penalty of dismissal from service on the appellant.

CONCLUSION

5. The learned counsel for the appellant has not pointed out any illegality or irregularity in the departmental proceedings. His only stress was taking lenient view in the circumstances which forced the appellant to commit the act charged with. This Tribunal while going through the circumstances of the case is of the view that the appellant had committed a criminal act and the department had already taken a lenient view by not initiating criminal proceedings against the appellant. The appellant is not entitled to any other leniency.

6. In view of the above discussion, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


(Gul Zeb Khan)
Member


(Niaz Muhammad Khan)
Chairman
Camp Court, Swat


ANNOUNCED

05.10.2017

03.04.2017

Clerk of the counsel for appellant present. Mr. Muhammad Zubair, Senior Government Pleader for respondents also present. Clerk of the counsel for appellant requested for adjournment on the ground that his counsel is not available. Adjourned. To come up for arguments on 07.08.2017 before D.B at Camp Court Swat.



(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
Camp Court Swat.

07.08.2017

Appellant present in person and Mr. Muhammad Zubair, District Attorney for the respondents present. Appellant seeks adjournment as his counsel is not in attendance due illness. To come up for arguments on 5.10.2017 before the DB at camp court, Swat.


Member

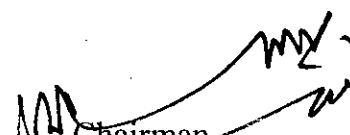

Chairman
Camp court, Swat

05.10.2017

Appellant alongwith counsel and Mr. Muhammad Zubair, District Attorney alongwith Abdul Sami, Computer Operator for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


Member


Chairman
Camp Court, Swat.

ANNOUNCED
05.10.2017


08.03.2016

None present for appellant. Mr. Abdul Sami, KPO alongwith Mr. Amir Qadir, G.P for respondents present. Due to non-availability of D.B as well as strike of the Bar, appeal to come up for final hearing before D.B on 02.8.2016 at Camp Court Swat.


Chairman
Camp Court Swat


02.08.2016

Appellant with counsel and Mr. Abdul Sami, Computer Operator alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for arguments on 06.12.2016 before D.B at camp court, Swat.



Chairman
Camp court, Swat.

06.12.2016

Appellant with counsel in person and Mr. Abdul Sami, Computer Operator alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Due to incomplete bench arguments could not be heard. To come up for final hearing on 03.04.2017 before D.B at camp court, Swat.


Chairman
Camp court, Swat.

2.6.2015 Appellant in person and Mr. Abdul Sami, KPO alongwith Mr. Mr. Anwar-ul-Haq, GP for respondents present. Counsel for the appellant is not in attendance. Appellant requested for adjournment. Adjourned for final hearing before D.B to 4.8.2015 at camp court Swat.


Member


Chairman
Camp Court Swat

4.8.2015 Appellant in person and Mr. Abdul Sami, KPO alongwith Mr. Muhammad Zubair, Sr.GP for respondents present. Due to non-availability of D.B, appeal adjourned to 4.11.2015 for final hearing before D.B at Camp Court Swat.


Chairman
Camp Court Swat

04.11.2015 Appellant with counsel and Mr. Abdul Sami, KPO alongwith Mr. Muhammad Zubair, Sr.GP for respondents present. Arguments could not be heard due to non-availability of D.B. To come up for final hearing before D.B on 8.3.2016 at Camp Court Swat.


Chairman
Camp Court Swat

13.8.2014

Neither appellant nor counsel for the appellant present. Mr. Asadullah, A.D on behalf of respondent No.1 with AAG for the respondents present. Rejoinder has not been received. Another chance is given for rejoinder on 12.12.2014.


Chairman

12.12.2014

No one is present on behalf of the appellant. Mr. Mehammed Adool Bait, AAG for the respondents present. The Tribunal is incomplete. To come up for rejoinder on 24.3.2015.


Reader

24.03.2015

Appellant in person and Mr. Asadullah, AD for respondent No. 1 alongwith Addl: A.G for all respondents present. Rejoinder submitted. The appeal pertains to territorial limits of Malakand Division and as such is to be heard at Swat. The appeal is assigned to D.B for final hearing for 2.6.2015 at camp court Swat.


Chairman

بیان خریداروں کو پاروں اور سید سیکٹری یونین کو سس ٹرائی ویا

بہ اور اصلاح بیان کیا گیا۔ P.SDM - سس نے سس دونوں

یونین کو حسلوں کا دعائینہ مورم 10-4-2012 کیا۔ اور دونوں

یونین کو حسلوں کا ریکارڈ چیک کرنے کے بعد سس ریکارڈ میں

مبلغ = 596500/- روپیہ کا غبن بکٹرا گیا۔ جس کا میں

ذمہ دار ہوں۔ میں نے سس - SDM کے جھٹلی دیکھنے پائے

اور حسلوں میں اضافی رقم (مکھنے اور دوبارہ ٹاگ فاصلہ کی تنخواہ و

دستور کا کریم جعل سازی سے مختلف چیک ہائے کے ذریعے مختلف

تاریخ ہائے محکمے نے نیشنل بینک پاکستان سس اکاؤنٹ نمبر 5848-7

(یونین کو سس ٹرائی) مبلغ = 386,000/- اور یونین کو سس بیا

اکاؤنٹ نمبر 5845-0 مبلغ = 210,500/- روپیہ دعوام سے نکلائے

گئے۔ وہ میں نے آج مورم 12-4-2012 کو سس بینک سس میں

دائیں داخل کر چکا ہے۔ جس کے رسید ہائے آج میں پیش

کرتا ہوں۔ جس پر آج کا تاریخ 12-4-2012 ذرا ہے۔ میں

اپنا گناہ / جرم (کل غبن مبلغ = 5,96,500/-) روپیہ ٹوراجان میں

تسلیم و قبول کرتا ہوں۔ میں ایک غریب آدمی ہوں۔ میں سس - SDM

میں قراہت قرار ہو۔ کم میرا جرم معاف کر دیا جائے اور میں آئندہ کبھی

میں سس میں سس بیان ہے

کلیات بشاہ سیکٹری یونین کو سس ٹرائی

خواجہ ایاز احمد

3-356802-02 CNIC: 15602-0266835-3
مورم خریداروں سیکٹری یونین کو سس ٹرائی
بیا 12-4-2012

No. 326 /SDM/Matta.

Dated 27/04/2012

From: Sub Divisional Magistrate,
Matta.

To: The DM/District Coordination Officer,
Swat.

Subject:- **EMBARRASSMENT / LOSSES TO GOVERNMENT EX-CHEQUER BY MUHAMMAD FAROOQ SECRETARY UNION COUNCIL GWALARAI/ BIHA.**

Kindly refer to the subject cited above.

During the course of issuing the cheques of Charcoal, payment to Muhammad Farooq Secretary Union Council Gwalairai/Biha on 9/4/2012 the cheque book of Account No.5848-7 of Union Council Gwalairai was checked w.e.f 01/01/2011 a huge embarrassment was observed, therefore, on the same ground the cheque books of Biha A/C No.5845-0 (under control of the same Union Council Secretary) was also checked and heavy embarrassment observed in both Union Councils and found that the above official has drawn a total amount of Rs: 596500/- from both accounts through various cheques by making addition alteration in the cheques, factious/bogus signatures of the undersigned and my predecessor as per detail given below:-

EMBARRASSMENT DETAIL OF UNION COUNCIL GWALARAI.

Cheque No.	Date of issue	Date of Drawn	Passed for Rs:	Drawn for Rs:	Embarrassment	Remarks
368574	31/12/11	3/1/2011	4000/-	40000/-	36000/-	
368580	11/6/2011	13/6/2011	-	100000/-	100000/-	
368581	20/6/2011	20/6/2011	-	100000/-	100000/-	
368583	18/6/2011	19/7/2011	-	100000/-	100000/-	
368596	1/8/2011	3/8/2011	-	50000/-	50000/-	
				Total:-	386000/-	

EMBARRASSMENT DETAIL OF UNION COUNCIL BIHA.

Cheque No.	Date of issue	Date of Drawn	Passed for Rs:	Drawn for Rs:	Embarrassment	Remarks
367187	31/12/2011	3/1/2011	6500/-	16600/-	10000/-	
367192	5/6/2011	6/6/2011	-	80000/-	80000/-	
367195		20/6/2011	-	100000/-	100000/-	
367200	1/11/2011	2/11/2012	19500/-	19500/-	6500/-	Rs:6500/- was included for the month of August which was already drawn
367196	4/7/2011	4/7/2011	4000/-	4000/-	4000/-	Overleaping, already drawn for the month of may
917801	9/12/2011	12/12/2011	6500/-	16500/-	10000/-	
				Total:-	210500/-	

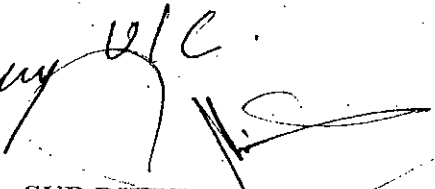
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In the scenario explained above enquiry has been conducted by the undersigned that Muhammad Farooq S/O Haroon Rashid Secretary Union Council Gwalarai/Biha has made embarrassment of Rs: 596500/- (Rs: 386000/- U/C Gwalarai A/C No.5848-7 and Rs: 210500/- Union Council Biha A/C No. 5845-0) through various cheques, the embarrassed amount was recovered on 12/04/2012 through challan dated 12/04/2012 account No.5848-7 Union Council Gwalarai amounting to Rs.386000/- and account No.5845-0 amounting to Rs. 210500/- Union Council Beha (Total 596500/- for both Unoin Councils), however, this act of misconduct purely falls within the meaning of section 3 (B) & (C) of E&D rules 19973, confession statement of Muhammad Farooq Secretary Union Council Gwalarai and Beha is also attached, therefore, recommended for penalty. The photo copies of the cheques alongwith other relevant documents are enclosed. The counter foil of the cheque books will be provided in original as and when required. Beside's it is further requested that the authorities of National Bank may also be approached to enquire the matter as without connivance of Bank the embarrassment was not possible.

Beside's a reliable/well versed secretary union council may be posted to run the job of secretary union council Gwalarai and Biha please.

*HRD/FA
 Suspected the
 P.U. change sheet &
 nominate in
 D.C.
 28.4.12*

Secretary U/C



SUB DIVISIONAL MAGISTRATE
 MATTA.

Stamp: ... Sent.

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A

15

**STATEMENT OF MUHAMMAD FAROOQ, SECRETARY UNION COUNCIL,
GVALERAI/BEHA IN CONNECTION WITH SHOW CAUSE NOTICE**

Reference: Show Cause Notice of the office of District Coordination Officer, Swat in connection with Inquiry Report of Sub Divisional Magistrate, Khwaza Khela in response to Charge sheet No.8528/24/DCO/Estt: dated 07/05/2012 and Disciplinary Action vide letter No.8529-31/24/DCO/Estt: dated 07/05/2012

I, Muhammad Farooq, Secretary Union Council Gwalerai/Beha, District Swat (now suspended) in response to the above referred Show Cause Notice submit as under:

I. That I, alongwith my elder brother, are the only caretakers of our family as our father has died about five years ago. My late father had served in office of the DCO, Swat for more than 25 years but he unfortunately died before formal retirement from the service. He was known for his good conduct, behavior and honesty amongst the office staff and local community. I have, no doubt, disgraced his name and need a chance to bring back his good name and my reputation in the office.

II. I do confessed the guilt in front of the inquiry officer but the humanitarian factor behind my guilt has not been given due consideration. The reason I indulged myself in such untoward activity and defamed the name of my family and my own reputation in the office was the love for my child who, is suffering from blindness. I am married and have two children. My elder child is blind since his birth. I have taken him to several hospitals in Taxila, Karachi, Lahore and Peshawar. On his treatment, I have spent all the money inherited from my father.

III. As far as withdrawal of money from the accounts No.5848-7 and No.5845-0 (National Bank Matta) is concerned, in this connection it is submitted that I never intended to take away the money. Infact, I intended to re-submit the money in the concerned accounts in due course of time. When the matter came into the notice of the high-ups i.e. SDM, Matta, I submitted the amount back in the concerned accounts within two days. Office and Bank record is evident in this regard.

It is, therefore, very humbly requested that keeping in view the poor financial conditions of my family, treatment of my child for recovery of his eyesight and the fact that I have deposited the amount back in the concerned accounts, lenient view be taken in the matter. The major penalty of "Removal from Service" be relaxed and I may please be given a "last chance" to prove that I am not guilty by birth but it was the circumstances that compelled me for the wrong-doings. I submit my apology to the high-ups and colleagues who were affected due to my act of negligence. I assure to perform my duties with full honesty and upto the satisfaction of my high-ups. It was an act of my inexperience and expects my high-ups to accept my apology.

I shall be obliged if I am given a chance to be heard in person.

Yours obediently

Muhammad Farooq
(Suspended)
Secretary UC Gwalerai/Beha
District Swat
Dated: 26/07/2012 ✓

E.A
W

D E O
27-7-12

Pls put up
on file -
Re

DIARY NO. 8635
DATE 30-07-12
39, DISTRICT OFFICE SWAT



OFFICE OF THE
DISTRICT COORDINATION OFFICER
SWAT.

No. 8532 /24/DCO/Estt:

Dated the 07/05 /2012.

ORDER.

On receipt of written complaint from Sub Divisional Magistrate, Matta against Mr. Muhammad Farooq, Secretary, Union Council, Gwalari/Biha, Matta, the official is hereby suspended from service with immediate effect.

On suspension of Muhammad Farooq, Secretary Union Council, Gwalari/Biha, Mr. Ifitkhar, Secretary Union Council Shawar is directed to take over charge of Union Council Biha and Mr. Bacha Gul, Secretary Union Council Arkot is directed to take over charge of Union Council Gwalari immediately.

Both the secretaries will look after the working of Union Councils respectively in addition to their own duties till further orders.

DISTRICT COORDINATION OFFICER
SWAT.

No. 8533-36 /24/DCO/Estt:

Copy forwarded to the:-

- 1- Assistant Coordination Officer, Swat.
- 2- Sub Divisional Magistrate, Matta, Swat.
- 3- Sub Divisional Magistrate, Khwaza Khela, Swat.

For information please.

- 4- Officials concerned for compliance.

DISTRICT COORDINATION OFFICER
SWAT.

(4)

DISCIPLINARY ACTION.

I, Kamran Rehman Khan, District Coordination Officer, Swat as Competent Authority, am of the opinion that Mr. Muhammad Farooq, Secretary, Union Council, Gwalari/Biha, is rendered himself liable to be proceeded against, as he committed the following acts/omission, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS.

- 1- That an amount of Rs. 596500/- fraudulently drawn by you through various cheques from A/C No. 5848-7, and A/C No. 5845-0 from National Bank of Pakistan Matta.
- 2- That you are guilty of making bogus signature of SDM, Matta on the cheques.

2- For the purpose of the inquiry against the above said accused with reference to the above allegations, **Sub Divisional Magistrate, Khwaza Khela** is appointed as Inquiry Officer under Rule-10(1)(a) of the ibid Rules.

3- The inquiry officer shall in accordance with the provision of the ibid Rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within 30 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.



(KAMRAN REHMAN KHAN)
DISTRICT COORDINATION OFFICER, SWAT.
↓ COMPETENT AUTHORITY.

No. 8529-31/24/DCO/Estt:

Dated. 07/05/2012.

Copy forwarded to:-

- 1- The Sub Divisional Magistrate, Khwaza Khela, Swat, for initiating proceedings against the accused official under the provision of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.
- 2- Mr. Muhammad Farooq, Secretary, Union Council, Gwalari/Biha, Matta, with the directions to appear before the inquiry committee, on the date, time and place fixed by the Committee for the purpose of enquiry proceedings.
- 3- The Sub Divisional Magistrate, Matta, Swat with the request to detail a representative well conversant facts of the case alongwith relevant record to assess the Inquiry Committee during the inquiry proceedings.



07
↓
DISTRICT COORDINATION OFFICER,
↓ SWAT.



Office # 0946-744305

OFFICE OF THE
SUB-DIVISIONAL MAGISTRATE
KHWAZA KHELA SWAT

No. 282 /SDM/K.K/INQ

Dated: 14 /05/2012

NOTICE

To,

Mr. Muhammad Farooq,

Secretary Union Council, Gwalari/Biha.

Whereas an inquiry has been initiated against you, to inquire into the allegations contained in the statement of allegations against you (Statement of allegation attached) and;

Whereas I have been appointed as inquiry officer by the Competent Authority i.e, DCO, for conducting the said inquiry,

You are therefore informed through this notice to appear in person before me for hearing on 23/05/2012 and submit your written statement in your defence, if any on the same date.

N.B: - Mr. Samiullah Processervor of this office is directed to serve this notice upon Muhammad Farooq today i.e 14/05/2012.

SUB-DIVISIONAL MAGISTRATE
KHWAZA KHELA, SWAT.

No. 282 /SDM/K.K/INQ

Dated: 14 /05/20 12

✓ Copy forwarded to the District Coordination Officer, w/r to his memo: No. 8529-31/24/DCO/Estt: dated: 07/05/2012 for information please.

HRDO/EA

[Handwritten signature]

D.C.O. Palle
15-5-12

[Handwritten initials]
16/5

SUB-DIVISIONAL MAGISTRATE
KHWAZA KHELA, SWAT.

(5)

CHARGE SHEET.

I, Kamran Rehman Khan, District Coordination Officer, as Competent Authority, hereby charge you, Mr. Muhammad Farooq, Secretary, Union Council, Gwalari/Biha as follows:-

- 1- That an amount of Rs. 596500/- fraudulently drawn by you through various cheques from A/C No. 5848-7, and A/C No. 5845-0 from National Bank of Pakistan Matta.
- 2- That you are guilty of making bogus signature of SDM, Matta on the cheques.

2- By reason of the above you appear to be guilty of acts/omissions punishable 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 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 as the case may be.

4- Your written defence, if any, should reach the inquiry officer 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.


DISTRICT COORDINATION OFFICER
SWAT.

No. 8522/24/DCO/Estt:

Dated the 07/05/2012.

Copy forwarded to Mr. Muhammad Farooq, Secretary, Union Council Gwalari/Biha, Matta, Swat for information and compliance.


DISTRICT COORDINATION OFFICER
SWAT.



OFFICE OF THE
SUB-DIVISIONAL MAGISTRATE
KHWAZA KHELA SWAT

Office # 0946-744305

No 312 /SDM/K.K/INQ

Dated: 23 /05/2012

To,

The District Coordination Officer,
Swat.

SUBJECT: INQUIRY OF MUHAMMAD FAROOQ, SECRETARY UNION COUNCIL, GWALERAI/BEHA.

Memo:

Reference your office Memo: No. 8529-31/24/DCO/Estt:
dated: 07/05/2012 on the subject noted above.

It is requested that a copy of complete record of the subject case be furnished to the undersigned please.

*by fax already received
HRD/BA*

*Btki
M.C.O
24.5.12*

SUB-DIVISIONAL MAGISTRATE
KHWAZA KHELA, SWAT.

No *add*

*Forwarded to SDM
Matta for necessary action
as already requested in
statement of allegations.*

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**OFFICE OF THE
DISTRICT COORDINATION OFFICER
SWAT.**

No. 10183 /24/DCO/Estt:

Dated the 29/05 /2012.

To,
The Sub Divisional Magistrate,
Khwaza Khela, Swat.

Subject: **INQUIRY OF MUHAMMAD FAROOQ, SECRETARY UNION COUNCIL,
GWALERAI/BIHA .**

Memo:

Reference your memo No.312/SDM/K.K/INQ dated 23-05-2012 on the above cited subject.

In this regard the complete record would be provided by the Sub Divisional Magistrate, Matta in the subject inquiry. Please start the proceedings and get the record from the representative of Sub Divisional Magistrate, Matta who will attend and assist you during the proceedings.

**DISTRICT COORDINATION OFFICER
SWAT.**

No. 10184 /24/DCO/Estt:

Copy forwarded to Sub Divisional Magistrate Matta, Swat for information and necessary action.

**DISTRICT COORDINATION OFFICER
SWAT.**



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**OFFICE OF THE
DISTRICT COORDINATION OFFICER
SWAT.**

No. _____/8/DCO/Estt:

Dated the _____/2012.

ORDER.

You Mr. Ghulam Saeed Khan Sub Divisional Magistrate Khwaza Khela was appointed as inquiry officer in the case of Mr. Muhammad Farooq, Secretary Union Council Gwalirai/Beha vide this office order No.8529-31/24/DCO, dated 07-05-2012 with the directions to submit your finding/recommendations within 30 days before the undersigned but 60 days elapsed, you have failed to complete the inquiry within the stipulated period.

You are hereby warned to aware yourself of the Rules in this regard and avoid such negligence in future, otherwise disciplinary action should be initiated against you under the rules.

**DISTRICT COORDINATION OFFICER
SWAT.**

No. _____/8/DCO/Estt:

Copy forwarded to Mr. Ghulam Saeed Khan, Sub Divisional Magistrate, Khwaza Khela for information and compliance.

**DISTRICT COORDINATION OFFICER
SWAT.**



Office # 0946-744305

(11)

OFFICE OF THE
SUB-DIVISIONAL MAGISTRATE
KHWAZA KHELA SWAT

No. 430 /SDM/K.K/INQ

Dated: 10 / 07 / 2012

To,

✓
The District Coordination Officer,
Swat.


SUBJECT: INQUIRY REPORT.

Memorandum:

Reference your office order No. 8529-31/24/DCO/Estt:
dated: 07/05/2012 on the subject noted above. p-17

The inquiry report of Muhammad Farooq, Secretary Union Council, Gwalari/Biha is enclosed herewith for further necessary action please.

HRCO/EA


SUB-DIVISIONAL MAGISTRATE
KHWAZA KHELA, SWAT.

W
D.C.O.
12-7-12
Put up file
RK 1077

8287
16-07-12

(12)

INQUIRY REPORT.

In pursuance of District Coordination Officer Swat order bearing No.8529-31/24/DCO/Estt: dated. 07-05-2012, I Mr.Ghulam Saeed Khan Sub-Divisional Magistrate Khwaza Khela Swat, appointed as inquiry Officer in the subject case, conducted the said inquiry in accordance with E and D Rules 1973.

Detailed report is submitted for perusal and further necessary action please.

PROCEEDINGS:

On receipt of the order referred to above on 14-05-2012, the undersigned issued notice for attendance to Mr.Muhammad Farooq on the same day i.e. 14-05-2012, where in he was directed to appear in person before the undersigned on 23-05-2012 and to explain his position/ submit written statement, if any, in his defense on the same day.

Mr.Muhammad Farooq appeared before the undersigned and submitted a written statement on 23-05-2012.

Similarly detailed record of the subject case was furnished by Sub-Divisional Magistrate Matta.

FINDINGS:

Perusal of record reveals that Mr.Muhammad Farooq when he was Secretary Union Council Gwalirai/Biha drew Rs.210,500/- through various cheques from Account of U/C Biha Account No.5845-0 and Rs.386000/- from U/C Gwalirai Account No.5848-7.

The same amount was drawn fraudulently as some of the cheques bore fake signatures of Sub-Divisional Magistrate Matta and in some cheques the original figures were tempered with.

Mr.Muhammad Farooq while explaining his position before the undersigned himself admitted/confessed that he had drawn the said amount fraudulently. He further stated that he committed the subject fraud because he was in dire need of money for the treatment of his elder son who is suffering from weak eye sight. He also furnished the treatment record of his son.

When Sub-Divisional Magistrate Matta came to know of the fraudulent transaction perpetrated by Muhammad Farooq he took him (Muhammad Farooq) to task for the same fraud. Mr. Muhammad Farooq

(13)

confessed his guilt before Sub-divisional Magistrate Matta by submitting
confessional statement.

When pressured by Sub-Divisional Magistrate Matta, Mr. Muhammad Farooq reimbursed the amount in the Account of the respective U/Cs through two pay-in-slips, one amounting to Rs.210,500/- in Account No.5845-0 U/C Biha and the other amounting to Rs.386000/- in account No.5848-1 U/C Gwalari on 12-04-2012.

All these facts have been admitted/confessed by Mr. Muhammad Farooq in his written statement as well.

RECOMMENDATION:

As is evident from the above, Mr. Muhammad Farooq has committed gross miss conduct and is therefore recommended for major penalty of **REMOVAL FROM SERVICE** as envisaged in **E and D Rules 1973**.


SUB-DIVISIONAL MAGISTRATE
KHWAZA KHELA, SWAT.



(14)

**OFFICE OF THE
DISTRICT COORDINATION OFFICER
SWAT.**

SHOW CAUSE NOTICE.

I, Kamran Rehman Khan, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 do hereby serve you, Mr. Muhammad Farooq, Secretary (BPS-07) Union Council, Gwalirai/Biha as follows:-

- 1-
- (i) Consequent upon the completion of the inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing and
 - (ii) On going through the findings recommendations of the inquiry officer the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions specified in Section-3 of the said Rules.

- (i) That an amount of Rs. 596500/- fraudulently drawn by you through various cheques from A/C No. 5848-7, and A/C No. 5845-0 from National Bank of Pakistan Matta.
- (ii) That you are guilty of making bogus signature of SDM, Matta on the cheques.

2- As a result thereof, I as competent authority have tentaviley decided to impose upon you the penalty of "REMOVAL FROM SERVICE "under Section-4 of the said Rules.

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

4- If no reply to this notice is received within 7 days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case ex-party action shall be taken against you.

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

Kamran

**(KAMRAN REHMAN KHAN)
DISTRICT COORDINATION OFFICER
✓SWAT.**

Mr. Muhammad Farooq,
Secretary UC Gwalirai/Biha, Swat.

Received
M. Farooq
M. Farooq, Secy
2017

17



**OFFICE OF THE
DISTRICT COORDINATION OFFICER
SWAT.**

No. 15263 /24/DCO/Estt:

Dated the 08/08/2012.

To,

Mr. Muhammad Farooq,
Secretary Union Council Biha/Gwalirai,

Subject: - **PERSONAL HEARING.**

Memo:

Reference your reply dated 26-07-2012 to the show cause notice. You are directed to attend office of the undersigned on 13-08-2012 at 11:00 AM for personal hearing.

**DISTRICT COORDINATION OFFICER,
SWAT.**



18


**OFFICE OF THE
DISTRICT COORDINATION OFFICER
SWAT.**

No. 15801 /24/DCO/Estt:

Dated the 17-10-12 /2012.

ORDER.


- 1- WHEREAS, Mr. Muhammad Farooq, Secretary Union Council Gwalirai /Biha, Swat was proceeded against under the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 for the charges mentioned in the charge sheet dated 07-05-2012.
- 2- AND WHEREAS, Mr. Ghulam Saeed Khan, Sub Divisional Magistrate, Khwazakhela, Swat was appointed vide this office memo: No. 8529-31/24/DCO/Estt: dated 07-05-2012 as inquiry officer to conduct inquiry against the accused official and submit his findings for further necessary action.
- 3- AND WHEREAS, the inquiry officer has examined the charges, evidence on record, the explanation of the accused official and submitted report vide No. 430/SDM/K.K/INQ, dated 10-07-2012.
- 4- AND WHEREAS, on receipt of inquiry report, I the undersigned (Competent Authority) given you a chance for personal hearing on 13-08-2012 and you were given all opportunities to clear your name, but you did not satisfy the undersigned at the time of personal hearing.
- 5- NOW THEREFORE, the undersigned being competent authority having considered the charges, evidence on record, the explanation of the accused official and exercising the power under Section-4 (b) (iv) of the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 is imposed the major penalty of "DISMISSAL FROM SERVICE" on the accused official (Muhammad Farooq, Secretary Union Council Gwalirai/Biha, Swat).


(KAMRAN REHMAN KHAN)
**DISTRICT COORDINATION OFFICER
SWAT.**

No. 15802-06 /24/DCO/Estt:

Copy forwarded to:-

- 1- The Assistant Coordination Officer, Swat.
- 2- The District Comptroller of Accounts, Swat.
- 3- The Sub Divisional Magistrate, Matta, Swat.
- 4- The Sub Divisional Magistrate, Khwazakhela, Swat.
- 5- Mr. Muhammad Farooq, Secretary Union Council Biha/Gwalirai.


**DISTRICT COORDINATION OFFICER
SWAT.**

To,

✓ The District Coordination Officer
Swat

Subject: Appeal for sympathetic consideration to cancel the Dismissal Order No.15801/24/DCO/Estt: dated 17/08/2012

Respected Sir,

With humble regards and respect, it is requested that I have been dismissed by your goodself vide order No.15801/24/DCO/Estt: dated 17/08/2012 in connection with Charge sheet No.8528/24/DCO/Estt: dated 07/05/2012 and Disciplinary Action vide letter No.8529-31/24/DCO/Estt: dated 07/05/2012. The subject dismissal order has scattered apart my family life and has adversely affected me and the life of all my family members. In my reply to the charge sheet, I have put before your goodself all my family background and the circumstances which compelled me for doing the wrong. The subject order has struck my old mother also and she is on the bed since I have received the dismissal order.

Putting before your goodself this request, it is a last hope for me and my family that my request will be treated on humanitarian grounds. I have again and again highlighted the circumstances having engulfed me through the last three/four years before your goodself and the inquiry officer. The subject order has worsened the already poor financial conditions of my family and has marked a full-stop to the treatment of my child for recovery his eyesight. I committed the guilt due to my in-experience but when got aware of the fact and guilt, I have instantly deposited the amount back in the concerned accounts.

I hope the authority in you will consider my request. I, alongwith my family, have suffered upto our maximum since my inquiry was started and the suffering did not end at the end of inquiry rather it struck us all very hard due to my dismissal.

It is very humbly requested on that the major penalty of "Removal from Service" imposed vide subject order be withdrawn and I may please be given a "last chance" to prove that I am not guilty by birth but it was the circumstances that led me to the wrong direction.

EA

D. C. O.
10-9-12

Yours obediently

Muhammad Farooq


Ex-Secretary UC Gwalerai/Beha

District Swat

Dated: 10/09/2012


6.2.2014

No one is present on behalf of the appellant. Mr. Asadullah, AD Local Government District Swat on behalf of respondent No. 1 with AAG for the respondents present. Written reply has not been received. To come up for written reply/comments, positively, on 8.5.2014.


Chairman

8.5.2014

Clerk of counsel for the appellant and Mr. Usman Ghani, Sr. GP for the respondents present. Neither representatives of the respondents are present nor written reply has been received. On the request of learned Sr. GP, another chance is given for written reply /comments, positively, on 13.8.2014.


Chairman

Note below
8.5.2014

Mr. Asadullah, Assistant Director Local Government on behalf of respondents appeared late and submitted written reply/para-wise comments, copy whereof be handed over to the appellant/counsel for the appellant for rejoinder on the date already fixed i.e 13.8.2014.


Chairman

Appeal No. 536/2013,
Mr. Muhammad Farooq.

18.07.2013

Appellant with counsel present and heard on preliminary.

Contends that the appellant has not been treated in accordance with the law/rules. That the impugned order has been passed in utter disregard of the procedure laid down in the Servants (Efficiency and Discipline) Rules, 1971. That there is no charge sheet, statement of allegation issued to the appellant nor proper inquiry conducted. Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 19.11.2013 for submission of written reply.

Appellant deposited
of process fee & Security
Rs. 2000/- Bank Receipt
attached with file

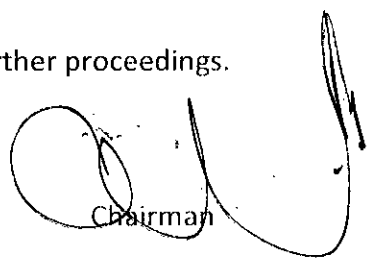


Member.

6.

18.7.2013

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



Chairman

19-11-13.

No one present for the appellant.
Assadullah, Assistant Director, for respondent
No-1 present. The worthy chairman is on tour
to Alabad. To come up for written reply/
comment on 06-02-2014.

Ime
R. S. D.

27.5.2013

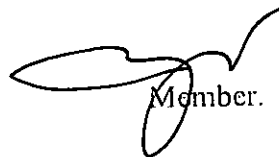
Munshi to Counsel for the appellant
present. In prsuance of the Khyber Pakhtunkhwa
Service Tribunals (Amendment) Ordinance 2013 (Khyber Pakhtunkhwa ord. II of 2013), the
case is adjourned on note reader for
proceedings as before on 18.7.2013.


Reader

3,

9.5.2013

Counsel for the appellant present and requested for adjournment. Case adjourned to 27.5.2013 for preliminary hearing.


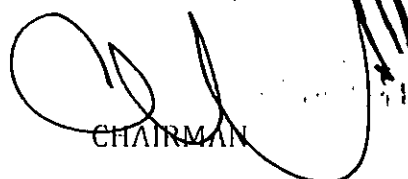


Member.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 536/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/03/2013	<p>The appeal of Mr. Muhammad Farooq resubmitted today by Mr. Muhammad Ayub Khan Shinwari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	18-3-2013	<p>This case is entrusted to primary Bench for preliminary hearing to be put up there on <u>9-5-2013</u>,</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Muhammad Farooq ex- secretary UC Gwalera Distt. Swat received today i.e. on 06/03/2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Memorandum of appeal is unsigned which may be got signed by the appellant.

No. 386 /S.T,

Dt. 6/3 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

MR. MUHAMMAD AYUB Khan SHANWARI ADV..

SIR. RESUBMITTED THE
CASE IN HAND AFTER
CERTIFIED OBJECTION -
DT. 6/3/13.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service appeal No. 536 /2013

Muhammad Farooq Appellant

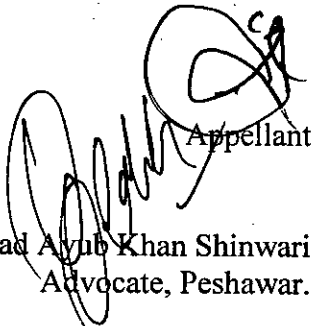
Versus

Govt. of KPK through Secy: LG, E&RDD, Peshawar & others.... Respondents

INDEX

S.No.	Description of documents.	Annexure	Pages
1.	Memo of appeal.		1-3
2.	Copy of order dt.07.05.2012		4
3.	Copy of order dt.17.08.2012		5
4.	Copy of departmental representation.		6-7
5.	Copy of letter dt.7.2.2013		8
6.	Copy of order dt.04.01.2013		9
7.	Wakalatnama.		

Through


Appellant
Muhammad Ayub Khan Shinwari
Advocate, Peshawar.

Dated:

1

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

Service Appeal No. 536 /2013

K.W.P. Tribunal
Section 4
No. 536
Dated 06/31/13

Muhammad Farooq,
Ex Secretary UC Gwalerai/Beha,
District Swat.

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Local Government, Elections and Rural Development Department, Peshawar.
2. District Coordination Officer, Swat.
3. District Controller of Accounts, Swat.
4. Assistant Coordination Officer, Swat.

....Respondents

**Service Appeal Under Section 4 of Khyber
Pakhtunkhwa Service Tribunal Act, 1974.**

Prayer:

On acceptance of this Service Appeal the impugned Order dated ~~04-01-2013~~ whereby the ~~Appellant~~ ~~was~~ ~~dismissed~~ ~~from~~ ~~service~~ ~~and~~ ~~the~~ ~~order~~ ~~dated~~ 04-01-2013 whereby the Departmental Appeal of the Appellant is dismissed may kindly be modified and the Appellant be reinstated in service with all back benefits.

2 ✓

Respectfully Sheweth,

Brief but relevant facts of the case are as follows:

1. That the Appellant was appointed as Secretary Union Council, Beha Tehsil Matta, District Swat on 24-01-2007 and ever since his appointment the

re-submitted to
and filed;

6/3/13
13/3/13

Appellant has performed his duties to the entire satisfaction of his superiors with out any complaint from any concerned quarter.

2. That on 07-05-2012 the Appellant was suspended from service with immediate effect vide Office Order No 8533-36/24/DCO/Estt on a pretext that a complaint has been received from Sub Divisional Magistrate, Matta against the Appellant.
3. That thereafter on 17-08-2012, the Respondent No 2 i.e., D.C.O dismissed the appellant from service without holding any inquiry.
4. That it is important to mention here that the impugned order i.e., 17-08-2012 whereby the Appellant is dismissed from service is passed without holding any inquiry, without issuing any show cause notice, without giving any chance of hearing, without giving any final show cause notice and without confronting the Appellant with the alleged complaint against Appellant received from the Sub Divisional Magistrate, Khwazakhela, Swat and without affording him any opportunity to cross examine him.
5. That feeling aggrieved of the aforesaid Order i.e., 17-08-2012 whereby he was dismissed from service, the Appellant filed a Departmental Appeal before the respondents on 13-09-2012 but the same was dismissed vide Order dated 04-01-2013 and the same was given to Appellant on 07-02-2013. Hence this Appeal on the following amongst other grounds:

Grounds:

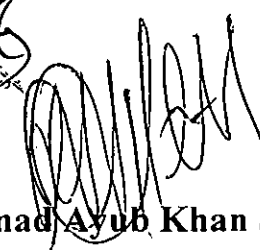
- a. That the impugned orders are against the law, illegal, unlawful, without lawful authority and void ab initio, hence untenable and liable to be set aside.
- b. That the treatment met to the Petitioner is against law, rules and policy on the subject matter, which is his inalienable right under the Article 4 of the Constitution of Islamic Republic of Pakistan, 1973.
- c. That the impugned order whereby the Petitioner is dismissed from service is passed without holding any inquiry, without issuing any show cause notice, without giving any chance of hearing, without giving any final show cause notice and without confronting the Appellant with the alleged complaint against Appellant received from the Sub Divisional Magistrate, Khwazakhela, Swat and without affording him any opportunity to cross examine complainant.
- d. That the impugned Orders are against the principles of natural justice as the Appellant is condemned unheard.
- e. That the impugned Order whereby the Petitioner is removed from service is based on malafide for extraneous consideration for ulterior motives.

- f. That the impugned order has been passed in utter disregard of the procedure laid down in the Khyber Pakhtunkhwa Servants (Efficiency and Discipline) Rules, 1973 and on this score alone the impugned order is liable to be set aside.
- g. That the impugned is *coram non judice* and based on malafide for ulterior motives and extraneous considerations.
- h. That the impugned order is against the fundamental rights enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.
- i. That the Petitioner craves permission of this Honorable Tribunal to rely on other grounds at the time of arguments and produce any additional document if required in support of his Appeal.

It is, therefore, prayed that on acceptance of this Service Appeal the impugned Order ~~Cited: 17-08-2012 whereby the Appellant is dismissed from service and the order dated 04-01-2013 whereby the Departmental Appeal of the Appellant against the dismissal order from service is dismissed~~ may kindly be ~~modified~~ and the Appellant be reinstated in service with all back benefits.

Any other relief which has not been specifically prayed for and deemed fit and appropriate in the circumstances of the case, by this Honorable Tribunal in the circumstances may graciously be granted.

Appellant

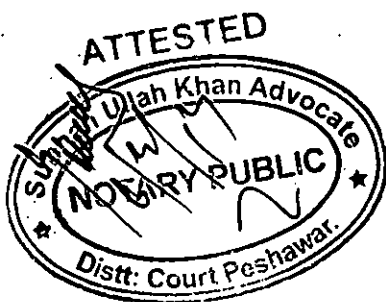


Muhammad Ayub Khan Shinwari
Advocate Peshawar

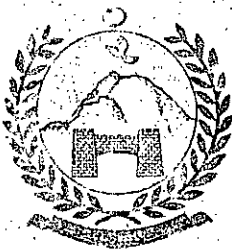
Through

Affidavit

I, Muhammad Farooq, Ex Secretary UC Gwalerai/Beha, District Swat do hereby solemnly affirm and declare on oath that the contents of the accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.




Deponent



OFFICE OF THE
DISTRICT COORDINATION OFFICER
SWAT.

No. _____/24/DCO/Estt:

Dated the 07/05/2012.

ORDER.

On receipt of written complaint from Sub Divisional Magistrate, Matta against Mr. Muhammad Farooq, Secretary, Union Council, Gwalari/Biha, Matta, the official is hereby suspended from service with immediate effect.

On suspension of Muhammad Farooq, Secretary Union Council, Gwalari/Biha, Mr. Ifitkhar, Secretary Union Council Shawar is directed to take over charge of Union Council Biha and Mr. Bacha Gul, Secretary Union Council Arkot is directed to take over charge of Union Council Gwalari immediately.

Both the secretaries will look after the working of Union Councils respectively in addition to their own duties till further orders.

Rulwan

DISTRICT COORDINATION OFFICER
SWAT.

No. 8533-36/24/DCO/Estt:

Copy forwarded to the:-

- 1- Assistant Coordination Officer, Swat.
- 2- Sub Divisional Magistrate, Matta, Swat.
- 3- Sub Divisional Magistrate, Khwaza Khela, Swat.

For information please.

- ✓ 4- Officials concerned for compliance.

No SDM clo

Rulwan

DISTRICT COORDINATION OFFICER
SWAT.

*A. Usman
Dawar*



OFFICE OF THE
DISTRICT COORDINATION OFFICER
SWAT.

No. 15801 /24/DCO/Estt.

Dated the 17/08 /2012.

ORDER.

1- WHEREAS, Mr. Muhammad Farooq, Secretary Union Council Gwalirai /Biha, Swat was proceeded against under the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 for the charges mentioned in the charge sheet dated 07-05-2012.

2- AND WHEREAS, Mr. Ghulam Saeed Khan, Sub Divisional Magistrate, Khwazakhela, Swat was appointed vide this office memo: No. 8529-31/24/DCO/Estt: dated 07-05-2012 as inquiry officer to conduct inquiry against the accused official and submit his findings for further necessary action.

3- AND WHEREAS, the inquiry officer has examined the charges, evidence on record, the explanation of the accused official and submitted report vide No. 430/SDM/K.K/INQ, dated 10-07-2012.

4- AND WHEREAS, on receipt of inquiry report, I the undersigned (Competent Authority) given you a chance for personal hearing on 13-08-2012 and you were given all opportunities to clear your name, but you did not satisfy the undersigned at the time of personal hearing.

5- NOW THEREFORE, the undersigned being competent authority having considered the charges, evidence on record, the explanation of the accused official and exercising the power under Section-4 (b) (iv) of the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 is imposed the major penalty of "DISMISSAL FROM SERVICE" on the accused official (Muhammad Farooq, Secretary Union Council Gwalirai/Biha, Swat).

(KAMRAN REHMAN KHAN)
DISTRICT COORDINATION OFFICER
SWAT.

No. 15802-06 /24/DCO/Estt:
Copy forwarded to:-

- 1- The Assistant Coordination Officer, Swat.
- 2- The District Comptroller of Accounts, Swat.
- 3- The Sub Divisional Magistrate, Matta, Swat.
- 4- The Sub Divisional Magistrate, Khwazakhela, Swat.
- 5- Mr. Muhammad Farooq, Secretary Union Council Biha/Gwalirai.

DISTRICT COORDINATION OFFICER
SWAT.

14-7-12

6

BEFORE THE SECRETARY LOCAL GOVERNMENT,
GOVERNMENT OF KHYBER PAKHTUNKHWA,
CIVIL SECRETARIAT, PESHAWAR

DEPARTMENTAL REPRESENTATION AGAINST THE ORDER NO.15801/24/
DCO/ESTT DATED 17/08/2012 OF DISTRICT COORDINATION OFFICER, SWAT

Respectfully Shewith,

FACTS:

1. That the appellant was initially appointed as Secretary Union Council, Beha Telsil Matta, District Swat on 24/01/2007 and since initial appointment the appellant had performed his duties with full devotion, honesty and upto the satisfaction of superiors. Moreover, there is unblemished service of 5 ½ years.
2. That the appellant was performing his duties as secretary union council Beha Matta Swat.
3. The District Coordination Officer, Swat dismissed the appellant from service on 17/08/2012 without conducting any formal inquiry according to law, and the appellant was awarded the major penalty of dismissal from service without keeping in view the merit of case and appellant 5 ½ years service in the office.
4. That the appellant applied to obtain copies of the record twice to the District Coordination Officer, Swat but the applications were filed.

GROUND FOR APPEAL:

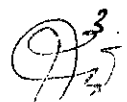
1. That the impugned order is not in accordance with the rules and law.
2. That the impugned order is very harsh and does not commensurate with the facts and circumstances of the case as the appellant 5 ½ years service was not been kept in view while imposing major penalty upon appellant.
3. That there is no any documentary evidence on record against the appellant which amounts to gross misconduct and suggest such a major penalty of dismissal from service.
4. That the treatment meted to the appellant is un-warranted as per law.
5. That the dismissal from service without conducting any inquiry is based on ulterior motives.

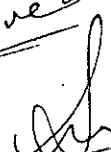
*Alimuddin
Dewan*


6. That the impugned order is worst example of colorable exercise of power by authority and also against the principles of natural justice and equity as the appellant committed no gross misconducts which resulted in such a major penalty for the appellant.

It is respectfully prayed that the instant appeal may kindly be accepted and the appellant may be re-instated in the service with all consequential back benefits.

Any other relief which your goodself deems fit and appropriate may also be awarded.


Muhammad Farooq
Ex-Secretary
Union Council Beha
Matta Swat.
Dated: 13.09.2012

Received

14-9-12


Muhammad
Farooq

REGISTERED

GOVERNMENT OF KHYBER PAKHTUNKHWA,
LOCAL GOVERNMENT, ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT

No.SO(LG-I)4-71/2012/Vol:VIII
Dated Peshawar, the 7th February, 2013

To

Mr. Muhammad Farooq,
Ex-Secretary Union Council
Beha Matta Swat

SUBJECT:- DEPARTMENTAL REPRESENTATION AGAINST ORDER NO.15801/24/DCO/ESTT: DATED 17-03-2012 OF DCO SWAT WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE

Memo:

I am directed to refer to your appeal/representation on the subject cited above and to forward herewith order of even number dated 04-01-2013 passed by the Appellate Authority in the subject case for information.

Encl: As Above

(IZAZ ULLAH)
SECTION OFFICER (ESTAB)

Endst. Even No. & Date:

Copy is forwarded to:-

1. The Deputy Commissioner, Swat with reference to his letter No.20045/24/DCO/Estt: dated 31-10-2012. A copy of order dated 04-01-2013 passed by the Appellate Authority in the subject case is attached for information and record.
2. The PS to Secretary, LG&RDD for information.

SECTION OFFICER (ESTAB)

E. I. Ahmad

9

GOVERNMENT OF KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT

Mr. Muhammad Farooq, Ex-Secretary
Union Council Beha, Matta Swat

..... Appellant

Appeal against Office Order No.15361/24/DCO/ESTT, dated 17/08/2012 of District
Coordination Officer, Swat whereby the appellant has been dismissed from service

ORDER

Dated 04/01/2013

No.SO(LG-I)4-71/2012.- Mr. Muhammad Farooq, Ex-Secretary Union Council, Beha
Matta Swat was summoned for personal hearing on 4-01-2013. The relevant record in
the subject case examined and perused.

2. Perusal of record reveals that during posting of the appellant as Secretary
Union Council, Gwalirai/Beha he drew Rs.210,500/- through bogus cheque from
Account of Union Council Beha Account No.5845-0 and Rs.386,000/- from Union
Council Gwalirai Account No.5848-7. When noticed that the said amount was drawn
fraudulently through bogus cheques by affixing fake signatures of Sub-Divisional
Magistrate Mata, the District Coordination Officer, Swat being competent authority in the
case of appellant initiated disciplinary proceedings against him under the relevant
law/rules. Sub-Divisional Magistrate, Khwaza Khela, Swat was appointed as an Enquiry
Officer to conduct formal enquiry into the allegations levelled against the appellant.

3. The Enquiry Officer conducted the enquiry in accordance with law and
submitted his findings and recommendations to the Competent Authority accordingly.
According to findings of the Enquiry Officer, the allegations levelled against the
appellant were proved on the basis of which he recommended imposition of a major
penalty of "Removal from Service" upon the appellant.

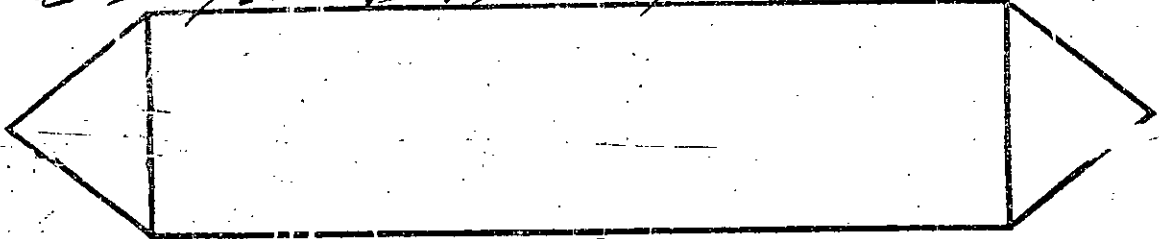
4. The District Coordination Officer, Swat being Competent Authority, after
completion of all legal requirements including personal hearing of the appellant awarded
a major penalty of "Dismissal from Service" to the appellant vide impugned order dated
17/08/2012. The appellant was summoned for personal hearing by the undersigned on
04/01/2013. He admitted the guilt committed by him and did not produce any defense to
prove his innocence. I have gone through the whole record and reached at the conclusion
that the penalty imposed upon the appellant by the District Coordination Officer, Swat is
commensurate with the offence committed by the appellant. The Competent Authority
has passed the order after completion of all legal requirements as required under the law
and has left no lacunas which can be of any favour to the appellant.

5. The above in view, the representation/appeal of the appellant merits no
consideration and is therefore rejected/dismissed. The applicant be informed accordingly.

Copy of this order be sent to DCO, Swat also.

MAR Sen LG

بعدالت سرسٹریٹس ٹریڈنگ انڈیا پرائیویٹ لمیٹڈ



مقام: منجانب مقدمہ

بنام

محمد عارف

3/3/14

مورد

کوٹلی سٹیٹ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی استغلتہ
 آن مقام سرسٹریٹس ٹریڈنگ انڈیا پرائیویٹ لمیٹڈ کے سرسٹریٹس ٹریڈنگ انڈیا پرائیویٹ لمیٹڈ
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوفہ کے مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک و ریپید ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
 ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور شنوخی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا محقق قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ
 پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو چیز چاہے وہر جائد التوائے مقدمہ کے سبب سے وہوگا۔
 کوئی تاریخ پیشی مقام دور پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 6 ماہ 2014

کے لئے منظور ہے۔

محمد عارف
 Advocaat

ACCEPTED
 ACCEPTED

Advocaat

بمقام

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 536/2013

Muhammad Farooq,
Ex-Secretary UC Gwalerai/Beha,
District Swat.

....Appellant

Versus

Secretary, LG,E&RDD & Others

.....Respondents

AFFIDAVIT

I, Asad Ullah, Assistant Director, LG,E&RDD, Khyber Pakhtunkhwa Swat, do hereby solemnly affirm and declare that the contents of the **Para-wise comments** on behalf of **Respondents** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Service Tribunal.



DEPONENT

C.N.I.C NO. 17102-7556165-9

Identified by

**Additional Advocate General
Service Tribunal, Peshawar**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.536/2013

Muhammad Farooq
Ex-Secretary Union Council, Swat **Appellant**

VERSUS

Secretary, LG&RDD and others **Respondents**

Para-wise reply/comments of Respondent

Respectfully Sheweth:-

Preliminary Objections:-

- (i) That the appellant has no cause of action/locus-standia to file the present appeal.
- (ii) That the appellant concealed material facts from this Service Tribunal.
- (iii) That the appellant has not come to the Hon'ble Tribunal with clean hands.
- (iv) That the appeal is not maintainable and not covered by the relevant rules.
- (v) That the instant appeal is barred by law.

ON FACTS:-

Para No.1 Incorrect. Satisfactory service of the appellant is denied as he has proved himself guilty of mis-conduct, in-efficiency and corruption of Rs.5,96,500/-.

Para No.2 In response to para-2, it is clarified that the appellant was found involved in embezzlement of Government funds during his posting in Union Council Gwalera/Becha, District Swat, therefore he was placed under suspension and disciplinary proceedings were initiated against him under the relevant rules by the Competent Authority. Confession statement about embezzlement of government funds by the appellant given on 26-07-2012 is at **Annexure-A.**

Para No.3 Incorrect. Proper charge sheet/statement of allegations was served upon the appellant and an Enquiry Officer was appointed to conduct enquiry against the appellant under the Government Servants (E&D) Rules, 2011. All legal requirements have been completed in the appellant's case by the Competent Authority before imposition of the penalty.

Para-4 Incorrect as laid. On receipt of enquiry report, the appellant was served a show cause notice to which he replied as is evident from Annexure-A. The appellant was also afforded an opportunity of personal hearing.


Para-5

Appeal of the appellant was considered and found that all legal requirements have been fulfilled in the appellant's case before imposition of the penalty, therefore, the appellate authority rejected/dismissed appeal of the appellant having no merits and decision of the appellate authority was communicated to the appellant accordingly.

On Grounds:-


- (A) Incorrect. The impugned order passed by the Competent Authority is strictly in accordance with rules regulating services of the appellant, which is legal, lawful and tenable.
- (B) Incorrect as laid. All legal requirements/procedure have been completed in the appellant's case by the Competent Authority. Opportunity of defense including personal hearing was afforded to the appellant. The appellant was found in corruption/embezzlement of government funds on the basis of which he was proceeded under the law and a major penalty of dismissal from service was awarded to him by the Competent Authority which is legal.
- (C) As reply in Para (B).
- (D) As reply in para (B)
- (E) Incorrect as laid. The impugned order has been passed by the Competent Authority strictly in accordance with rules/law as the charge of corruption/embezzlement has been proved against the appellant.
- (F) As reply in Para-3 above.
- (G) As reply in Para (B) above.
- (H) Incorrect as laid. As admitted by the appellant in his reply to the show cause notice as well as personal hearing, the appellant has admitted the corruption/embezzlement of government funds amounting to Rs.5,96,500/-. Hence the impugned order passed by the Competent Authority is based on facts and legal.
- (I) Additional grounds if produced by the appellant will be replied at the time of arguments.

In view of above, it is requested that this Hon'ble Tribunal may graciously dismiss appeal of the appellant with cost.



Secretary, LG, E&RDD,
Khyber Pakhtunkhwa


District Controller of Accounts
Swat


Deputy Commissioner, Swat


Assistant Director, LG, E&RDD,
Swat

Annex-A



**STATEMENT OF MUHAMMAD FAROOQ, SECRETARY UNION COUNCIL,
Gwalera/Beha IN CONNECTION WITH SHOW CAUSE NOTICE**

Reference: Show Cause Notice of the office of District Coordination Officer, Swat in connection with Inquiry Report of Sub Divisional Magistrate, Khwaza Khela in response to Charge sheet No.8528/24/DCO/Estt: dated 07/05/2012 and Disciplinary Action vide letter No.8529-31/24/DCO/Estt: dated 07/05/2012

I, Muhammad Farooq, Secretary Union Council Gwalera/Beha, District Swat (now suspended) in response to the above referred Show Cause Notice submit as under:

I. That I, alongwith my elder brother, are the only caretakers of our family as our father has died about five years ago. My late father had served in office of the DCO, Swat for more than 25 years but he unfortunately died before formal retirement from the service. He was known for his good conduct, behavior and honesty amongst the office staff and local community. I have, no doubt, disgraced his name and need a chance to bring back his good name and my reputation in the office.

II. I do confessed the guilt in front of the inquiry officer but the humanitarian factor behind my guilt has not been given due consideration. The reason I indulged myself in such untoward activity and defamed the name of my family and my own reputation in the office was the love for my child who is suffering from blindness. I am married and have two children. My elder child is blind since his birth. I have taken him to several hospitals in Taxila, Karachi, Lahore and Peshawar. On his treatment, I have spent all the money inherited from my father.

III. As far as withdrawal of money from the accounts No.5848-7 and No.5845-0 (National Bank Matta) is concerned, in this connection it is submitted that I never intended to take away the money. Infact, I intended to re-submit the money in the concerned accounts in due course of time. When the matter came into the notice of the high-ups i.e. SDM, Matta, I submitted the amount back in the concerned accounts within two days. Office and Bank record is evident in this regard.

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It is, therefore, very humbly requested that keeping in view the poor financial conditions of my family, treatment of my child for recovery of his eyesight and the fact that I have deposited the amount back in the concerned accounts, lenient view be taken in the matter. The major penalty of "Removal from Service" be relaxed and I may please be given a "last chance" to prove that I am not guilty by birth but it was the circumstances that compelled me for the wrong-doings. I submit my apology to the high-ups and colleagues who were affected due to my act of negligence. I assure to perform my duties with full honesty and upto the satisfaction of my high-ups. It was an act of my inexperience and expects my high-ups to accept my apology.

I shall be obliged if I am given a chance to be heard in person.

Yours obediently

Muhammad Farooq
(Suspended)
Secretary UC Gwalerai/Beha
District Swat
Dated: 26/07/2012

E.A.
W

Pls put up on file -
Re
39

D E O
27-7-12
DIARY NO. 8635
DATE 30-07-12
OFFICE Swat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 536/2013

Muhammad Farooq,
Ex-Secretary UC Gwalerai/Beha,
District Swat.

....Appellant.

Versus

Secretary, LG,E&RDD & Others

.....Respondents

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DEPONENT

C.N.I.C NO. 17102-7556165-9

Identified by

**Additional Advocate General
Service Tribunal, Peshawar**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.536/2013

Muhammad Farooq
Ex-Secretary Union Council, Swat

Appellant

VERSUS

Secretary, LG&RDD and others

Respondents

Para-wise reply/comments of Respondent

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- (iii) That the appellant has not come to the Hon'ble Tribunal with clean hands.
- (iv) That the appeal is not maintainable and not covered by the relevant rules.
- (v) That the instant appeal is barred by law.

ON FACTS:-

Para No.1 Incorrect. Satisfactory service of the appellant is denied as he has proved himself guilty of mis-conduct, in-efficiency and corruption of Rs.5,96,500/-.

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GVALERAI/BEHA IN CONNECTION WITH SHOW CAUSE NOTICE**

Reference: Show Cause Notice of the office of District Coordination Officer, Swat in connection with Inquiry Report of Sub Divisional Magistrate, Khwaza Khela in response to Charge sheet No.8528/24/DCO/Estt: dated 07/05/2012 and Disciplinary Action vide letter No.8529-31/24/DCO/Estt: dated 07/05/2012.

I, Muhammad Farooq, Secretary Union Council Gwalera/Beha, District Swat (now suspended) in response to the above referred Show Cause Notice submit as under:

I. That I, alongwith my elder brother, are the only caretakers of our family as our father has died about five years ago. My late father had served in office of the DCO, Swat for more than 25 years but he unfortunately died before formal retirement from the service. He was known for his good conduct, behavior and honesty amongst the office staff and local community. I have, no doubt, disgraced his name and need a chance to bring back his good name and my reputation in the office.

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It is, therefore, very humbly requested that keeping in view the poor financial conditions of my family, treatment of my child for recovery of his eyesight and the fact that I have deposited the amount back in the concerned accounts, lenient view be taken in the matter. The major penalty of "Removal from Service" be relaxed and I may please be given a "last chance" to prove that I am not guilty by birth but it was the circumstances that compelled me for the wrong-doings. I submit my apology to the high-ups and colleagues who were affected due to my act of negligence. I assure to perform my duties with full honesty and upto the satisfaction of my high-ups. It was an act of my inexperience and expects my high-ups to accept my apology.

I shall be obliged if I am given a chance to be heard in person.

Yours obediently

Muhammad Farooq
(Suspended)
Secretary UC Gwalerai/Beha
District Swat
Dated: 26/07/2012 ✓

E.A
W

Pls put up on file -
Re
327

D. C. O
27-7-12

DIARY NO. 8635
DATE 30-07-12
DCO/DM Office Swat.

In The Khyber Pakhtunkhwa Service Tribunal, Peshawar

In Re-Service Appeal No 536/2013

Muhammad Farooq Versus Secretary, LG & RDD and others

Rejoinder on behalf of Appellant

On Preliminary Objections:

All the preliminary objections are formal, wrong, incorrect, misleading and misconceived, hence denied.

On Facts:

- 0 1 7
24.03.13
1. Para No "1" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct.
 2. Para No "2" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct. The respondents in their reply has alleged that the Appellant has made confession of guilt vide statement dated 26-07-2012 which is wrong, incorrect and contradictory to the available record because the perusal of the para No 3 of the office Order dated 17-08-2012 would reveal that the inquiry officer has submitted report vide No 430/SDM/KK/INQ, dated 10-07-2012, hence how can a confessional statement be recorded after the completion of inquiry and submission of inquiry report. (Copy of the said office order is annexed with service Appeal and available on Page 5 of the Service Appeal) The relevant portion of the office Order No 15801/24/DCO/Estt dated 17-08-2012 is reproduced for convenience of this learned Tribunal

"3. AND WHEREAS, the inquiry officer has examined the charges, evidence on record, the explanation of the accused official and submitted report vide No 430/SDM/KK/INQ, dated 10-07-2012"

3. Para No "3" of the comments is wrong and incorrect, hence denied while that of Service appeal is correct. The respondents have never served any charge sheet, statement of allegation on the appellant, which is evident from the fact that no copy of such documents is attached with the comments.

4. Para No "4" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct. Full details are given in preceding Para No 2 of the instant rejoinder.
5. Para No "5" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct.

On Grounds:

- a. Para "a" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct.
- b. Para "b" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct.
- c. Para "c" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct.
- d. Para "d" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct.
- e. Para No "e" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct.
- f. Para "f" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct.
- g. Para "g" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct.
- h. Para "h" of the comments is wrong and incorrect, hence denied while that of Service Appeal is correct.
- i. Needs no rejoinder

It is, therefore, prayed that the title Service Appeal may kindly be allowed as prayed for.

Through

Appellant,

Muhammad Ayub Khan Shinwari
Advocate Peshawar

Affidavit

I, Muhammad Farooq, Ex Secretary UC Gwalera/Beha, District Swat do hereby solemnly affirm and declare on oath that the contents of the accompanying rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Deponent



