

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT D.I.KHAN.

SERVICE APPEAL NO. 1375/2013

Date of institution ... 12.09.2013

Date of judgment ... 25.04.2016

Dr. Abdul Waheed S/O Abdul Hameed  
Caste Qureshi R/o Mohallah Garhi Saddozai  
D.I.Khan.  
Ex-Veterinary Officer (H)  
Incharge Civil Veterinary Dispensary  
Garrah Essa Khan, District, D.I.Khan.

(Appellant)

VERSUS

1. Chief Secretary,  
Government of Khyber Pakhtunkhwa  
Civil Secretariat, Peshawar.
2. Secretary, Agriculture Live Stock & Cooperative  
Department Govt. of KPK Civil Secretariat, Peshawar.
3. Director General, Live Stock & Dairy Development  
Department, Livestock Directorate, Bacha Khan Chowk,  
Peshawar.
4. District Director Livestock (DDL) District D.I.Khan  
Near Old Sabzi Mandi C.H.V, D.I.Khan District D.I.Khan.

(Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974, AGAINST THE REMOVAL FROM SERVICE  
ORDER DATED 28.05.2013.

Mr. Sheikh Ifikhar-ul-Haq, Advocate.  
Mr. Farhaj Sikandar, Government Pleader.

For appellant.  
For respondents.

MR. ABDUL LATIF  
MR. PIR BAKHSI SHAH

MEMBER (EXECUTIVE)  
MEMBER (JUDICIAL)

JUDGMENT

ABDUL LATIF, MEMBER:-

Facts giving rise to the instant appeal are that the appellant initially appointed as Veterinary Officer (H) in Livestock & Dairy Development on 01.09.1990. That in the year 2012 the District Livestock Officer called an explanation verbally

of the appellant without any reason, and in reply the appellant verbally/explained all the circumstances, and after submission of reply the Departmental Official visited the Dispensary where the appellant was present on his duty but one of the Official Dr. Ehsan Ullah took into possession stock book and OPD register without any cogent reason. After that an inquiry was conducted in the office of DLO, D.I.Khan where the appellant explained his position and Dr. Zahoor Ahmed also sworn his statement in favour of the appellant and the final report was submitted to D.G.L & D.D. That the appellant submitted an application regarding his transfer from the Garrah Essa Khan being a hard station, but his request was turned down, and without any reason the inquiry remained pending with the D.G.L & D.D and the appellant regularly performed his duties at that hard station. That after expiry of two months the Dr. Jan Mir DDL, D.I.Khan verbally order the appellant to report CVH Daraban and said it's the orders of D.G.L & DD, therefore, the appellant obey the verbal order and join CVH Daraban, but about two months one Dr. Anwar was posted as CVH Daraban and once again the appellant was ordered to report at Garrah Essa Khan, therefore the appellant once again join his previous posting place reasons don't know. That prior to appellant verbal posting at CVH Daraban in January, 2013 Dr. Jan Mir D.D.L asked the appellant that in connection of the inquiry the appellant should join him for Peshawar where the said Dr. Jan Mir produced the appellant before one Mr. Abid Ullah who was introduced to appellant as an inquiry officer where the said inquiry officer produced the appellant charge-sheet and forced to reply the same to which appellant resisted and requested for some time which was allowed to him and then appellant submit his detail reply but the genuine request was turned down and forcibly obtained reply from the appellant. That suddenly the appellant received a letter dated 28.05.2013 received on 06.06.2013 in which appellant was shown to be removed from service. That dissatisfied with the order dated 28.05.2013, the appellant knock the door of worthy Chief Secretary Khyber Pakhtunkhwa for set-aside the order dated 28.05.2013 but no fruitful. It is pertinent to mention that Apex Supreme Court of Pakistan in its judgment dated 06.06.2013 cancelled all the appointment/transfer/removals order made during the period of Caretaker Government, and the appellant was removed from service and notification was passed on 28.05.2013 which is liable to be cancelled and hence the appellant filed the service appeal before the Hon'ble Tribunal

Q. 1.

with a prayer that on acceptance of this appeal the impugned order dated 28.05.2013 may be set-aside and the appellant may be reinstated in service with all back benefits.

3. Learned counsel for the appellant argued that order of removal of the appellant dated 28.5.2013 was against the law and justice and also against the judgment dated 06.06.2013 of apex Supreme Court of Pakistan and on this score alone was liable to be set-aside. He further argued that inquiry conducted against the appellant was not according to law, though the major penalty of removal from service was against the law and justice as the appellant was not given sufficient time for proper explanation of his case. He further contended that no show-cause notice was served upon the appellant to explain his position and defend himself which was mandatory requirement of the law and the impugned order was therefore not maintainable under the law and liable to be set-aside. He prayed that on acceptance of this appeal the impugned order dated 28.05.2013 may be set-aside and the appellant may be reinstated in service with all back benefits.

4. Learned Government Pleader resisted the appeal and argued that removal of the appellant was as a consequence of departmental proceedings against the appellant for his long absence from duties and working with an NGO and reference to the judgments of the Supreme Court of Pakistan was out of context as the said judgment pertained to removal of heads of State Owned Enterprises in the Federal govt. by the Caretaker setup and other Posting/Transfers by the said Caretaker setup. He further argued that all codal formalities were fulfilled and full fledged departmental inquiry was conducted in the charges framed against the appellant in the charge-sheet and orders were passed by the competent authority after completion of due process of law. He further argued that appellant was given sufficient time and full opportunity to defend himself against the charges but he failed to defend himself and was removed from service after fulfillment of all codal formalities of the law/rules. He also contended that the appellant was habitual absentee and was previously awarded minor punishment of stoppage of increments and treatment of his 13 months absence from 01.02.2007 to 31.03.2008 as Extra-ordinary Leave by the competent authority and argued that


DFI

removal of the appellant from service was fully covered and justified under the law/rules. He prayed that the appeal being devoid of any merits may be rejected.

5. Arguments of learned counsels for the parties heard and record perused.

6. From perusal of the record it transpired that the appellant was proceeded against for the charges of habitual absenteeism and joining of an NGO SATH in the capacity of its full time president. Formal inquiry in the charges was conducted through an inquiry officer who prepared his report after conducting inquiry, found the officer guilty of the charges and made recommendations to the competent authority for imposition of minor/major penalty on the appellant. Perusal of the record reveal that the officer was proceeded earlier also for the <sup>similar</sup> ~~same~~ charges and taking lenient view the competent authority then imposed on him minor penalty of stoppage of three annual increments and treated his absence of thirteen months into Extra-Ordinary leave. The record reveals that the officer was duly associated with the proceedings and was given full opportunity of defense but he failed to defend himself against the charges. In the circumstances, we do not find any plausible ground to interfere in the matter and are inclined to confirm the impugned orders of the departmental authorities. The instant appeal being devoid of any merits is therefore dismissed. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
25.04.2016



(PIR BAKHSH SHAH)  
Member



(ABDUL LATIF)  
Member

28.02.2016

Counsel for the appellant (Mr. Sheikh Iftikhar-Ul-Haq, Advocate) and Dr. Muhammad Afzal, SVO alongwith Mr. Farhaj Sikandar, GP for respondents present. Arguments heard. To come up for order on 25-4-16 at cam court D.I Khan.



Member



MEMBER  
camp court D.I Khan

25.04.2016

Counsel for the appellant and Dr. Muhammad Afzal, SVO alongwith Mr. Farhaj Sikandar, Government Pleader for respondents present. Arguments heard and record perused. Vide our detailed judgment of today placed on file, this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

25.04.2016



MEMBER

MEMBER  
Camp Court D.I.Khan

DFA

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT D.I.KHAN.

SERVICE APPEAL NO. 1375/2013

Date of institution ... 12.09.2013

Date of judgment ... 25.04.2016

Dr. Abdul Waheed S/O Abdul Hameed  
Caste Qureshi R/o Mohallah Garhi Saddozai  
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Ex-Veterinary Officer (H)  
Incharge Civil Veterinary Dispensary  
Garrah Essa Khan, District, D.I.Khan.

... (Appellant)

VERSUS

1. Chief Secretary,  
Government of Khyber Pakhtunkhwa  
Civil Secretariat, Peshawar.
2. Secretary, Agriculture Live Stock & Cooperative  
Department Govt. of KPK Civil Secretariat, Peshawar.
3. Director General, Live Stock & Dairy Development  
Department, Livestock Directorate, Bacha Khan Chowk,  
Peshawar.
4. District Director Livestock (DDL) District D.I.Khan  
Near Old Sabzi Mandi C.H.V, D.I.Khan District D.I.Khan.

... (Respondents)

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Mr. Sheikh Iftikhar-ul-Haq, Advocate.

.. For appellant.

Mr. Farhaj Sikandar, Government Pleader.

.. For respondents.

MR. ABDUL LATIF

.. MEMBER (EXECUTIVE)

MR. PIR BAKHSH SHAH

.. MEMBER (JUDICIAL)

JUDGMENT

ABDUL LATIF, MEMBER:-

Facts giving rise to the instant appeal are that the  
appellant initially appointed as Veterinary Officer (H) in Livestock & Dairy Development on  
01.09.1990. That in the year 2012 the District Livestock Officer called an explanation verbally

GOVERNMENT OF NWFP  
AGRI:LIVESTOCK & STOCK DEPTT:

Dated Peshawar, the 22-11-2002.

Annex B

**NOTIFICATION.**

NO.SOE(AD)3(3)5/2002/KC.- The competent authority is pleased to order the following transfer/adjustment in the Agriculture Department with immediate effect in the public interest:-

Sl. No	Name of officer.	From	To
1.	Mr.Hamidullah Khan.	WMO o/o Dy:Director, Water Management, ADC-SSP, Mardan.	Water Management Officer Extn: Splst: o/o Dy:Director, Water Management, Swat.
2.	Mr.Rab Nawaz.	WMO o/o Dy:Director, Water Management, ADC-SSP, Mardan.	WMO o/o the Dy: Director(Filed) Water Management District Peshawar.
3.	Mr.Sultan Muhammad.	WMO o/o Dy:Director, Water Management, ADC-SSP, Mardan.	Project Implementation Assistance Consultants as Agriculturist Base Line Survey Team NWFP OFWM (World Bank Assisted Project).
4.	Mr.Irfan Hussain.	WMO o/o Dy:Director, Water Management, ADC-SSP, Mardan.	Project Implementation Assistance Consultants as Institutional Splst: Social organization Team NWFP-OFWM Project.
5.	Mr.Muhammad Ghafoor.	WMO o/o Dy:Director, Water Management, ADC-SSP, Mardan.	WMO Extension Splst:o/o the Asstt:Director, Water Management, NWFP OFWM(WBA)Project Bannu.
6.	Mr.Muhammad Nawaz.	WMO o/o Dy:Director, Water Management, ADC-SSP, Mardan.	WMO o/o Project Director, OFWM Pehur High level Canal Project Mardan against vacant post.

This order will effective with effect from 1-11-2002 for the purpose of pay.

**SECRETARY AGRICULTURE.**

Endst.of even No.& Date.

Copy forwarded for information and necessary action to:-

1. The Accountant General, NWFP, Peshawar.
2. The Director, Water Management, NWFP, Peshawar.
3. The Project Director, ADC-SSP, Mardan.
4. The Project Director, OFWM Pehur High Level Canal Project, Mardan.
5. The Deputy Director, Water Management, Swat.
6. The Deputy Director(Field)Water Management, District Peshawar.
7. The Asstt:Director, Water Management, NWFP OFWM(WBA)Project, Bannu.
8. The District Accounts Officers, Mardan, Swat and Bannu.
9. The Executive District Officer(Agril:)Mardan, Swat and Bannu.
10. Office order file.
11. Officers concerned.
12. PS to Secretary Agriculture.

DEPUTY SECRETARY (ADMN)

of the appellant without any reason, and in reply the appellant verbally/explained all the circumstances, and after submission of reply the Departmental Official visited the Dispensary where the appellant was present on his duty but one of the Official Dr. Ehsan Ullah took into possession stock book and OPD register without any cogent reason. After that an inquiry was conducted in the office of DLO, D.I.Khan where the appellant explained his position and Dr. Zahoor Ahmed also sworn his statement in favour of the appellant and the final report was submitted to D.G.L & D.D. That the appellant submitted an application regarding his transfer from the Garrah Essa Khan being a hard station, but his request was turned down, and without any reason the inquiry remained pending with the D.G.L & D.D and the appellant regularly performed his duties at that hard station. That after expiry of two months the Dr. Jan Mir DDL, D.I.Khan verbally order the appellant to report CVH Daraban and said it's the orders of D.G.L & DD, therefore, the appellant obey the verbal order and join CVH Daraban, but about two months one Dr. Anwar was posted as CVH Daraban and once again the appellant was ordered to report at Garrah Essa Khan, therefore the appellant once again join his previous posting place reasons don't know. That prior to appellant verbal posting at CVH Daraban in January, 2013 Dr. Jan Mir D.D.L asked the appellant that in connection of the inquiry the appellant should join him for Peshawar where the said Dr. Jan Mir produced the appellant before one Mr. Abid Ullah who was introduced to appellant as an inquiry officer where the said inquiry officer produced the appellant charge-sheet and forced to reply the same to which appellant resisted and requested for some time which was allowed to him and then appellant submit his detail reply but the genuine request was turned down and forcibly obtained reply from the appellant. That suddenly the appellant received a letter dated 28.05.2013 received on 06.06.2013 in which appellant was shown to be removed from service. That dissatisfied with the order dated 28.05.2013, the appellant knock the door of worthy Chief Secretary Khyber Pakhtunkhwa for set-aside the order dated 28.05.2013 but no fruitful. It is pertinent to mention that Apex Supreme Court of Pakistan in its judgment dated 06.06.2013 cancelled all the appointment/transfer/removals order made during the period of Caretaker Government, and the appellant was removed from service and notification was passed on 28.05.2013 which is liable to be cancelled and hence the appellant filed the service appeal before the Hon'ble Tribunal



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No. 841 /2013

Khalid Mansoor ..... Appellant

Versus

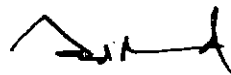
Senior Member Board of Revenue, Govt of KPK Peshawar ... Respondents

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S.No.	Description of documents.	Annexure	Pages.
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Appellant

Through



**Shakeel Ahmad**  
Advocate, Peshawar.

Dated: 29.04.2013

with a prayer that on acceptance of this appeal the impugned order dated 28.05.2013 may be set-aside and the appellant may be reinstated in service with all back benefits.

3. Learned counsel for the appellant argued that order of removal of the appellant dated 28.5.2013 was against the law and justice and also against the judgment dated 06.06.2013 of apex Supreme Court of Pakistan and on this score *above* was liable to be set-aside. He further argued that inquiry conducted against the appellant was not according to law, though the major penalty of removal from service was against the law and justice as the appellant was not given sufficient time for proper explanation of his case. He further contended that no show-cause notice was served upon the appellant to explain his position and defend himself which was mandatory requirement of the law and the impugned order was therefore <sup>\*</sup>no maintainable under the law and liable to be set-aside. He prayed that on acceptance of this appeal the impugned order dated 28.05.2013 may be set-aside and the appellant may be reinstated in service with all back benefits.

4. Learned Government Pleader resisted the appeal and argued that removal of the appellant was as a consequence of departmental proceedings against the appellant for his long absence from duties and working with an NGO and reference to the judgments of the Supreme Court of Pakistan was out of context ~~xt~~ as the said judgment pertained to removal of heads of State Owned Enterprises in the Federal govt. by the Caretaker setup and other Posting/Transfers ~~of~~ by the said Caretaker setup. He further argued that all codal formalities were fulfilled and full fledged departmental inquiry was conducted in the charges framed against the appellant in the charge-sheet and order <sup>were</sup> ~~sh~~ passed by the competent authority after completion of due process of law. He further argued that appellant was given sufficient time and full opportunity to defend himself against the charges but he failed to defend himself and was removed from service after fulfillment of all codal formalities of the law/rules. He also contended that the appellant was habitual absentee and was previously awarded minor punishment of stoppage of increments and treatment of his 13 months absence from 01.02.2007 to 31.03.2008 as *Extra ordinary* <sup>leave</sup> by the competent authority and argued that removal of the appellant from service

(1)

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

IN RE; Service Appeal NO.841/2013

M. Khalid Mansoor.....Appellant

Versus

Govt. of KPK and others.....Respondents

Rejoinder on behalf of appellant *to the reply of respondent no.1*

Preliminary objections;

1. In reply to para-1 of the preliminary objections it is submitted that the honorable High Court has sent the writ petition to the appellate authority to treat the writ petition as pending departmental appeal/representation under service laws and rules and decide it as early as possible but when it was received by the competent authority he instead of sending the same to the appellate authority decided it himself therefore, the appellant cannot be punished for the same. According to appeal rules the competent authority should have forwarded the appeal to the appellate authority but he has intentionally decided the departmental appeal of the appellant so the appellant cannot be suffered for the decision passed by the competent authority. The appeal is thus maintainable. Copy of the court order is attached as annexure-A.

2. All other preliminary objections have been taken in routine. The appellant is having a cause of action. All necessary parties have been arrayed as respondents and it has not been shown how the appellant is estopped by his conduct. The appellant has come to this honorable tribunal with clean hands and the appeal is not time barred. Legal and vested right of the appellant has been infringed.

On Facts;

1. Para-1 of the reply needs no rejoinder.
2. Para-2&3 of the reply is incorrect and para-2&3 of the appeal are reiterated.
3. Para-4 of the reply is incorrect. Revenue & Estate Department\BOR is an administrative and Civil Secretariat Department and has got the status of Civil

was fully covered and justified under the law/rules. He prayed that the appeal being devoid of any merits may be ~~set aside~~ *rejected*. X

5. Arguments of learned counsels for the parties heard and record perused.

6. From perusal of the record it transpired that the appellant was proceeded against for the charges of habitual ~~by~~ absenteeism and joining of an NGO SATH in the capacity of its full time president. Formal inquiry in the charges was conducted through an inquiry officer who prepared his report after conducting inquiry, found the officer guilty of the charges and made recommendations to the competent authority for imposition of minor/major penalty on the appellant. Perusal of the record reveal that the officer was proceeded earlier also for the same charges and ~~keeping~~ *taking* lenient view the competent authority then imposed on him minor penalty of stoppage of three annual increments and treated his absence of thirteen months into Extra-Ordinary leave. The record reveals that the officer was duly associated with the proceedings and was given full opportunity of defense but he failed to defend himself against the charges. In the circumstances, we do not find any plausible ground to interfere in the matter and are inclined to confirm the impugned orders of the departmental authorities. The instant appeal being devoid of any merits is therefore dismissed. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED

25.04.2016

(PIR BAKHSH SHAH)  
Member

(ABDUL LATIF)  
Member

Dated Peshawar, the 22/2/2011.

**NOTIFICATION.**

NO. SOE (AD) V-8/2010.-

On recommendations of the Departmental Promotion Committee, the Competent authority is pleased to promote the following Water Management Officers (BS-17) to post of Assistant Directors (BS-17 Supervisory) in the On-Farm Water Management Department on regular basis with immediate effect:-

S.No.	Name of Officer	S.No.	Name of Officer
1.	Mr. Mian Ghulam Hussain	12.	Mr. Muhammad Anwar
2.	Mr. Jahangir Khan	13.	Mr. Abdul Hafeez
3.	Mr. Naseeb-ur-Rehman	14.	Raja Muhammad Javed Arif
4.	Mr. Muhammad Hayat	15.	Mr. Muhammad Asif
5.	Mr. Muhammad Ishaq	16.	Mr. Irfan Hussain
6.	Mr. Bakhtawar Shah	17.	Mr. Imtiaz Khan
7.	Mr. Bakht Ali	18.	Mr. Sultan Muhammad
8.	Mr. Zahid Ullah	19.	Mr. Riaz Gul
9.	Mr. Habib-ur-Rehman	20.	Mr. Muhammad Ghafoor
10.	Mr. Saeed-ur-Rehman	21.	Mr. Rabnawaz
11.	Mr. Hameedullah		

The promotion cases of M/S, Muhammad Jamil, Masoud-ur-Rehman, Shad Muhammad, Muhammad Nawaz and Irfanullah Water Management Officers, were deferred for the time being till their return from long leave, however, their seniority position will remain intact.

2. On their promotion, the following postings/transfers are ordered in the best public interest:-

S. No	Name of Officer	From	To	Remarks
1	Mr. Gulistan Khan	Project Director (BS-18) o/o Director (HRD) Water Management Training Center D.I.Khan	District Officer (BS-18) OFWM, Bannu.	Vice No. 8
2	Mr. Mian Ghulam Hussain	District Officer OFWM Shangla (BS-18) (in his own pay & scale)	District Officer (BS-18) OFWM Shangla (in his own pay & scale).	He will actualize his promotion against the vacant post of Assistant Director (BS-17 Supervisory) Shangla.
3	Mr. Jahangir Khan	District Officer OFWM Charsadda (BS-18) (in his own pay & scale)	District Officer (BS-18) OFWM, Charsadda (in his own pay & scale).	He will actualize his promotion against the vacant post of Assistant Director (BS-17 Supervisory) Charsadda.
4	Mr. Nasib-ur-Rehman	District Officer BS-18) OFWM, Bannu (Ops).	Assistant Director (BS-17 Supervisory) o/o District Officer OFWM Karak.	Against vacant post.
5	Mr. Muhammad Hayat	District Officer (BS-18), OFWM, Buner (in his own pay & scale).	District Officer (BS-18), OFWM, Buner (in his own pay & scale).	He will actualize his promotion against the vacant post of Assistant Director (BS-17 Supervisory) Buner. Vice No. 7
6	Mr. Muhammad Ishaq	Assistant Director (BS-17) o/o District Officer OFWM Dir Upper (Ops).	Assistant Director (BS-17 Supervisory) o/o District Officer OFWM Dir Upper.	Where he is already working.
7	Mr. Bakhtawar Shah	Assistant Director (BS-17) o/o District Officer OFWM Buner (Ops).	Assistant Director (BS-17 Supervisory) o/o District Officer OFWM, Buner.	He will actualize his promotion against the vacant post of Assistant Director (BS-17 Supervisory) Dir Lower.

25.05.2015

Junior to counsel for the appellant and Mr. Farhaj Sikandar, GP with Dr. Muhammad Asad, V.O for the respondents present. Due to general strike of the legal fraternity, counsel for the appellant is not available. To come up for arguments at camp court, D.I.Khan on 23.11.2015 at camp court, D.I.Khan.

  
MEMBER  
Camp court, D.I.Khan


23.11.2015

Counsel for the appellant and Mr. Farhaj Sikandar, GP with Dr. Muhammad Asad, V.O for the respondents present. Since D.B for touring Bench, D.I.Khan is incomplete, therefore, case is adjourned to 30-12-15 for arguments at camp court, D.I.Khan.

  
MEMBER  
Camp Court, D.I.Khan

30.12.2015

Since tour to D.I.Khan for the month of December, 2015 has been cancelled, therefore, case is adjourned to 28.3.16 for the same.

  
Member  
Camp Court, D.I.Khan

30-9-14.

Counsel for the appellant and Dr. Mahid Asad v. Officer for respondents with G.P. present. Reply received, copy whereof is handed over to counsel for the appellant for rejoinder, if any. To come up for rejoinder on 30-12-2014 at Camp Court, D.I. Khan. Fresh vakalat nama filed Khalid ul Rehman / Safiullah Khan, advocates on behalf of appellant.

Le Sulz  
Registrar  
Camp Court, D.I.K.

30-12-14.

No one is present on behalf of appellant. Dr. Muhammad Asad, v.o. for respondents present. Case adjourned to 23-2-15 for rejoinder at Camp Court, D.I.K.

Le Sulz  
Registrar  
Camp Court, D.I.K.

23-2-15.

Counsel for the appellant and Dr. Mahid Asad, v.o. for respondents present with G.P. Rejoinder received, copy whereof is handed over to G.P. for arguments. To come up for arguments on 25-5-2015 at Camp Court, D.I.K.

Member  
Camp Court, D.I.K.

24-2-2014

No one is present on behalf of appellant. Due to strike of the bar council, the case is adjourned for tomorrow i.e. 25-2-14 for further preliminary hearing at Camp Court, D.I. Khan.

Member  
Camp Court, D.I. Khan

25.2.2014

Appellant with counsel present and heard. The learned counsel argued that appellant has not been treated in accordance with law. Points raised in the memo of appeal would require consideration. Admit. Process fee and security within 10 days. Thereafter, notices to the respondents for submission of written reply on 28-2-2014 Camp Court D.I. Khan.

Member  
Camp Court D.I. Khan

Appellant deposit process fee & security amount of Rs. 200/- in the State Bank, Islamabad.

28-6-2014

Counsel for the appellant and Dr. Mubel Anwar for respondents with G.P. present. written reply not received. To come up for written reply on 23-6-2014 at Camp Court, D.I. Khan.

Member  
Camp Court, D.I. Khan

23-6-14

Appellant with counsel present, Dr. Mubel Anwar for respondents, and requested for time to file reply. To come up for reply on 30-9-14 at Camp Court, D.I. Khan.



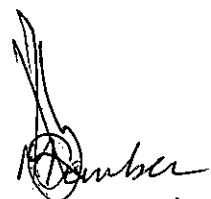
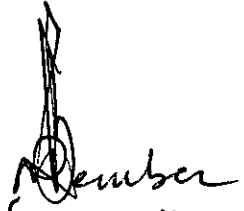
Member  
Camp Court, D.I. Khan



Form- A  
FORM OF ORDER SHEET

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

Case No. 1375/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30/09/2013	<p>The appeal of Dr. Abdul Waheed resubmitted today by Mr. Allah Nawaz Khan 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	3-10-2013	<p>This case is entrusted to Touring Bench D.I.Khan for preliminary hearing to be put up there on <u>28-10-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	28-10-13.	<p>No one is present on behalf of appellant. Fresh notices be issued to appellant and his counsel for preliminary hearing on 30-12-2013 at Camp Court, D.I. Khan.</p> <p style="text-align: right;"> Member Camp Court, D.I. Khan.</p>
4	2-1-2014	<p>No one is present on behalf of appellant. Fresh notice be issued to appellant/counsel for preliminary hearing on 24-2-14 at Camp Court, D.I. Khan.</p> <p style="text-align: right;"> Member Camp Court, D.I. Khan.</p>

The appeal of Dr. Abdul Waheed son of Abdul Waheed received today i.e. on 12/09/2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Address of appellant is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Heading of the appeal is incomplete which may be completed.
- 4- The departmental appeal submitted after receiving the impugned order on 6.6.2013, is not attached with the appeal which may be placed on it.
- 5- Two more copies/sets of the appeal alongwith annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1285 /S.T,

Dt. 13/09/2013.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Allah Nawaz Khan Advocate,  
High Court Dera Ismail Khan.

Resubmitted after  
Compliance

Allah  
Nawaz  
28/9/13

Note:- Departmental appeal is  
already annexed on page 13 on  
Annexure C of appeal

Allah  
Nawaz  
28/9/13

BEFORE THE HONOURABLE R.P.K. SERVICE TRIBUNAL, PESHAWAR.

S.T. APPEAL NO. 1375/2013.

Dr: Abdul Waheed.  
Appellant.

VERSUS.

Govt: of KPK Etc.  
Respondents.

INDEX.

<u>S.No.</u>	<u>Particulars of documents.</u>	<u>Annex:</u>	<u>Pages.</u>
1-	Grounds of Service Appeal.	-	1 - 5
2-	Affidavit.	-	6
3-	Copy of appointment Order.	A	7 - 11
4-	Copy of removal Order.	B	12 - 15
5-	Copy of Appeal before Secretary KPK.	C	13 - 16
6-	Copy of Judgement of Apex Supreme Court.	D	17 - 61
7-	Wakalatnama.	-	62

*Waheed*  
Appellant,

Through counsel,

*Ahmad*  
Advocate, D.I. Khan.

Dated 11-9-13

①

BEFORE THE KHYBER PAKHTOONKHAWA SERVICE TRIBUNAL(KPK).

S.T.Appeal No. 1375 /2013.

~~S. W. F. P. P. P.~~  
~~1342~~  
~~12/9/13~~

Dr:Abdul Waheed s/o Abdul Hameed  
Caste Qureshi r/o Mohallah Garhi Saddozai  
D.I.Khan.Ex-Veterinary Officer(H)  
Incharge Civil Veterinary Dispensary  
Garrah Essa Khan, District, D.I.Khan.

APPELLANT.

VERSUS.

- 1-Chief Secretary,  
Government of Khyber Pakhtoonkhawa  
Civil Secretariate, Peshawar.
- 2-Secretary, Agriculture Live Stock & Cooperative  
Department Govt: of KPK Civil Secretariat, Peshawar.
- 3-Director General, Live Stock & Dairy Development  
Department, Livestock Directorate, Bacha Khan Chowk,  
Peshawar.
- 4-District Director Livestock(DDL) District, DIKhan  
Near Old Sabzi Mandi C.V.H., DIKhan District, DIKhan.

RESPONDENTS.

APPEAL U/S 4 OF KHYBER PAKHTOONKHAWA

SERVICE TRIBUNAL ACTS, 1974, AGAINST THE  
REMOVAL FROM SERVICE ORDER DT:28.5.2013.

RESPECTFULLY SHEWETH:

That the Appellant initially appointed as VO(H) in  
L & DD on 1.9.1990. Copy of appointment Order is  
enclosed as ANNEXURE-A.

Page- 2.

*All documents*

1-  
~~12/9/13~~

re-submitted to  
and filed.

~~30/9/13~~

- 2- That after appointment, I the Appellant performed Government Duties on various Stations, to the entire satisfaction of my Superiors.
- 3- That at last the Appellant was posted as VO(H) at Garrah Essa Khan, Tehsil & District, Dera Ismail Khan. Copy of Transfer Order is attached as ANNEXURE-2.
- 4- That it is pertinent to mention here that Station Garrah Essa Khan Dispensary is too much away from DIKhan District at about 50 K.M. and about 10 K.M. is from the link Road and there is no chance of Travel by Vehicle/Private. I performed my duties regularly and there is no complaint against the Appellant.
- 5- That in the year 2012 the District Live Stock Officer called an Explanation <sup>verbally</sup> of the Appellant without any reason, and in reply the appellant <sup>verbally</sup> explained all the circumstances, and after submission of reply the Departmental Official visited the Dispensary where the appellant was present on his duty but one of the Official Dr: Ehsan Ullah took into possession stock book and OPD register without any cogent reason. After that an Inquiry was conducted in the Office of DLO, DIKhan where the appellant explained his position and Dr. Zahoor Ahmad also sworn his statement in favour of the appellant and the final report was submitted to D.G.L & D.D.
- 6- That the appellant submitted an applications regarding his transfer from the Garrah Essa Khan being a hard station, but my request was turned down, and without any reason the Inquiry remained pending with the D.G.L & DD and the appellant regularly performed his duties at that hard station.

Alloch...

- 7- That after expiry of two months the Dr:Jan Mir DDL,DIKhan verbally order the appellant to report CVH Daraban and said it's the Orders of D.G.L & DD, therefore, the appellant obey the Verbal Order and join CVH Daraban, but about two months one Dr.Anwar was posted as CVH Daraban and once again the appellant was ordered to report at Garrah Essa Khan, therefore the appellant once again join his previous posting place reasons do'nt know.
- 8- That prior to appellant verbal posting at CVH Daraban in January,2013 Dr.Jan Mir D.D.L. asked the appellant that in connection of the inquiry the appellant should join him for Peshawar where the said Dr.Jan Mir produced the appellant before one Mr.Abid Ullah who was introduced to appellant as an Inquiry Officer where the said Inquiry Officer produce the appellant Charge Sheet and forced to reply the same to which appellant resisted and requested that the appellant may please be allowed/given some time so that the appellant may consult the docuements and then submit his detail reply bgt the genuine request was turned down and forcibly obtained reply from the appellant.
- 9- That suddenly the appellant received a letter dated 28.5.2013 received on 6.6.2013 in which appellant was shown to be removed from services, Copy attached as ANNEXURE-B.
- 10- That disatisfied with the order dated 28.5.2013, the appellant knock the door of Worthy Chief Secretary Khyber Pakhtoonkhawa for set aside the order dated 28.5.2013 but no fruitful. copy of Appeal is ANNEXURE-IC.

All documents

11-

It is pertinent to mention that Apex Supreme Court of Pakistan in its Judgement dated 6.6.2013 cancelled all the appointments/Transfers/removals Orders made during the period of Caretaker Government, and the appellant was removed from Service and Notification was passed on 28.5.2013 which is liable to be cancelled. Copy of Judgement is enclosed for ready reference as ANNEXURE-D.

12-

That dissatisfied with the forms below, now the appellant has come to this Honourable Tribunal seeking set aside the Order dated 28.5.2013 passed by Govt: of K.P.K. Agriculture Livestock & Cooperative Department Peshawar dated 28.5.2013, inter alia on the following grounds:-

GROUNDS:-

1.

That the Order of removal of appellant dated 28.5.2013, passed by Govt: of K.P.K. Agriculture Livestock & Cooperative Department, Peshawar is purely against the Law, and Justice, and also against the Judgement dated 6.6.2013 of Apex Supreme Court of Pakistan, on this score alone the Order dated 28.5.2013 is liable to be set aside.

2.

That the inquiry conducted against the appellant is not according to law, the major penalty of removal from service is against the law and Justice.

3.

That the appellant has not given sufficient time for properly explain his case.

4.

That no Show Cause Notice has been served upon the appellant to explain his position, which was necessary according to Efficiency & Discipline, Rules 1972.

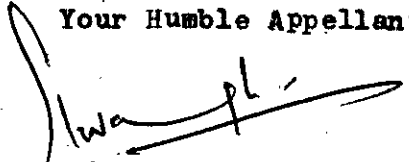
Attachment 20

5. That the appellant has performed his Govt: duties, properly, regularly, efficiently and regularly and there is no absence from duty, how the Inquiry held against the appellant without any cogent reason.

6. That the appellant or his counsel may kindly be allowed to raise an additional grounds during the course of arguments.

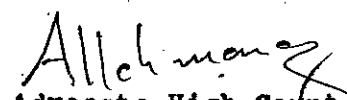
In the circumstances mentioned above on acceptance of the instant appeal with sympathetic consideration may please be accepted and the Order/Notification dated 28.5.2013 may please be set aside and the appellant may please be reinstated in the service, with all back benefits. The appellant may please also be allowed to heard in personally.

Your Humble Appellant,

  
ABDUL WAHEED QURESHI,  
EX-VETERINARY OFFICER(H)VO

Through Counsel:-

Dated: 11-9-13

  
Advocate High Court.



BEFORE THE K.P.K. SERVICE TRIBUNAL, PESHAWAR.

S.T.APPEAL NO. \_\_\_\_\_

Dr:Abdul Waheed.

VERSUS.

Govt: of KPK Etc.

Appellant.

Respondents.

AFFIDAVIT.

I, Dr:Abdul Waheed s//o Abdul Hameed caste Qureshi, r/o DIKhan, Appellant, do hereby solemnly affirm and declare on Oath that the contents of Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Service Tribunal.

DEPONENT.

Handwritten signature

Dated: 9.9.2013.

AZ

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28/9/13

GOVERNMENT OF N.W.F.P.  
FOOD, AGRI. LIVESTOCK & COOPERATION  
DEPARTMENT

ANNEXURE - A

(7)

Peshawar dated the 22/8/1990

NOTIFICATION

NO. SO(L&DD)AD-E-1(141)/89 ~~ET. II~~ On the recommendation of the NWFP, Public Service Commission, the Governor, NWFP is pleased to appoint the following candidates as Veterinary Officer (Health) on regular basis in the Livestock and Dairy Development Department, NWFP in B-17 (Rs.2065-155-3925/-) with effect from the date of their taking over charge, subject to the verification report from Police & Political Agents concerned:

<u>S.NO.</u>	<u>NAME OF CANDIDATE</u>	<u>ADDRESS</u>
1.	Mr. Javed Iqbal s/o Fazal Khan	Mohallah Muhammad Zai Barian P.O. Nawansher Abbottabad.
2.	Muhammad Tariq Shah s/o Pir Feroz Shah	House No. 1609 Kashmeri Mohallah Gunj Bazar Peshawar City.
3.	Mr. Muhammad Adeeq Khan s/o Muhammad Rafique Khan (Late)	Mohallah Serai Tehsil and P.O. Hangu District Kohat NWFP.
4.	Mr. Salin Khan s/o Qain Khan	Village Pak-Kaya P/O Hund Tehsil Lahor District Swabi.
5.	Mr. Pervez Shah s/o Salin Shah	Village Alan Gunj P/O Kohi Barnol Tehsil and District Mardan.
6.	Mr. Burhan-ud-Din s/o Rahman-ud-Din	Village and Post Office Harichand Tehsil Tangi District Charsadda.
7.	Mr. Shahab-ud-Din s/o Fateh-ur-Rahin Khatib	Mazdoor Abad Takht Bai District Mardan.
8.	Mr. Muhammad Iqbal s/o Lal Sahib Khan	Village Mohabathi Killah P/O Tetter-Khel Teh: & District Karak.
9.	Mr. Muhammad Ibrahim s/o Qadar	Village Shah Bag P/O Ibrahim Khan Kali District and Tehsil Mardan.
10.	Mr. Abdul Jabbar Tanweer s/o Ilahi Bakhsh	Lower Camp Wana (South Waziristan Agency).
11.	Mr. Muhammad Farooq s/o Muhammad Yousaf	Village Kanthiali cum Kukmong P.O. Kukmong via Garhi Habibullah, Teh: & Dist: Abbottabad.
12.	M. Saifullah Shah s/o Raziq Shah Bangash	C/O Raziq Shah, Div: Health Education Officer, Peshawar Division Benevolent Fund Building.
13.	Mr. Abdul Aziz s/o Rasul Khan	Village Khadri Tehsil and P.O. Mirali C/O Khalil Market Shop No. 71 North Waziristan Agency.
14.	Miss Shanin Akhtar d/o Muhammad Aslan Khan Business-man	House No. 5 Gulberg No. 3 Opposite Sarhad Model School Peshawar.
15.	Mr. Hafiz-ur-Rahman s/o Habibur Rahman Siddiqui	Mohallah Nogazi near Government High School No. 1 Mansehra District and P.O. Mansehra.
16.	Mr. Shafqat Hussain s/o Fazal Hussain	H.No. 204 near Moti Mosque Mohallah Islamabad O/S Lahori Gate Gulbahar Road Peshawar City, NWFP.

Contd: P/2....

Attest  
Allama  
Adnan

<u>S.NO.</u>	<u>NAME OF CANDIDATE</u>	<u>ADDRESS</u>
17.	Mr.Sadeeq Gul s/o Hassan Gul (Farmer)	Village Inran-abad P.O.Kalpani Railway Station(Jandi) Tehsil Takht Bai District Mardan.
✓ 18.	Mr.Abdul Waheed Qureshi s/o Abdul Hameed Qureshi.	Nai-abadi Ghari Suddozai DUKhan (NWFP).
19.	Mr.Altaf Hussain s/o Maqbool Hussain	College Road,Thana Malakand Agency.
20.	Mr.Ijaz Ahmad s/o Ziarat Gul Headmaster	Moh:Malook Abad Mingora Swat.
21.	Mr.Shaikh Ahmad s/o Hidayatullah	Will:& P.O.Garan Chashma District Chitral.

2. These appointees will be governed by the following terms and conditions:

- 1) They shall be governed by the provisions of NWFP Civil Servants Act, 1973 (NWFP Act No. XVIII of 1973) and in matters not specifically mentioned in this notification shall be governed by such rules and regulations relating to leave, T.A., Medical Attendance, seniority etc. as have been or may be prescribed from time to time by Government for that category/status of Government servants to which they belong.
- 2) They shall be governed by the Government Servants Conduct Rules, 1987, the NWFP Government Servants (Efficiency and Discipline) Rules, 1973 and any other instructions in the subject as may be issued by the Government of NWFP from time to time.
- 3) They will initially be on probation for a period of two years. Their services will be liable to termination at any time without assigning any reasons before expiry of the period of probation/extended period of probation if their work and conduct during this period is not found satisfactory. If such an event they shall be given a month's notice of termination of service or one month's pay in lieu thereof. In case they wish to resign at any time, a month's notice shall be necessary or in lieu thereof a month pay shall be forfeited.
- 4) They have not been previously dismissed or debarred from service of Government, Board, Local Body or Autonomous or Semi-Autonomous Organization etc.
- 5) Their employment will not in any case confer upon them any claim or right to permanent employment in the Department. They will, however be eligible for continuance and eventual confirmation on satisfactory completion of probation (including the extended period of probation) if any and when a regular substantive vacancy in the post is available for them.
- 6) They shall not be entitled to any Travelling Allowance/Daily Allowance on their first appointment except in case of permanent servants.

All-Steel  
All-Advisors

- 3 -
- 8
- 7) Their inter-se-seniority position shall be determined in accordance with the order of merit assigned by the NWFP, Public Service Commission as indicated in para-1 above, provided that a person selected for appointment to service in an earlier selection shall rank senior to the persons selected in a later selection, his seniority vis-a-vis those appointed otherwise shall be determined as provided for in the relevant service/recruitment rules.
  - 8) They shall be liable to serve any where within or outside NWFP in any post under the Federal Government or any Provincial Government or local Authority or a Corporation or body set-up or established by any such Government.
  - 9) Their pay will be fixed in the Basic Pay Scale of Rs.2065-155-3925/- from the date of their taking over the charge of the posts. In the case of the candidates who are already in the service of the Federal/Provincial Governments, their pay will be fixed under the normal rules of the Govt. of NWFP. If however, they are in the service of any Autonomous Body/Corporation etc, they will not get the benefit of their previous pay on joining the Government of NWFP.

3. If the above terms and conditions of appointment are acceptable to them, they should immediately communicate their acceptance in writing to this Department and report for duty to the Director, Livestock and Dairy Development, NWFP, Peshawar on or before 5.9.1990 at the latest. In case a candidate fails to report for duty on the date, his appointment will be treated as cancelled.

SECRETARY TO GOVT. OF NWFP,  
FOOD, AGRIC. LIVESTOCK & COOP: DEPTT:

Endst: No. 30 (L&DD) AD-E-1 (141) / 89 KC

Copy forwarded to the:

1. Accountant General, NWFP, Peshawar.
2. Secretary, NWFP, Public Service Commission, Peshawar for information w/r to his letter No. 3034-L&DD/4528 dated 7 May, 1990.
3. Director, Livestock and Dairy Development, NWFP, Peshawar for information and furnishing posting proposal of the candidates noted above to this department immediately. Certificates of Standing Medical Board in respect of the above named candidates are enclosed herewith in original. A photo copy of P.S.C. letter quoted above is also enclosed for your reference and record.
- 4-24. All District/Agency Accounts Officers in NWFP.
- 25-45. All candidates concerned noted above.
- 7-6. Manager, Government Printing Press, Peshawar for publication in the next issue of Government Gazette.

(AMIR RAHMAN)  
SECTION OFFICER (L&DD)

GOVERNMENT OF N.W.F.P.  
FOOD, AGRICULTURE, LIVESTOCK AND COOPERATION  
DEPARTMENT.

All staff  
All changes  
A/S

NOTIFICATION.

Peshawar dated the 28.8.1990.

NO.SO(L&DD)AD-E-1(141)/89.K.C. In pursuance of this department  
Notification No.SO(L&DD)AD-E-1(141)/89-K.C(20027-68) dated 20.8.90  
the Government of NWF<sup>P</sup> are pleased to order the posting of the  
following Veterinary Officers(Health) at the stations noted against  
each:-

<u>S.No. Name of Officer and Domicile.</u>	<u>Place of posting.</u>
1. M/S.	
1. Javed Iqbal s/o Fazal Khan, Abbottabad.	Adl.Vety.Officer(Health)Civil Veterinary Hospital Abbottabad.
2. Muhammad Tariq Shah s/o Pir Feroz Shah, Peshawar	Field Dairy Asstt.Cattle Breeding and Dairy Farm Harichand.
3. Muhammad Adeeq Khan s/o Rafique Khan, Kohat	Vety.Officer(Health) I/C Civil Vety.Hospital Kuraz, Orakzai Agency.
4. Salim Khan s/o Qaim Khan, Swabi	Vety.Officer(H) I/C Civil Vety. Hospital Paras Distt.Mansehra.
5. Pervez Shah s/o Salim Shah, Mardan.	Vety.Officer(H)I/C Civil Vety. Hospital Biari, Distt.Mansehra.
6. Burhanuddin s/o Rahmanuddin Charsadda.	Vety.Officer(Health)I/C Artificial Insemination Centre, Nawagai, Bajaur Agency.
7. Shahbuddin s/o Fatehur Rehman Mardan.	Adl.Vety.Officer(Health)Civil Vety.Hospital Timargara Distt.Dir.
8. Muhammad Iqbal s/o Lal Sahib Karak	Adl.Vety.Officer(H) Civil Vety. Hospital, Peshawar.
9. Muhammad Ibrahim s/o Qadir, Mardan.	Vety.Officer(H)I/C Civil Vety. Hospital, Gandab, Mohmand Agency.
10. Abdul Jabbar Tanweer s/o Ilahi Bakhsh, South Waziristan Agency.	Sheep Development Inspector, South Waziristan Agency, Wana.
11. Muhammad Farooq s/o Muhammad Yousaf, Abbottabad	Vety.Officer(H) I/C Civil Vety. Dispensary Bakot, Distt.Abbottabad.
12. Saifulla h Shah s/o Raziq Shah Peshawar.	Sheep Development Inspector, Parachinar, Kurram Agency.
13. Abdul Aziz s/o Rasul Khan North Waziristan Agency	Sheep Dev.Inspector, Miran Shah

14. Miss Shamin Akhtar D/o Muhammad Aslam Khan Peshawar. Vety. Officer (Health) Directorate of Livestock and Dairy Development, NWFP, Peshawar.
15. Hafizur Rahman s/o Habibur Rahman, Mansehra. Vety. Officer (H) I/C Civil Vety. Dispensary Judbah Kala Dhaka, Distt. Mansehra.
16. Shafqat Hussain s/o Fazal Hussain Peshawar. Laboratory Manager, Semen Production, Merrra Surezai, Peshawar.
17. Sadeeq Gul s/o Hassan Gul, Mardan. Vety. Officer (Health) I/C Artificial Insemination Centre, Ekkaghund, Mohmand Agency.
18. Abdul Waheed Qureshi s/o Abdul Hameed DIKhan. Vety. Officer (H) I/C Civil Vety. Hospital Tajori, Distt. Bannu.
19. Altaf Hussain s/o Maghool Hussain Malakand Agency. Vety. Officer (H) I/C Civil Vety. Dispensary Battal, Distt. Mansehra.
20. Ijaz Ahmad s/o Ziarat Gul Headmaster Swat. Vety. Officer (H) I/C Civil Vety. Hospital, Nikapani, Distt. Mansehra.
21. Sheikh Ahmad s/o Hidayatullah Chitral. Addl. Vety. Officer (H) Civil Vety. Hospital, Chitral.

The Provincial Govt. are further pleased to order the transfer/posting of the following Vety. Officers (Health) with immediate effect::

S.No.	Name of Officer	From	To
1.	Mr. Ahmad Kanai	Vety. Officer (H) I/C Civil Vety. Hospital, Kurez, Orakzai Agency.	Addl. Vety. Officer (H) Civil Vety. Hospital, Kohat.
2.	Mr. Ali Nazar	Sheep Dev. Inspector Parrachinar, Kurran Agency.	Vety. Officer (H) I/C Civil Vety. Hospital Parachinar.

Secretary to Govt. of NWFP,  
Hoo, Agri. Livestock and Coop. Deptt.

Endst. No. SO (L&DD) AD-E-1 (141) 89-K.C. Dt. Peshawar, the 28th Aug. 1990.

Copy forwarded for information and necessary action to:

1. Director, Livestock and Dairy Dev. NWFP with ref. to his Memo. No. 15599/1/65 dt. 23.8.90.
2. Accountant General, NWFP, Peshawar.
8. Distt. Accounts Officers, Abbottabad, Charsadda, Mansehra, Dir at Tinargara, ~~Abbottabad~~, Bannu, Chitral, & Kohat.
13. Agency Accounts Officers, Orakzai Agency at Hangu, Bajaur Agency, Mohmand Agency Ghallanai, South Waziristan Agency, Tank, Kurran Agency Parachinar, North Waziristan Agency, Miranshah
34. Officers concerned c/o Director, Livestock and Dairy Dev. NWFP.
35. Manager Govt. Printing Press, Peshawar for publication in the next issue of Govt. Gazette.

(AMIR RAHMAN) 28/8  
SECTION OFFICER (L&DD)

GOVERNMENT OF PESHAWAR  
 AGRICULTURE, LIVESTOCK & COOPERATION  
 DEPARTMENT PESHAWAR

Dated Peshawar the December 26, 2005

*Handwritten signatures and initials*

10

**NOTIFICATION**

No. SO (L&DD) AD-1 (331/2005)

Consequent upon the relaxation of ben. the Competent Authority is pleased to order the posting/ transfer of the following Officers/Officials of Livestock & Dairy Development Department NWFP (both Extension & Research Wings) in the best interest of public service with immediate effect:

S.No.	Name of Officer/Official	From	To
1	Dr. Asmatullah	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Kulachi, D.I.Khan.	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Mundra Kalan, D.I.Khan (vice S.No.2)
2	Dr. Abdul Jabbar Tanveer	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Mundra Kalan, D.I.Khan.	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Tank (vice S.No.3)
3	Dr. Atta-ur-Rahman	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Tank.	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Paniala, D.I.Khan (vice S.No.4)
4	Dr. Saeed Ullah	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Paniala, D.I.Khan.	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Pahar Pur, D.I.Khan (vice S.No.5)
5	Dr. Abdul Waheed Qureshi	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Pahar Pur, D.I.Khan.	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Gara Eisa Khel, D.I.Khan (vice S.No.6)
6	Dr. Ghulam Yahya Baloach	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Gara Eisa Khel, D.I.Khan.	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Jandola, F.R. D.I.Khan (against vacant post)
7	Dr. Iqbal Shah	Veterinary Officer (Health), Incharge Civil Artificial Insemination Center, D.I.Khan.	Veterinary Officer (Health), Incharge Civil Veterinary Hospital Balot, D.I.Khan.
8	Dr. Farz Muhammad	Additional Veterinary Officer (Health), Incharge Civil Veterinary Hospital D.I.Khan.	Veterinary Officer (Health), Incharge Artificial Insemination Center, D.I.Khan (vice S.No.7)
9	Dr. Asadullah	Veterinary Officer (Health), Incharge Veterinary Dispensary Ama Khel District Tank.	Semen Distribution Officer, o/o Deputy Director, Artificial Insemination, NWFP Peshawar (vice S.No.10)
10	Dr. Shahwar Anwar	Semen Distribution Officer, o/o Deputy Director, Artificial Insemination, NWFP Peshawar.	Veterinary Officer (Health), Incharge Artificial Insemination Center District Hangu (against vacant post)

Mr. A. I.

Research Officer, Veterinary Research Institute, NWFP Peshawar.

Research Officer, Veterinary Research & Diagnostic Laboratory D.I. Khan (against vacant post)  
Veterinary Officer (Research), Veterinary Research Institute, NWFP Peshawar (against vacant post)

Dr. Rahmat Jan

Veterinary Officer (Research) Livestock Research & Development Station Surezai, District, Peshawar.

Handwritten notes: "All right" and a signature.

Mr. Rangeen Khan

Office Superintendent, Livestock Research & Development, NWFP Peshawar.

Office Superintendent, Directorate of Veterinary Research Institute, NWFP Peshawar (vice S.No. 14)

Mr. Lal Sher Khan

Office Superintendent, Veterinary Research Institute, NWFP Peshawar

Office Superintendent, Directorate of Livestock Research & Development, NWFP Peshawar (vice S.No. 13)

Sd/-  
SECRETARY AGRICULTURE

Endst. No. & Date even.

Copy to:

- Accountant General NWFP, Peshawar
- P.S. to Minister Agriculture, Livestock & Cooperation Department.
- P.S. to Secretary Agriculture, Livestock & Cooperation Department.
- Director, Livestock & Dairy Development, NWFP Peshawar.
- Director, Veterinary Research Institute, NWFP Peshawar.
- Director, Livestock Research & Development, NWFP Peshawar.
- District Accounts Officer, Tank, D.I. Khan & Hangu.
- Agency Accounts Officer, F.R. D.I. Khan.
- Officers/officials concerned.
- Personal file of the officers/officials.
- Master file

(NAEEMULLAH)  
Section Officer (L&DD)





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Alcham  
AS

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

ANNEXURE - B  
12

Dated Peshawar the 28<sup>th</sup> May, 2013.

**NOTIFICATION:**

NO.SO(L&F)AD-1(249)/PF/2007: WHEREAS, Dr. Abdul Wahced, Veterinary Officer, Civil Veterinary Hospital, Gara Issa Khan, D.I.Khan was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the charges mentioned in the charge sheet and statement of allegations.

2. WHEREAS, Mr. Abid Ullah, Welfare manager, Tanzeem Liaqat-e-wal Mahroom chief Minister Secretariat Khyber Pakhtunkhwa was appointed as Inquiry Officer to conduct inquiry against the said officer for the charges leveled against him.

3. AND WHEREAS, the Inquiry Officer after considering the allegations, evidence on record, explanation of the officer submitted his report, and pointed out that the allegations mentioned in the Charge Sheet and Statement of Allegations have been proved.

3. NOW THEREFORE, the Competent Authority, after having considered the charges, evidence on record, the explanations of the accused officer, finding of the inquiry officer and in exercising his powers under Rule-3, 4(b)(iii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 has been pleased to confirm imposition of the major penalty of "Removal from service" upon the accused officer.

SECRETARY TO  
GOVT. OF KHYBER PAKHTUNKHWA,  
AGRICULTURE, LIVESTOCK & COOPERATIVE  
DEPARTMENT.

ENDS: NO. & DATE EVEN.

Copy to:

1. Director General (Extension), Livestock & Dairy Development, Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer, D.I.Khan.
3. District Director Livestock, D.I.Khan.
4. Dr. Abdul Wahced, Ex-Veterinary Officer, Civil Veterinary Hospital, Gara Issa Khan, D.I.Khan.
5. P.S to Secretary Agriculture, Livestock and Cooperative Department.

(Dr. Mir Ahmad Khan)  
SECTION OFFICER (L&F)

BEFORE THE WORTHY CHIEF SECRETARY KHYBER  
PAKHTUN KHAWAN

APPEAL/MERCY PETITION AGAINST THE ORDERS  
DATED 28<sup>TH</sup> MAY 2013 OF SECRETARY THE  
GOVERNMENT OF KHYBAR PAKHTUN KHAWA  
AGRICULTURE, LIVE STOCK AND CO-OPERATIVE  
DEPARTMENT

Respected Sir,

*Attested  
A. Chaudhary  
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1. That appellant after qualifying provincial civil service exam appointed as VO (H) in L& DD on 01.09.1990.
2. That appellant after induction in the service performed his duties at various stations of Khyber Pakhtun Khawa and always done his job with the best of his ability and hard work and always performed according to the wishes of his superiors and more so the record of the appellant is above board.
3. That appellant was posted on 25.11.2007 VO(H) Garra Essa Khan Dera Ismail Khan till date of dismissal from service.
4. That the posted station Garra Essa Khan dispensary is the for flung area of the Dera Ismail Khan which situates about 50 Kilometer from D.I. Khan and that too not at the main road and one has to travel about 10 Kilometers off the road which is kacha road and it is pertinent to mention that there is no direct public transport from D.I. Khan to Garra Essa Khan and inspite of the hard station the appellant performed his duty with the best of his ability and no such allegation of absence from duty was against the

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5. That in the year 2012 the District Live Stock Officer called an explanation of the appellant and in reply the appellant explained all the circumstances, and in this behalf the departmental official visited the dispensary where the appellant was present on his duty but one of the official Dr. Ehsan Ullah took into possession stock book and OPD register without any reason, thereafter an inquiry in this regard was conducted in the office of DLO D.I.Khan where the appellant explained his position and Dr. Zahoor Ahmad also sworn his statement in favour of the appellant and the report was submitted to D.G.L & D.D.
  
6. That appellant submitted an applications regarding transfer from the Garra Essa Khan were-in the appellant submitted that since 05 years the appellant is serving in the hard station and may please be transferred to any other place but the request of the appellant was turn down and in this long period the inquiry remained pending with the D.G.L & DD and the appellant remained serving in the hard station.
  
7. That about two months back the Dr. Jan Mir DDL D.I. Khan verbally order the appellant to report CVH Daraban and said it's the orders of D.G.L & DD therefore, the appellant join the CVH Daraban in compliance of the verbal orders but after about two months one Dr. Anwar was posted at CVH Daraban therefore, once again the appellant was ordered to report at Garra Essa Khan, therefore, the appellant once again join his previous posting place.

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[Signature]

8. That prior to appellant verbal posting at CVH Daraban in January 2013 Dr. Jan Mir D.D.L asked the appellant that in connection of enquiry the appellant should joint him for Peshawar where the said Dr. Jan Mir produced the appellant before one Mr. Abid Ullah who was introduced to appellant as inquiry officer where the said inquiry officer produce the appellant charge sheet and forced to reply the same to which appellant resisted and requested that the appellant may please be allowed to some time so that the appellant may consult the document and submit reply but request was turned down and forcibly obtained reply from the appellant.

9. That suddenly the appellant received a letter dated 28.5.2013 on 6/6/2013 in which appellant was shown to be removed from services, copy is attached.

10. That the appellant know impugned the said removal from service on inter-alia the following grounds alongwith sympathetic consideration.

- i. That no codal formalities of government servant (E&D) rules were followed by the authority, therefore, the orders of removal from service are not sustainable in the eyes of law
- ii. That appellant was deriving his all service emoluments till removal from service and not for a singal day the appellant remained in suspension.
- iii. That no proper charge sheet or summary of allegation was delivered to the appellant, so

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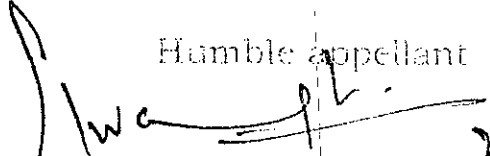
that the appellant properly reply against the allegation.

That in the manner the reply of charge sheet was obtained from the appellant is not warranted in the eyes of law.

- v. That even a very harsh punishment was imposed whereas, allegation against the appellant as alleged was absence from service.
- vi. That the appellant served in the department about 23 years and such a harsh decision spoil the life of the appellant as well as his family members and the sympathetic consideration by your good self save the life of whole of the family of the appellant.
- vii. That according to the recent decision of the Appex Court of Pakistan the interim govt. was not competent to impose such like orders

In the circumstances mentioned above on acceptance of the instant appeal with sympathetic considerations may please be accepted and the order/notification dated 28/5/2013 may please be set-aside and the appellant may please be reinstated in the service, with all back/benefits.

The appellant may please also be allowed to head personally

Humble appellant  
  
 Abdul Waheed Qureshi  
 Ex-Veterinary Officer (H)/VO(H)  
 28/5/2013

Annexure - D

**IN THE SUPREME COURT OF PAKISTAN**  
(Original Jurisdiction)

**PRESENT:**

**MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, C.J**  
**MR. JUSTICE IJAZ AHMED CHAUDHRY**  
**MR. JUSTICE GULZAR AHMED**

**CONSTITUTION PETITION NO. 30 OF 2013**

Khawaja Muhammad Asif

*Attested*  
*Alch...*  
... Petitioner

**Versus**

Federation of Pakistan & others

... Respondents

**AND**

**CMAs NO. 2991 & 3015 OF 2013 IN CONST. PETITION NO. 23 OF 2013**

(Appointments, postings and transfers made by the Caretaker Government)

**A/W**

**CIVIL MISC. APPLICATION NO. 3331 OF 2013**

(Application of Mr. Sikandar Ahmed Rai, Acting Secretary W&P)

**CIVIL MISC. APPLICATION NO. 3343 OF 2013**

(Application of Mr. Sanaullah Shah, M.D. ENAR)

**CIVIL MISC. APPLICATION NO. 3354 OF 2013**

(Application of Rana Asad Amin, Advisor Finance Division)

**CIVIL MISC. APPLICATION NO. 3355 OF 2013**

(Application of Mr. Muhammad Amir Malik, Member I.T)

**CIVIL MISC. APPLICATION NO. 3356 OF 2013**

(Application of Kamran Ali, Member Legal/MP-I)

**CIVIL MISC. APPLICATION NO. 3373 OF 2013**

(Application of Dr. Fayyaz Ahmed Ranja, D.G. Pakistan Manpower)

**CIVIL MISC. APPLICATION NO. 3375 OF 2013**

(Application of Mr. Tariq Mehmood Pirzada, MD PHA)

**CIVIL MISC. APPLICATION NO. 3376 OF 2013**

(Application of Mr. Tariq Shafi Chak, E.D. NAVTTC)

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**CIVIL MISC. APPLICATION NO. 3377 OF 2013**

(Application of Mr. Farooq Sultan Khattak, Director CDA)

**CIVIL MISC. APPLICATION NO. 3378 OF 2013**

(Application of Mr. Rizwan Mumtaz Ali, Chairman NFC)

**CIVIL MISC. APPLICATION NO. 3379 OF 2013**

(Application of Mr. Asad Ahmed Jaspal, Director Training PTV)

**CIVIL MISC. APPLICATION NO. 3380 OF 2013**

(Application of Mr. Zafar Iqbal Bangash, Producer PTV)

**CIVIL MISC. APPLICATION NO. 3382 OF 2013**

(Application of Mr. Wasim Muhammad Khan, Chairman NTC)

**CIVIL MISC. APPLICATION NO. 3383 OF 2013**

(Application of Mr. Abid Javed Akbar, CE, TDA)

**CIVIL MISC. APPLICATION NO. 3385 OF 2013**

(Application of Mr. Asif Ghafoor, Addl. Secy. National Heritage)

**CIVIL MISC. APPLICATION NO. 3396 OF 2013**

(Application of Mr. Muhammad Altaf Bawan, D.G. HRM (NAB))

**CIVIL MISC. APPLICATION NO. 3397 OF 2013**

(Application of Mr. Tahir Alam Khan, DIG (Security))

**CIVIL MISC. APPLICATION NO. 3403 OF 2013**

(Application of Syed Khalid Ali Raza Gardezi, J.S. M/o Finance)

**CIVIL MISC. APPLICATION NO. 3404 OF 2013**

(Application of Mr. Umar Ali, J.S. State &amp; Frontier Region Div.)

**CIVIL MISC. APPLICATION NO. 3405 OF 2013**

(Application of Dr. Imran Zeb Khan, Chief Commissioner Afghan Refugees)

**CIVIL MISC. APPLICATION NO. 3406 OF 2013**

(Application of Mr. Amjad Nazir, Secretary States and Frontier Region Div.)

**CIVIL MISC. APPLICATION NO. 3407 OF 2013**

(Application of Mr. Waheed ur Rehman Khattak, Addl. SP (Saddar))

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Advocate**ATTESTED**Superintendent  
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**CIVIL MISC. APPLICATION NO. 3408 OF 2013***(Application of Mr. Muhammad Khalid Khattak, DIG (HQ) Ibd)***CIVIL MISC. APPLICATION NO. 3409 OF 2013***(Application of Mr. Sabih Hussain, SP (HQ), Ibd)***CIVIL MISC. APPLICATION NO. 3410 OF 2013***(Application of Mr. Muhammad Ahsan Raja, Chairman PM Insp. Commission)***CIVIL MISC. APPLICATION NO. 3438 OF 2013***(Application of Mr. Abdur Rashid, Director, DRAP)***CIVIL MISC. APPLICATION NO. 3451 OF 2013***(Application of Mr. Mumtaz Khan, Member IRSA)***CIVIL MISC. APPLICATION NO. 3467 OF 2013***(Application of Mr. Viqar Rasheed Khan, Chairman NTC)***CIVIL MISC. APPLICATION NO. 3478 OF 2013***(Application of Dr. Shahbaz Ahmad Kureshi, Consultant, Poly Clinic)***CIVIL MISC. APPLICATION NO. 3479 OF 2013***(Application of Mr. Noor Zaman Khan, Director, NACTA)***CIVIL MISC. APPLICATION NO. 3480 OF 2013***(Application of Mr. Muhammad Nadeem AGM Marketing)***CIVIL MISC. APPLICATION NO. 3481 OF 2013***(Application of Dr. Anees Kausar, M.O. Poly Clinic)***CIVIL MISC. APPLICATION NO. 3492 OF 2013***(Application of Mr. Tahir Maqsood, D.G. PITAD)***For the Petitioner**Miangul Hassan Aurangzeb, ASC  
Syed Safdar Hussain, AOR assisted by  
Syed Ali Shah Gilani, Advocate**On Court Notice**Mr. Irfan Qadir,  
Attorney General for Pakistan  
Mr. Dil Muhammad Alizai, DAG**For Estt. Division**

Mr. Sher Afzal, Joint Secretary

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**For the applicants**

(In CMA 3331/13),	Mr. Muhammad Shoaib Shaheen, ASC
(In CMA 3343/13),	Nemo
(In CMA 3354/13),	Mr. Shah Khawar, ASC
(In CMA 3355-56/13),	Sardar Muhammad Aslam, ASC
(In CMA 3373/13),	Nemo
(In CMA 3375/13),	Mr. Tariq Mehmood Pirzada, in Person
(In CMA 3376/13),	Mr. Tariq Shafi Chak, in person
(In CMA 3377/13)	Mr. Farooq Sultan Khattak, in person
(In CMA 3378/13),	Mr. Aftab Rana, ASC
(In CMA 3379-80/13),	Mr. Shahid Mehmood Khokhar, ASC
(In CMA 3382/13),	Nemo
(In CMA 3383/13),	Rai Muhammad Nawaz Kharral, ASC
(In CMA 3385/13),	Mr. Asif Ghafoor, In person
(In CMA 3396/13),	Nemo
(In CMA 3397/13),	Mr. Tahir Alam Khan, in person
(In CMA 3403/13),	Syed Khalid Ali Raza Gardezi, in peson
(In CMA 3404-3406/13),	Mr. Muhammad Akram Gondal, ASC
(In CMA 3407/13),	Nemo
(In CMA 3408/13),	Nemo
(In CMA 3409/13),	Nemo
(In CMA 3410/13),	Mr. Muhammad Ahsan Raja, in person
(In CMA 3438/13),	Nemo
(In CMA 3451/13),	Mr. Waqar Rana, ASC
(In CMA 3467/13),	Mr. Viqar Rasheed Khan, in person
(In CMA 3478 & 3481/13),	Mr. Tariq Asad, ASC
(In CMA 3479/13),	Mr. Noor Zaman, in person
(In CMA 3480/13),	Nemo
(In CMA 3492/13),	Nemo

ATTY  
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Advocate

Date of hearing: 06.06.2013

**J U D G M E N T**

**IFTIKHAR MUHAMMAD CHAUDHRY, CJ.**— This

Constitution Petition has been filed under Article 184(3) of the Constitution of the Islamic Republic of Pakistan by one of the elected Parliamentarians, namely, Khawaja Muhammad Asif, wherein he has sought the following reliefs: -

"Declare, in the circumstances aforesaid, the acts of the care-taker government in effecting the aforesaid transfers/postings/shuffling null and void, void ab initio and of no legal effect being in contravention of Constitution, constitutional conventions and law.

In the alternative, declare that the aforesaid acts of the care-taker government of passing and signing of the

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orders affecting the aforesaid transfers/postings/shuffling were never, in fact, signed and/or passed and/or communicated for further necessary action.

Direct, in the circumstances aforesaid, that all the postings/transfers/shuffling be reversed and the status quo ante be reverted to, i.e. the position when the care-taker government was sworn in.

Direct the Federation/care-taker government to refrain from effecting any further appointments/transfers/shuffling during their remaining tenure."

2. As in CMAs 2991 & 3015 of 2013 in Constitution Petition No.23 of 2012 identical issues about appointments, transfers and postings, etc., were raised, therefore, a learned Bench of this Court, vide order dated 28.05.2013, referred the said miscellaneous applications to this Bench, to avoid overlapping of the proceedings and/or the possibility of rendering of conflicting judgments on similar issues in the event of parallel proceedings being conducted in two different benches simultaneously.

3. On 22.05.2013 and 04.06.2013, orders were passed and the Secretaries of the concerned Ministries/Divisions of the Federal Government were called upon to furnish details of the Government servants/employees, who were appointed, transferred, posted, etc. Relevant paras there from are reproduced hereinbelow respectively:-

**Order dated 22.05.2013**

"3. He has stated that the Caretaker Government has made *inter-alia* following transfers and postings in the civil service, statutory bodies, autonomous or semi autonomous bodies, corporations and regulatory authorities :-

- a) The Chairman of the National Highway Authority, Hamid Ali Khan was replaced, on 16.05.2013, by Sajjad Hussain Baloch;
- b) The Chairman NEPRA was replaced, on 16.05.2013, and Justice (R) Ahmad Khan Lashari has been appointed;
- c) The Managing Director SNGPL, Arif Hameed was replaced, on 15.05.2013, by Amin Tufail;
- d) The Managing Director SSGCL was replaced, on 15.03.2013, by Rahat Kamal Siddiqui;

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- e) The Managing Director, Pakistan Mineral Development Corporation, Khalid Khokhar was replaced by Saifullah Khan;
  - f) The Chairman, National Fertilizer, Rizwan Mumtaz Ali was removed on 09.05.2013;
  - g) The Managing Director, Oil and Gas Development Corporation, Masood Siddiqui was removed on 06.05.2013;
  - h) The Chairman, State Life Corporation was removed on 16.05.2013;  
The Chairman, Pakistan Tourism Development Corporation has reportedly been removed and another appointed in his stead;
  - i) The Chairman, Pakistan Software Export Board has been removed and in his stead Saleem Ahmed Ranjha has been appointed who is a direct inductee of Yusuf Raza Gillani the previous Prime Minister;
  - k) The Director General, FIA who was appointed one month back is also reportedly in the process of being replaced;
  - l) That certain employees/officers of the Pakistan Telecommunication Authority have reportedly been removed from service without following the procedure as set out under the relevant statute;
  - m) That reportedly many other mid - level staff of such like aforesaid corporation/bodies have been shuffled/transferred/removed".

7. We do allow the learned Attorney General for Pakistan to take instructions from the Government but in view of the importance of the issue involved in the petition, we direct that: -

all the appointments, transfers and postings, which have been made by the Caretaker Government, referred to hereinabove, shall stand suspended and till pendency of this petition no further appointment, transfer and posting shall be made by the Caretaker Government including the appointment of Federal Ombudsman, Tax Ombudsman and Anti-Dumping Tribunal, except the postings and transfers, which relate to day-to-day business of the government and are required to be made in the interest of State and also to watch the interest of public, strictly following the rules and regulations on the subject, and in a transparent manner."

**Order dated 04.06.2013**

"2. Khawaja Muhammad Asif, petitioner, appeared in person and stated that the order dated 22.05.2013 has not been complied with in letter and spirit inasmuch as the Caretaker Government without lawful authority terminated the services of some of those officers who were already working and performing their duties in Finance Division and I.T., either as Advisors or on contract. As duly elected government is likely to take over within a day or so and

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budget is likely to be prepared shortly, therefore, due to unlawful action of Caretaker Government concerned Divisions are facing a lot of difficulties. He has further stated that about more than 100 officers have been sent on deputation to different organizations from the Province of Balochistan after 22<sup>nd</sup> May, 2013 without adhering to the rules and regulations knowing well that the orders relating to the policy making cannot be passed by the Caretaker Government.

4. Since all these issues are important in nature, therefore, we direct the Secretaries, Establishment, Cabinet, Health, Water & Power, Finance Division(s) and all other concerned Departments/Corporations to file lists of the officers -

- (a) who were appointed against any post by the Caretaker Government after taking over including Chairmen etc of the Corporations whose list finds mention in the order dated 22.05.2013;
- (b) whose services were acquired on deputation from different organizations on different positions in the Departments and Corporations controlled by the Federal Government;
- (c) whose services were terminated because they were holding different positions on contract basis in all the Government Departments/Hospitals;
- (d) Whose transfers have been made contrary to the Judgment of Anita Turab's case, etc;
- (e) Deputationists brought to Federal Government Departments from the Province of Balochistan."

In response to the above orders, summary of the transfers, postings, termination of service/contract of the employees was submitted vide CMA No.3515/2013, which reads as under: -

**STATEMENT INDICATING POSTINGS/TRANSFERS/APPOINTMENTS MADE BY THE CARETAKER GOVERNMENT**

Group/Service	Promotion	Directive	Ministries/Division's Proposal	Repatriated	Add. Current Charge	Routine Postings Transfers	Contract appointments	Transfer on deputation	Total
Autonomous Bodies	-	03	11	03	02	-	11	-	30
Secretariat Group	31	59	18	07	-	24	-	-	139
Pakistan Administrative Services	17	15	07	-	-	33	-	-	72
Police	67	09	06	01	-	33	-	-	116

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Ex-Cadre		02	09	-	-	-	-	-	11
Misc		06	-	-	-	24	-	44	74
Total	115	94	51	11	02	114	11	44	442

4. It may be mentioned here that in the order dated 22.05.2013 it had been observed that any individual whose posting, appointment or transfer was suspended and he was aggrieved of the said order, he might come forward by making application(s), which would be dealt with after hearing him/them.

5. It may be observed that learned Attorney General informed that Justice (R) Faqir Muhammad Khokar, Chairman Anti-Dumping Appellate Tribunal, Justice (R) Ahmed Khan Lashari, Chairman NEPRA and Justice (R) Kalash Nath Kohli, Chairman Sacked Employees' Review Board have tendered resignations, which are under process, except the resignation of Chairman Anti-Dumping Tribunal, which has already been accepted on 31.05.2013. Mr. Sher Afzal, Joint Secretary is directed that no sooner their resignations are accepted, he may inform the Court.

6. Learned counsel for the petitioner contended that under the Constitution of the Islamic Republic of Pakistan, the elected Parliamentary Government is responsible to achieve the object of good governance and in continuance of the same, it is obliged to post suitable persons being in the employment of the Government/private sector to head various departments, corporations and organizations controlled by the Government to run their result-oriented administration, as such elected Government has to fulfill the object and purpose of welfare of the citizens. The Caretaker Government, which is installed for a limited period of 2/3 months with the object of

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assisting the Election Commission of Pakistan in organizing fair, free, honest and just elections, cannot be considered to be the replacement of the elected Government. As such, the Caretaker Government is debarred from making large scale transfers, postings, re-shuffling of the Government employees, having far reaching effects/impact on the administration, commercial and industrial departments/organizations, because if a person is appointed against an important position, and his performance is not found suitable or it is not in accordance with the policies of the elected Government, it would not be possible for the Government to implement its policies. He further argued that the Caretaker Government had also exceeded its authority in assigning the reasons that the appointments, postings, transfers, reshuffling, etc., have been made following the directions/observations contained in the letter dated 02.04.2013 of the Election Commission of Pakistan.

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7. Learned Attorney General for Pakistan did not address arguments on the issues involved in these cases as such and only confined to making certain references to the record, e.g., CMA 2676 & 2770/2013 in Constitution Petition No.23/2012 filed pursuant to the Court's directions as well as CMA No.3514/2013, etc., filed in the case.

8. In pursuance of this Court's order dated 22.05.2013, various individuals filed applications seeking relief against their postings, transfers, etc. and such of the applicants, who were present in Court, were also afforded opportunity of hearing. Some of them did not press their applications and requests so made by them were allowed. For convenience of reference, details of the applications are reproduced hereinbelow:-

Applications dismissed in default:

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S.#	CMA No.	Applicant's Name	Designation/Deptt.	Grievance/Remarks
1.	CMA.3343/13	Sanallah Shah	M.D. ENAR, Petrotech Service Ltd.	His services were placed at the disposal of SEC vide letter dated 9.4.2013
2.	CMA.3373/13	Dr. Fayyaz Ahmad Ranjha	Director General Pakistan Manpower Institute	He was pre-mature repatriated to Province of Punjab vide Notification dated 9.5.2013
3.	CMA.3382/13	Wasi Muhammad Khan	Chairman NTC	Applicant has challenged the notification dated 30.4.2013 whereby Mr. Viqar Rasheed Khan was appointed on contract basis as Chairman NTC by ignoring him
4.	CMA.3396/13	Muhammad Altaf Bawany	D.G. (HRM.), NAB <i>All set</i> <i>Allotment</i> <i>Adl</i>	The applicant being regular Officer of NAB was serving as Chief Instructor, NIM (formerly NIPA) on deputation and vide Notification dated 28.2.2011 he was repatriated to his parent department to join new assignment as D.G. NAB
5.	CMA.3407/13	Waheed ur Rehman Khattak	Addl. SP (Saddar)	Applicant was transferred from Punjab to Balochistan vide notification dated 16.5.2013 by ignoring the seniority as two of his colleagues were senior to him
6.	CMA.3408/13	Muhammad Khalid Khattak	D.I.G. Headquarters, Islamabad	Applicant was promoted from BS-19 to BS-20 vide Notification dated 3.4.2013 and thereafter vide notification dated 10.4.2013 he was transferred from the post of AIG (General) to DIG (HQ) and prayed that his case does not strictly fall in any kind of transfer and posting
7.	CMA.3409/13	Shabih Hussain	PSP BS-18-AC c/o ICT Police, Islamabad	The applicant was serving in KPK and Vide Notification dated 15.5.2013 his services have been placed at the disposal of Federal Government for further posting in Islamabad Police and it was a routine transfer
8.	CMA.3438/13	Dr. Abdul Rashid	Director, Pharma Licensing, Quality Assurance & Quality Control, Drug Regulatory Agency of Pakistan	Vide Notification dated 21.3.2013 the applicant has been transferred from the post of Director Pharma Licensing Quality Assurance & Quality Control to the post of Deputy Director General (Pharmacovigilance) DRAP, Islamabad
9.	CMA.3480/13	Muhammad Nadeem	Asstt. Gen. Manager Marketing	The applicant has been transferred vide Office Order dated 5.4.2013 from Zonal Head Gujranwala to AGM

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				(Marketing) Lahore
10.	CMA.3492/13	Tahir Maqsood	Additional Secretary (awaiting posting)	The applicant was serving as Senior Joint Secretary and his services have been placed at the disposal of Estt. Division vide Notification dated 10.5.2013

**Applications dismissed where alternate remedy was availed:**

S.#	CMA..	Applicant's Name	Designation/Deptt.	Remarks
1.	CMA.3383/2013	Abid Javed Akbar	C.E. Trade Development Authority	Rai Nawaz Kharral, learned counsel stated that the applicant has already approached to the Islamabad High Court for redressal of his grievance regarding termination of his contract: Dismissed.
2.	CMA.3478/13	Dr. Shahbaz Ahmad Kureshi	Consultant Physician (Cardiology) in Polyclinic Islamabad	Mr. Husnain Ibrahim Kazmi, learned counsel for the caveator (Dr. Nasir Moin) has filed CMA No. 3491/13 and stated that the applicant's Writ Petition No.1999/2013 has already been dismissed on 13.5.2013 and no CPLA has been filed before this Court against the said order, and contrary to it the applicant opted to approach the Service Tribunal where the matter is pending. When it was brought into the notice of the learned counsel for the applicant he stated that he may be allowed to withdraw this CMA. Dismissed as Withdrawn.
3.	CMA 3481/13	Dr. Anis Kausar	Medical Officer, FG Polyclinic Islamabad	Mr. Tariq Asad learned counsel for the applicant is not in attendance. This application is identical to CMA 3478 which we have already dismissed.

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(ISLAMABAD)



				This application is also dismissed.
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**Application dismissed on the ground that appointment/transfer was made in routine:**

1.	CMA No.3479/2013	Noor Zaman Khan	Director NACTA, Islamabad	Applicant was serving as Senior Government Pleader in KPK and he has been transferred as Director NACTA, Islamabad and now has reported back to his parent department. Plea of the applicant is that his spouse is working in Islamabad, therefore, he was brought on deputation. Since the applicant has been reverted back to his parent department in routine, no interference is called for in the instant proceedings. Dismissed.
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**Applications which were not entertained:**

1.	CMA No.3375/2013	Muhammad Tariq Mehmood Pirzada	M.D. PHA	Applicant appeared and stated that he has been transferred on completion of tenure period, does not press this petition. Dismissed as not pressed.
2.	CMA No.3377/13	Farooq Sultan Khattak	Director CDA, Islamabad	Applicant states that he has been sent back to his parent department, therefore, does not press this CMA. Dismissed as not pressed.
3.	CMA No.3378/2013	Rizwan Mumtaz Ali	Chairman NFC	Mr. Aftab Alam Rana, learned counsel for the applicant has no instructions because he could not answer to our queries. Dismissed accordingly.
4.	CMA No.3379/2013	Asad Ahmed Jaspal	Dir. Training Academy PTV	Mr. Shahid Mehmood Khokhar, learned counsel for the applicant states that applicant is in the employment of PTV Corporation and he is aggrieved from his transfer on the verbal orders of the Acting Manager. As the applicant is in the employment of a Corporation, therefore no indulgence can be shown in the instant proceedings. Dismissed.
5.	CMA No.3380/2013	Zafar Iqbal Bangash	Producer, PTV	Mr. Shahid Mehmood Khokhar, learned counsel for the applicant states that applicant is in the employment of PTV Corporation and he is aggrieved from his transfer

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		Attested Allahmanis Adil		on the verbal orders of the Acting Manager. As the applicant is in the employment of a Corporation, therefore no indulgence can be shown in the instant proceedings. Dismissed.
6.	CMA No.3397/13	Tahir Alam Khan	DIG Security	Mr. Tahir Alam Khan, applicant appeared and stated that his case pertains to actualisation, therefore, he does not want to press this application. Dismissed as not pressed.
7.	CMA No.3403/13	Syed Khalid Ali Raza Gardezi	J.S. M/o Finance GoP	Syed Khalid Ali Raza Gardezi, applicant appeared and stated that he has been sent back to his parent department, therefore, does not press this petition. Dismissed as not pressed.
8.	CMA No.3404/2013	Umar Ali	J.S. States & Frontier Regions Division	Mr. Muhammad Akram Gondal, learned counsel stated that the applicants have been promoted on merits, therefore, he does not press these applications Dismissed as not pressed.
9.	CMA No.3405/2013	Dr. Imran Zeb Khan	Chief Commissioner Afghan Refugees, Ibd.	
10.	CMA No.3406/2013	Amjad Nazir	Secretary, States & Frontier Regions Division	

9. It is to be observed that the other learned Bench of this Court, while hearing Constitution Petitions No.23/2013 on 09.05.2013 was, *prima facie*, of the opinion that notification of the Election Commission dated 02.04.2013 did not provide any valid justification, much less a compelling reason, so as to justify the transfers, postings, etc., in question. The contents of notification of the ECP are reproduced hereinbelow: -

"ELECTION COMMISSION OF PAKISTAN  
NOTIFICATION

Islamabad the 2<sup>nd</sup> April, 2013

No.F.8(12)/2012-Cord(1)- WHEREAS it is expedient to ensure that all those who are in the service of Pakistan perform their duties to serve public interest and assist the

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Election Commission of Pakistan in the conduct of General Elections 2013 fairly, justly, honestly and in accordance with law;

AND WHEREAS it is also expedient to take pre-emptive steps so that no employee in the service of Pakistan should try to influence the election process in any manner to favour any particular political party or a candidate;

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 NOW THEREFORE, in exercise of the powers conferred upon it under Article 218(3) of the Constitution read with sections 103(c) and 104 of the Representation of the People Act 1976, the directions dated 08.06.2012 of the Supreme Court of Pakistan in Workers' Party Pakistan's case and all other powers enabling it in that behalf, the Election Commission of Pakistan is pleased to direct the Federal and Provincial Caretaker Governments to:

- (i) Shuffle/transfer all Federal and Provincial Secretaries. However, if the caretaker government considers that a federal or provincial secretary need not be transferred/shuffled, it may refrain from doing so and intimate the same to the Election Commission.
- (ii) Assess whether the Chairpersons / Chief Executives of all autonomous and semi-autonomous and/or state owned bodies, IG Police, CCPOs, City Commissioners, DCOs, DPOs, SHOs, patwaris and EDOs are independent individuals and transfer those who do not meet this criteria.

2. Clauses (iii) and (iv) of this Commission's Notification No.8(12)/2012-Cord(1) dated 26th March, 2013 are hereby withdrawn. This directive shall not apply to specific transfers made under the directions of the Election Commission.

By Order of the Election Commission of Pakistan.

Sd/-  
 (Syed Sher Afgan)  
 Acting Secretary"

10. A perusal of the above notification suggests that it was issued by the ECP under Article 218(3) of the Constitution read with sections 103(c) and 104 of the Representation of the People Act, 1976 and the directions dated 08.06.2012 of this Court issued in Worker's

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Party Pakistan v. Federation of Pakistan (PLD 2012 SC 681) and all other powers enabling it in that behalf, directing the Federal and Provincial Caretaker Governments to transfer/shuffle all Federal and Provincial Secretaries. However, if the Caretaker Government considered that a Federal or Provincial Secretary need not be transferred/shuffled, it would refrain from doing so and intimate the same to the ECP. We tend to agree with the learned counsel for the petitioner that under the notification noted hereinabove; the Caretaker Government had been authorized not to transfer/shuffle any Government servant, if it considered that it was not expedient to do so. But, at any rate, no powers were given to requisition the services of the employees on deputation or make fresh appointments against the available vacancies, or make proforma promotions of officials of all grades in autonomous and semi-autonomous bodies, corporations, regulatory authorities, statutory bodies, government controlled corporations, etc.

11. It is to be seen that the Caretaker Cabinet/Prime Minister were installed in the Federation and Provinces in the month of March, 2013 after dissolution of the National and the Provincial Assemblies on completion of their respective terms provided under Article 224(1) & (1A) of the Constitution, which read as under: -

224. Time of election and bye-election.— (1) A general election to the National Assembly or a Provincial Assembly shall be held within a period of sixty days immediately following the day on which the term of the Assembly is due to expire, unless the Assembly has been sooner dissolved, and the results of the election shall be declared not later than fourteen days before that day.

(1A) On dissolution of the Assembly on completion of its term, or in case it is dissolved under Article 58 or Article 112, the President, or the Governor, as the case may be, shall appoint a caretaker Cabinet:

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Provided that the care-taker Prime Minister shall be appointed by the President in consultation with the Prime Minister and the Leader of the Opposition in the outgoing National Assembly, and a care-taker Chief Minister shall be appointed by the Governor in consultation with the Chief Minister and the Leader of the Opposition in the outgoing Provincial Assembly:

Provided further that if the Prime Minister or a Chief Minister and their respective Leader of the Opposition do not agree on any person to be appointed as a care-taker Prime Minister or the care-taker Chief Minister, as the case may be, the provisions of Article 224A shall be followed :

Provided also that the Members of the Federal and Provincial care-taker Cabinets shall be appointed on the advice of the care-taker Prime Minister or the care-taker Chief Minister, as the case may be.

12. As in instant case the Caretaker Prime Minister could not be appointed in terms of Article 224(1A) of the Constitution for want of consensus between the former elected Prime Minister and the Leader of the House, therefore, the provisions of Article 224A of the Constitution were invoked, and ultimately on account of inability of the Committee constituted under Article 224A(1) & (2) to decide the matter, the names of the nominees were referred to the Election Commission of Pakistan for finalizing the name of the caretaker Prime Minister within two days, thus, as a result of deliberations by the ECP, Caretaker Prime Minister was appointed in accordance with the provisions of Articles 224(1A) and 224A(1) & (2) of the Constitution.

13. Essentially, according to the settled and accepted norms/practice, the Caretaker Government (Prime Minister and Cabinet) is required to perform its functions to attend to the day-to-day matters, which are necessary to run the affairs of the State and also to watch the national interests, etc., in any eventuality in absence of an elected Government, and such Government is not authorized to

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make decisions/appointments having effect on the working/policies of the future Government, which is likely to take over after the elections. Apart from providing assistance to the Election Commission in organizing free, fair, honest and just elections in the country, it is not vested with the authority to take decisions concerning the affairs of the Government, which are bound to pre-empt the scope and sphere of activity, powers and jurisdiction of an elected Government. A Caretaker Government possesses limited powers and authority particularly in view of the fact that when it is appointed, there is no National Assembly in place and thus the all important aspect of accountability is absent. Further, the exercise of complete powers by the Caretaker Government goes against the doctrine of separation of powers which is the lifeline of any vibrant democracy. As noted earlier, the absence of legislature results in lack of checks and balances. The Caretaker Government also lacks the mandate of the majority of people, which is to be acquired by elected government through the general elections. Therefore, if a Caretaker Government is allowed to exercise complete powers available to an elected Government, it may make an attempt to continue to remain in office for a longer period of time or may take such decisions which may cause problems for the future elected government.

14. As per the scheme of the Constitution, prior to the 18<sup>th</sup> Constitutional Amendment, where the President dissolved the National Assembly under Article 48(5), he shall, in his discretion, appoint caretaker Cabinet. Similarly, if the President, dissolves the National Assembly on the advice of the Prime Minister, he is required to put in place an interim set up or a temporary arrangement to ensure the

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continuity of the functions of the Government to run day-to-day affairs of the State till the appointment of duly elected Government with its Cabinet after completion of the election process. Unfortunately, after the promulgation of the Constitution of 1973, during the Martial Law regime of General (R) Zia-ul-Haq in 1985, by means of the 8th Constitutional Amendment, an infamous provision, namely, Article 58(2)(b) was inserted into the Constitution, which provided that the President may dissolve the National Assembly in his discretion where, in his opinion, a situation has arisen in which the Government of the Federation cannot be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary. The said provision was later deleted, by means of Thirteenth Constitutional Amendment in 1997. During the next Martial Law regime of General (R) Pervez Musharraf, the same was again inserted through the 17<sup>th</sup> Constitutional Amendment passed in 2003. However, after the restoration of democratic governance in the country, the new elected Government again deleted the said provision from the Constitution through the 18<sup>th</sup> Constitutional Amendment passed in 2010. It is to be noted that in exercise of the powers under the said provision, for more than one time, the National Assembly was dissolved and the elected Prime Minister/Cabinet were removed, and caretaker Prime Minister and Cabinet were appointed.

15. The object and purpose of making reference to these provisions is to highlight that the functions of the elected Government have remained under serious threats. At the same time, it is also significant to point out that despite appointment of the Caretaker Prime Minister/Cabinet, no guidelines were ever provided laying down

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the parameters to be observed by the Caretaker Governments in the exercise of their powers. As far as Constitution is concerned, Article 2A envisages that State shall exercise its powers and authority through the chosen representatives of the people and a comprehensive procedure, including qualifications and the disqualifications for the persons to be elected as Members of *Majlis-e-Shoora* (Parliament) has been prescribed. Thus, it is the chosen representatives of the people who have to run the affairs of the State for a fixed term of five years. Such representatives of the people are required to ensure good governance, lay down policies, and ensure betterment of the general public through legislative and executive actions. On the contrary, a Caretaker Government as compared to an elected Government remains in office for a very limited period whose first and last concern is to ensure that fair, free, honest and just elections are held in the country. The concept of caretaker or interim Government, in absence of an elected government is in vogue in a number of countries since the ancient times. Inasmuch as, in the Constitution of some of the countries, the concept of caretaker government does not specifically find a place, yet the practice of appointing caretaker government is in vogue those countries. Such countries include India, Australia, Canada, Bangladesh, Holland, New Zealand, UK, etc. With the passage of time, all those countries have developed Constitutional conventions, on the basis of which the caretaker governments are put in place to run the affairs of the State during the interim period, i.e. till returning to power of the duly elected governments having full powers and such caretaker governments do not, in general, take any major policy decisions, including making appointments of civil servants, etc.,

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particularly in the manner it has been done by the Caretaker Government that had come into existence on completion of the term of the previous Government.

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16. At this stage, reference may be made to the Constitutional system of Australia. As per the scheme of the Australian Constitution, the caretaker government is expected to conduct itself in accordance with a series of conventions administered by the department of the Prime Minister and Cabinet, although there is no law compelling the caretaker government to do so. Usually, there is no separate appointment of a caretaker government and the outgoing government continues to function as caretaker government. During the 1975 Australian constitutional crisis, the then Governor-General appointed a new government with the assurance that it would immediately advise a general election, and it would operate on a caretaker basis in the meantime. The political system of Australia ensures that a Cabinet is always maintained and that caretaker governments abide by the conventions. Any flouting of the conventions by a caretaker government would immediately come to light, and could go against them in the election campaign. In this regard, a document titled "Guidance on Caretaker Conventions" has been administered by the Department of the Prime Minister and Cabinet. Section 1.2 of the Caretaker Conventions provides that a caretaker government operates until the election result clearly indicates that either the incumbent party has retained power, or in the case where there is to be a change of government, until the new government is appointed by the Governor-General. The relevant clauses of the guidelines are reproduced hereinbelow: -

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### "3. SIGNIFICANT APPOINTMENTS

3.1 Governments defer making significant appointments during the caretaker period. When considering the advice it would give on whether an appointment qualifies as 'significant', the agency should consider not only the importance of the position, but also whether the proposed appointment would be likely to be controversial.

3.2 If deferring the appointment is impracticable, usually for reasons associated with the proper functioning of an agency, there are several options:

- the Minister could make an acting appointment where permissible;
- the Minister could make a short term appointment until shortly after the end of the caretaker period; or
- if those options are not practicable, the Minister could consult the relevant Opposition spokesperson regarding a full term appointment."

In Canada too, "Guidelines on the Conduct of Ministers, Secretaries of State, Exempt Staff and Public Servants during an Election" have been issued which provide, *inter alia*, as under: -

#### GUIDELINES ON THE CONDUCT OF MINISTERS, SECRETARIES OF STATE, EXEMPT STAFF AND PUBLIC SERVANTS DURING AND ELECTION

This does not mean that government is absolutely barred from making decisions of announcements, or otherwise taking action, during an election. It can and should do so where the matter is routine and necessary for the conduct of government business, or where it is urgent and in the public interest - for example, responding to a natural disaster. In certain cases where a major decision is unavoidable during a campaign (e.g., due to an international obligation or an emergency), consultation with the Opposition may be appropriate, particularly where a major decision could be controversial or difficult for a new government to reverse.

#### Contracts, G&Cs and Appointment

Appointments should normally be deferred. The Prime Minister's Office must be consulted before making any commitments concerning appointments that cannot be deferred.

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As far as UK is concerned, they have also issued similar guidelines in 2010. Relevant guidelines are reproduced hereinbelow: -

**SECTION G**  
**Government Decisions**

1. During an election campaign the Government retains its responsibility to govern and Ministers remain in charge of their Departments. Essential business must be carried on. In particular Cabinet Committees can continue to meet and consider correspondence if necessary, although in practice this may not be practical. If something requires urgent collective consideration, the Cabinet Secretariat should be consulted.

2. However, it is customary for Ministers to observe discretion in initiating any new action of a continuing or long-term character. Decisions on matters of policy, and other issues such as large and/or contentious procurement contracts, on which a new Government might be expected to want the opportunity to take a different view from the present Government should be postponed until after the Election, provided that such postponement would not be detrimental to the national interest or wasteful of public money.

**SECTION H**  
**Public and Senior Civil Service Appointments**

1. All appointments requiring approval by the Prime Minister, other Civil Service and public appointments likely to prove sensitive, (including those where Ministers have delegated decisions to officials or other authorities, such as appointments to certain NHS boards), should effectively be frozen until after the Election. This applies to appointments where a candidate has already accepted a written offer. The individual concerned should be told that the appointment will be subject to confirmation by the new Administration after the Election.

2. It is recognised that, should this procedure result in the cancellation (or substantial delay) of an appointment by the new Administration, the relevant Department could be vulnerable to legal action by a disappointed candidate who had already accepted a written offer. To reduce the risk of this happening, Departments might wish to:

- recommend to their Secretary of State the advisability either of delaying key stages in the process, or of consulting the Opposition (e.g. on a short-list of candidates or a single name for final selection) where an appointment is likely to take effect just before or after an election;

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- issue a conditional letter of offer, making it clear that the formal offer of the appointment will need to be confirmed by a new Administration.

3. In cases where an appointment is due to end between the announcement of the Election and Election Day, and no announcement has been made concerning the new appointment, it will normally be possible for the post to be left vacant until incoming Ministers have been able to take a decision either about re-appointment of the existing appointee or the appointment of a new person. This situation is also likely to apply to any appointments made by Letters Patent, or otherwise requiring Royal approval, since it would not be appropriate to invite Her Majesty to make a conditional appointment.

4. In the case of public and Senior Civil Service appointments, Departments should delay the launch of any open competition during an election period, to give any incoming Administration the option of deciding whether to follow the existing approach.

5. In those cases where an appointment is required to be made, it is acceptable, in the case of sensitive Senior Civil Service positions, to allow temporary promotion or substitution. In the case of public appointments, the current term may be extended to cover the Election period, or as required, with the prior approval of the Commissioner for Public Appointments. This will allow time for new Ministers to take a decision about longer term appointment. In any cases of doubt, and particularly where circumstances make it difficult to apply these temporary arrangements, Departments should consult the Propriety and Ethics Team in the Cabinet Office.

The Cabinet Manual: *A guide to laws, conventions and rules on the operation of government*, 1<sup>st</sup> edition, October 2011 provides, *inter alia*, as under: -

#### PARLIAMENT

7. Parliament has a number of functions, which include: controlling national expenditure and taxation; making law; scrutinising executive action; being the source from which the Government is drawn; and debating the issues of the day. All areas of the UK are represented in the House of Commons, which provides a forum for Members of Parliament (MPs) to speak and correspond on behalf of their constituents, where they can seek redress if necessary.

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8. Parliament comprises the Sovereign in Parliament and two Houses: the House of Commons, which is wholly elected, and the House of Lords, which comprises the Lords Spiritual and Temporal. Parliament has overall control of the public purse; the Government may not levy taxes, raise loans or spend public money unless and until it has authorisation from Parliament. The House of Commons claims exclusive rights and privileges over the House of Lords in relation to financial matters, and the powers of the House of Lords to reject legislation passed by the House of Commons are limited by statute.

9. In the exercise of its legislative powers, Parliament is sovereign. In practice, however, Parliament has chosen to be constrained in various ways - through its Acts, and by elements of European and other international law.

10. Parliament also scrutinises executive action. Indeed, the government of the day is primarily responsible to Parliament for its day-to-day actions. This function is exercised through a variety of mechanisms, such as the select committee system, Parliamentary questions, oral and written statements, debates in both Houses and the Parliamentary Commissioner for Administration. See Chapter Five for more on Parliament. [Emphasis supplied]

11. By the Scotland Act 1998, the Government of Wales Acts 1998 and 2006 and the Northern Ireland Act 1998, Parliament devolved powers over areas of domestic policy such as housing, health and education to directly elected legislatures in Scotland, Wales and Northern Ireland. Parliament retains the legal power to continue to legislate on these matters, but it does not normally do so without the consent of these devolved legislatures. See Chapter Eight for more on devolution.

17. Coming to the case in hand, it may be mentioned here that this is not the first time that this Court is confronted with such a situation. Earlier too, identical matters have been dealt with by the Superior Courts of Pakistan. In the case of Khawaja Muhammad Sharif v. Federation of Pakistan (PLD 1988 Lahore 725) wherein the Lahore High Court held that caretaker Cabinets have to confine themselves to take care of the day-to-day administration of the State. Relevant portion of the judgment reads as under: -

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"26. The learned Attorney-General submitted that it is quite correct that Caretaker Cabinets have to take care of the day-to-day administration of the State. There may be no bar to take policy decisions if so required by the circumstances. He is right. Caretaker Cabinets have to confine themselves to take care of the day-to-day administration of the State. They can take all decisions requiring attention or action, may be having far-reaching effects, like in respect of war and peace or earthquake or floods. But they can neither forget the predominant position of their being Caretaker nor can they take undue advantage of their position either for themselves or for their political parties. They have to be impartial to everybody, including their rivals or opponents in the political fields. They cannot take advantage of their official position of Caretaker Government at the expense of other political forces or people at large. Neutrality, impartiality, detachment and devotion to duty to carry on day-to-day affairs of the State without keeping in view one's own interest or of one's party are the sine qua non of a Caretaker Cabinet."

[Emphasis supplied]

In the case of Regional Commissioner of Income Tax v. Zaffar Hussain

(PLD 1992 SC 869) Mr. Justice (R) Abdul Shakurul Salam J., in his

dissenting note held as under: -

"3. The following points are obvious and noteworthy. Firstly, that when the leader of the Opposition became care-taker Prime Minister, displeasure or rancour of the Opposition was given vent to by ordering the removal of the respondents from their service. It was rather petty. Secondly, as far as the authority of the Care-taker Cabinet is concerned, I had said in the case of "Muhammad Sharif v. Federation of Pakistan" (PLD 1988 Lahore:725) in the Lahore High Court that "Care-taker Cabinets have to confine themselves to take care of the day to day administration of the State. They can take all decisions requiring attention or action, may be having far-reaching effects, like in respect of war and peace or earthquake or floods. But they can neither forget the predominant position of their being Care-taker nor can they take undue advantage of their position either for themselves or for their political parties. They have to be impartial to everybody, including their rivals or opponents in the political fields. They cannot take advantage of their official position of care-taker Government at the expense of other political forces or people at large. Neutrality, impartiality, detachment and devotion to duty to carry on day to day affairs of the State without keeping in view one's own interest or of one's own party are the sine qua non of a Care-taker Cabinet. The judgment was upheld by this

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Court in "Federation of Pakistan v. Haji Muhammad Saifullah Khan and others" (PLD 1989 SC 166). The action of removal of the respondents clearly did not fall within the scope or ambit of the Care-taker Cabinet whose primary function was to hold election and carry on( day to day administration with the civil servants available and not to throw out those who had been given employment by the previously elected Government."

[Emphasis supplied]

In the case of Tanveer A. Qureshi v. President of Pakistan (PLD 1997 Lahore 263) it has been held as under: -

"26. Another principal attack on the formation of the C.D.N.S. by the petitioner was that the decision to set up such a council being of great importance and a matter of policy could not have been taken by the Caretaker Cabinet appointed under Article 48(5) of the Constitution. It was emphasised by Mr. Talib H. Rizvi, as also Mr. Abdul Rehman Cheema that the life of the Caretaker Cabinet being for 90 days it cannot take decisions of permanent nature but its activities are confined only to running day-to-day affairs of the Government and should be geared towards holding of free and fair elections. Reliance has been placed on Kh. Muhammad Sharif v. Federation of Pakistan and 18 others PLD 1988 Lah. 725, Federation of Pakistan etc. v. Aftab Ahmad Khan Sherpao and others PLD 1992 SC 723 and Madan Murari Verma v. Ch. Charan Singh and another AIR 1980 Calcutta 95.

28. Article 48(5) of the Constitution enjoins the President to appoint a caretaker Cabinet to run the affairs of the country pending the elections to the National Assembly and formation of Government. The use of word 'Caretaker' is not without significance and has to be given some meaning. The argument of the learned Attorney-General and Mr. Sharif-ud-Din Pirzada that 'Caretaker' signifies the temporary nature of the tenure appears to be attractive and coming from a jurist like Mr. Sharif-ud-Din Pirzada is entitled to great respect but with due deference we are unable to agree with them. A Cabinet appointed by the Prime Minister to run the affairs of the country till the next General Elections by its very nature is temporary and the life of it is limited by the Constitution itself till the next General Elections which are to be held within 90 days. It was thus not necessary to use the word 'Caretaker' to indicate temporary nature of the tenure. On the other hand we are of the view that this word has been used in Article 48(5) to emphasises the purpose of appointment and the nature of the power available to the Caretaker Government. ....

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30. ... Although no hard and fast rules can be laid down in respect of the powers available to the Caretaker Cabinet to take decisions as the answer would depend upon facts of each case but generally speaking a major policy-decision which can await the formation of regularly elected Government without causing any disruption or danger to the functioning of the State or orderly running of the country should be left to be determined by the elected representatives of the people, more so when the Caretaker Cabinet cannot claim to have been given any mandate by the people. There may not be any express restriction on the powers of the Caretaker Cabinet by the Constitution itself but the conclusion reached by us flows from the use of words "Caretaker Cabinet" in Article 48(5) of the Constitution as also very nature of the Caretaker Cabinet and the purpose for which it has been appointed.

In the case of Khawaja Ahmad Tariq Rahim v. the Federation of Pakistan (PLD 1992 SC 646), this Court held as under: -

"5. ... The object of the Care-taker Cabinet is to fill a temporary void, so that it may conduct day to day administration, without getting involved in matters of substantive importance or policy or subjects having far-reaching effects, other than during an emergency or some urgency, till the new Government is installed. Above all, it is not supposed to influence the elections or do or cause to be done anything whereby which Government machinery or funds are channelled in favour of any political party."

In the case of Madan Murari Verma v. Choudhuri Charan Singh (AIR 1980 Cal 95), the Court held as under: -

"The President has accepted the resignation of the respondent No. 1 and his Council of Ministers and has asked them to continue in office "till other arrangements are made". It is the limited pleasure indicated and in that field only in my opinion the respondent No. 1 and his Council of Ministers can function. There is no mention of any care-taker Government as such, in our Constitution or in the constitutional law, though Sir Ivor Jennings has described in his book -- Cabinet Government, Third Ed. p. 85 the ministry that was formed by Mr. Churchill in England after the war before and pending the General election in 1945 as care-taker Government. But an extraordinary situation like the present, in my opinion, calls for a care-taker Government and therefore, the respondent No. 1 and his Council of Ministers can only carry on day-to-day administration in office which are necessary for carrying on "for making alternative arrangements". In

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effect the President, in my opinion is therefore, not obliged to accept the advice that the respondent No. 1 and his Council of Ministers tender to him except for day-to-day administration and the Council of Ministers and the respondent No. 1 should not make any decisions which are not necessary except for the purpose of carrying on the administration until other arrangements are made. This in effect means that any decision or policy decision or any matter which can await disposal by the Council of Ministers responsible to the House of People must not be tendered by the respondent number 1 and his Council of Ministers. With this limitation the respondent No. 1 and the Council of Ministers can only function. And in case whether such advice is necessary to carry on the day-to-day administration till "other arrangements are made" or beyond that, the President, in my opinion, is free to judge. It is true again that this gives the President powers which have not been expressly conferred by the Constitution. But, in my opinion, having regard to the basic principle behind this Constitution under Article 75(3) read with Article 74(1) in the peculiar facts and circumstances of this case is the only legitimate, legal and workable conclusion that can be made.

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In the case of R. Krishnaiah v. State Of Andhra Pradesh (AIR 2005 AP

10) it was held that: -

"10. In support of his submissions learned Counsel placed reliance on the recommendations of the Sarkaria Commission referred to by a Constitution Bench of the Supreme Court in S.R. Bommai and Ors. etc., etc. v. Union of India and Ors. etc., etc., , more particularly, recommendation No. 6-8-04(A) that after dissolution of the Assembly and till new Government takes over, during the interim period, the Caretaker Government should be allowed to function. But as a matter of convention, Caretaker Government should merely carry on day-to-day Government and desist from taking any major policy decision. He thus urged that issuing Ordinance permitting to withdraw amount from the Consolidated Fund of the State of Andhra Pradesh to meet (a) the grants made in advance in respect of the estimated expenditure for a part of the financial year commencing on the 1st April, 2004 as set forth in Column (3) of the Schedule appended to the Ordinance and (b) the expenditure charged on the Consolidated Fund of the State of Andhra Pradesh, for the part of the same financial year, as set forth in Column (4) of the Schedule, is nothing but a major policy decision which ought not to have been taken.

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16. Therefore, the submission that the Ordinance could not have been promulgated is misconceived. Ordinance has the same force and effect as any Act of the State

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Législature and there is no prohibition in the Constitution that during the period an Assembly is dissolved and fresh Assembly has not yet been constituted, that Ordinance could not have been promulgated by the Governor. This act of the Governor will be deemed to be an exercise of power of the Legislative Assembly, as envisaged under Article 206 and even under Article 205 and as noticed above. Clause (3) of Article 203 is a prohibition not to withdraw from the Consolidated Fund any amount being subject to provisions of Articles 205 and 206 of the Constitution. The Ordinance having validly been promulgated there is hardly any force in the other submission that a situation has arisen where power must be exercised or directed to be exercised by the President of India under Articles 356 or 360 of the Constitution."

18. The crux of the above case-law and conventions/guidelines is that the Caretaker Government/Cabinet has to confine itself to the running of the day-to-day administration of the State. Indeed, it may take decisions required for ordinary orderly running of the state, but decisions having far-reaching effects should only be taken in extraordinary circumstances, like in war, earthquake, floods, etc. Although there may not be any express restriction on the powers of the caretaker government by the Constitution itself, but a major policy-decision which can await the formation of regularly elected Government without causing any disruption or danger to the functioning of the State or orderly running of the country should be left to be determined by the elected government. Thus, there can be no two opinions that the caretaker government has to exercise the powers for a limited purpose as it has been highlighted hereinabove, namely, relating to the elections and not to make fresh appointments of the civil servants or make appointments of the heads of the Autonomous, Semi-Autonomous Bodies, Corporations, Regulatory Authorities, etc., appointments on contract basis or allowing deputation or promotion to the civil servants without realizing the

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scope of their efficacy to share higher responsibilities to run the affairs of the Government.

19. In the context of instant case, besides relying upon the guidelines in the judgments noted hereinabove, one may conveniently pose a question, particularly in view of Article 48(5) of the Constitution and other constitutional provisions, as to why a caretaker cabinet/government appointed under Article 224 or as the case may under Article 224A of the Constitution, should not exercise powers available to a duly elected government? Answer to this question lies in the expression "Interim Cabinet" used in Article 48(5) of the Constitution, which enables to draw the inference that the Interim Cabinet or caretaker Cabinet headed by a Prime Minister means a caretaker cabinet or a government, which has been entrusted temporary charge of government during the period when the National Assembly is dissolved because ordinarily for a period of five years under Article 58, the National Assembly exists for the purpose of running the affairs of the State and in absence of elected Parliament, continuity of the governance system in the country has to be kept intact, otherwise running the affairs of the State would not be possible at all. In addition to it, although in our country in respect of the powers of the caretaker government no conventions have been developed and for such reasons the instant Caretaker Government indulged in taking vital policy decisions and making postings and appointments of heads of statutory bodies, postings and appointments in civil service, statutory bodies, autonomous, semi-autonomous bodies, corporations and regulatory authorities, including appointments on contract or accepting the services of various persons

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on deputation by allowing them to occupy one step higher positions than the one, which they were holding previously.

20. Petitioner Khawaja Muhammad Asif appeared and pointed out that caretaker government had made transfers/postings in civil service, statutory bodies, autonomous, semi-autonomous bodies, corporations and regulatory authorities, etc., the list of which has been made part of the record.

21. The learned Attorney General while appearing in Constitution Petitions No.14 of 2013, etc., made a statement, already mentioned in the order dated 22.05.2013, which is reproduced hereinbelow: -

*"12. That the federation is already on record in taking up a principled stand before this Hon'ble Court that the care-taker government needs only to confine their work to 'day to day' routine matters and effectively maintain the status quo for the incoming elected government, while submitting the views of the federation vide a CMA filed in Constitutional Petition Nos.14, 16 to 18 of 2013. It is submitted that vide the said CMA the Attorney General submitted that the care-taker government should avoid taking and controversial step and should not commit any process that is not reversible by the incoming elected government and further that the care-taker government should restrict itself to activity that is a) routine, b) non-controversial, c) urgent and in public interest, d) reversible by the elected government; and e) any significant appointment thereby avoiding any major decisions except agreed to by the opposition.*

*13. That the learned Attorney General whilst representing the case of the federation in the foresaid constitutional petitions also relied upon Australian Caretaker Conventions*

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and highlighted that the key elements of the code of conduct should include:

- a) avoiding major policy decisions,
- b) avoiding any significant appointments,
- c) signing any major contract,
- d) avoiding international treaty or commitment, etc.

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It was in the same light that the learned Attorney General submitted before this Hon'ble Court that the care-taker government had deferred some items of the Council of Common Interests (CCI) in a recently held meeting and was not, therefore, making any binding decisions/commitments with IMF, World Bank or any other donor agency and had further decided not to enter into any binding agreement or treaty to bind the future elected government. It is submitted, therefore, that the care-taker government having earlier taken a principled stand cannot thereafter be allowed to recuse from the same."

Similarly, the Law Minister of the Caretaker Government also objected to the appointments, which were being made directly or indirectly under the verbal or written directions/observations of the caretaker Prime Minister or Cabinet Ministers or the heads of different Departments, Divisions, Ministries, etc. Relevant extract from his statement was published in Daily Dawan, Islamabad dated 19.05.2013, which is reproduced hereinbelow: -

"... caretaker Law Minister Ahmar Bilal Soofi has also criticised the postings and transfers being made by the government of Prime Minister retired Justice Mir Hazar Khan Khoso.

He warned the caretaker set-up against transgressing its mandate by making undue transfers and postings in important government departments.

In a letter to his cabinet colleagues a copy of which he also sent to the Prime Minister Secretariat and the establishment secretary, Mr Soofi said: "Cabinet members

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should abide by the legal limitation they enjoy under the constitution. They should not-trespass the mandate of the interim government.

"I would again reiterate that we may continue the prevalent transparency and may not take action which may be counter-productive to the important role performed by the caretaker government."

Talking to Dawn on Sunday, the law minister confirmed that he had highlighted in the letter the issue of unnecessary postings and transfers being carried out by some of his colleagues in the cabinet. But he did not mention any specific posting or transfer. He said the letter had been dispatched on Saturday.

In his letter Mr Soofi has also mentioned the cancellation of contract of two officials of the information ministry and the recent replacement of the National Highway Authority's chairman. The letter also referred to a statement he had earlier made in cabinet that it was advisable to avoid making controversial appointments in major departments and leave them to the elected government."

22. We consider it appropriate to make reference of the case titled as In re: Abdul Jabbar Memon (1996 SCMR 1349) wherein it has been observed that the Federal Government, Provincial Governments, Statutory Bodies and the Public Authorities have been making initial recruitments, both *ad-hoc* and regular, to posts and offices without publicly and properly advertising the vacancies and at times by converting *ad-hoc* appointments into regular appointments. It was held that this practice is *prima facie* violative of Fundamental Right enshrined in Article 18 of the Constitution guaranteeing to every citizen freedom of profession, which must be discontinued forthwith and immediate steps should be taken to rectify the situation, so as to bring the practice in accord with the Constitutional requirement. But unfortunately it has been noticed that the guidelines/principles have neither been followed by the duly elected governments in the past nor by the caretaker governments. Inasmuch as, principle of transparency

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has not been adhered to in the appointments of the Members of the Federal Public Service Commission under the Ordinance of 1977 to conduct tests/examinations for recruitment of persons to all Pakistan Services, Civil Services of the Federation and civil posts in connection with the affairs of the Federation and Provinces. No transparent system is in place to ensure merit-based selection of persons for appointment as the heads of the autonomous, semi-autonomous bodies, corporations, organizations, etc. Record available in archives would indicate that except for a shorter period, despite presence and availability of renowned knowledgeable and reputable personalities, these vacancies were allowed to be occupied by persons having connections with the higher functionaries of the State, who openly indulged in favouritism and nepotism. In such a scenario, how the object of making appointments on merit could be achieved, including by the elected government.

23. It is to be noted that reportedly there are more than 100 organizations/corporations, which are causing colossal loss of trillion of rupees to the public exchequer, like Pakistan International Airline, Pakistan Railways, Pakistan Steel Mills, PEPCO, PASCO, Utility Stores Corporations, OGDCL, NEPRA, PEMRA, PTA, KESC, SSGPL, NICL, etc. It is a fundamental right of the citizens of Pakistan under Article 19 of the Constitution that the national wealth/resources must remain fully protected whether they are under the control of the banks or the autonomous and semi-autonomous bodies.

24. There are cases where favorites were appointed despite lacking merits to hold such posts/positions. Reference may be made to the case of Adnan A. Khawaja v. The State

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(2012 SCMR 1434) where a convict, who was acquitted of criminal charges taking benefit of NRO, was appointed as the head of OGDCL. Similarly, in the case of Mir Muhammad Idris v. Federation of Pakistan (PLD 2011 SC 213), the validity of the reappointment of Syed Ali Raza as President of the National Bank of Pakistan for fifth time for one year was challenged. The Court declared the said reappointment to be unconstitutional. Relevant para therefrom is reproduced hereinbelow: -

"11. ... Since, admittedly, the amendment made in section 11(3)(d) of the Act of 1974 by the Finance Act, 2007 was unconstitutional and illegal, the appointment of respondent No.3 made under an unconstitutional and illegal legislation would not remain unaffected as the foundation on which its superstructure rested stood removed. The argument of the learned counsel for respondent No. 3 that the appointment of respondent No.3 was made by the Federal Government in exercise of the power conferred upon it by a legislative instrument passed by the concerned legislature, therefore, the same was not liable to be interfered with being a past and closed transaction is not tenable. If the appointments of Judges were affected on account of a similar defect in legislation, how the appointment of respondent No.3, who, too, was appointed under such an unconstitutional and illegal amendment could be protected.

13. ... The reappointment of respondent No.3 Syed Ali Raza as President NBP by way of notification dated 10.4.2010 is declared to be unconstitutional and he shall cease to hold office as President NBP with immediate effect."

In the same context, reference may also be made to the case of Chairman. of NICL Ayaz Khan Niazi, who again was appointed without determining whether he is fit and proper person to hold the said post as a result whereof the government exchequer had to suffer an enormous loss, some of its portions have been recovered and still cases are pending before the Courts. This Court in Suo Moto Case No. 18 OF 2010 (PLD 2011 SC 927)

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directed the Secretary Commerce to lodge complaint before FIA against the concerned persons for causing loss to the public exchequer. Similarly, the appointment of one Mr. Tauqir Sadiq as Chairman of the Oil and Gas Regulatory Authority was challenged before this Court on the ground that he did not possess the necessary credentials for holding the said office. The Court in the case reported as Muhammad Yasin v. Federation of Pakistan (PLD 2012 SC 132), after considering the importance of the OGRA and scrutinizing the appointment process of its Chairman, declared his appointment *void ab initio*. There are other cases where some of the persons had succeeded in getting contract employments after their retirement in violation of section 14 of the Civil Servants Act, 1973 as well as instructions contained in ESTA Code. Reference may be made to Suo Motu Case No. 24 of 2010 (PLD 2011 SC 277) wherein it was observed that in the disciplined forces, particularly, like police and FIA where people have to work in a well defined discipline, the persons supervising the forces were permitted to hold charge of the posts on contract basis. It may not be out of context to note that in terms of the definition of section 2(1)(6)(ii) of the Civil Servants Act, 1973, a person who is employed on contract does not fall within the definition of a civil servant, so his authority to command and maintain discipline can be well imagined from the fact that if a person himself is not a civil servant, he is considered only bound by the terms and conditions of his contract and not by the statutory law, because if any condition laid down in the contract is violative of any statutory provision, he would only be

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subject to action under the said contract. In this view of the matter, the officers who were reemployed after retirement, were directed to be removed. In a recent case titled as Muhammad Ashraf Tiwana v. Pakistan (Constitution Petition No.59 of 2011), this Court found that the appointments of Chairman and Members of the Securities & Exchange Commission of Pakistan did not meet the requirement of the Securities & Exchange Commission of Pakistan Act, 1997 as such, the same too, were set aside. Last but not the least, this Court while hearing the case regarding implementation of directions issued in Suo Motu case No.16/2011 regarding law and order situation in Karachi, directed the Government of Sindh to terminate the services of 86 employees appointed in different grades from 12 to 21 on contract basis in various provincial departments.

25. During hearing of the case, it has been pointed out to petitioner Khawaja Muhammad Asif that although he being an elected Member of the Parliament had raised questions touching upon the transparency in the appointment of the heads of the autonomous, semi-autonomous bodies, corporations, regulatory authorities, etc., but in his own capacity as a public representative, he had also to ensure that all the appointments in such like bodies as well as the appointments on contract basis must be made in a transparent manner. In some of the countries, effective steps have been taken to stop such colossal loss of the national resources by day-to-day measures to improve the professional quality and political neutrality of appointments to public bodies/regulatory authorities by ensuring that selection in such bodies is based on merit, fairness and openness. It

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may not be out context to note that in UK, an independent Commissioner is available to regulate, monitor, report and advice the public appointments, the performances etc. All the government departments while making such appointments are bound to follow the code of practice which has been issued by such Commissioner. Similarly, in Canada all appointments for Chief Executives, Directors and Chairpersons of public sector corporations are subject to strict merit-based system. It may be noted that elected government has to heavily rely upon public bodies to implement their policies and the object essentially cannot be achieved if honest and competent persons are not holding such public offices. While making such appointments, following parameters are to be considered: -

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(1) Integrity:

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties.

(2) Objectivity:

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choice solely on merit.

(3) Accountability:

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

(4) Openness:

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

(5) Honesty:

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Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership:

Holders of public office should promote and support these principles by leadership and example.

26. Be that as it may, in order to ensure the enforcement of the fundamental right enshrined in Article 9 of the Constitution and considering it to be a question of public importance, a Commission headed by and comprising two other competent and independent members having impeccable integrity, may be the Federal Ombudsman or Chairman NAB or a Member of Civil Society having exceptional ability and integrity, is required to be constituted by the Federal Government through open merit based process having fixed tenure of four years to ensure appointments in statutory bodies, autonomous bodies, semi-autonomous bodies, regulatory authorities to ensure appointment of all the government controlled corporations, autonomous and semi-autonomous bodies, etc. The Commission should be mandated to ensure that all public appointments are made solely on merits. The Commission should discharge mainly the following functions: -

- (i) Regulate public appointments processes within his remit;
- (ii) implement a Code of Practice that sets out the principles and core processes for fair and transparent merit-based selections;
- (iii) chair the selection panels for appointing heads of public/statutory bodies and chairs and members of their boards, where necessary;
- (iv) appoint Public Appointments Assessors to chair the selection panels for appointing heads of public/statutory bodies and chairs and members of their boards, where appropriate;

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- (v) report publicly on a public/statutory body's compliance with the Code of Practice, including examples of poor and good performance, and best practice;
  - (vi) investigate complaints about unfair appointment process;
  - (vii) Monitor compliance with the Code of Practice;
  - (viii) Ensure regular audit of appointments processes within his remit;
  - (ix) Issue an annual report giving detailed information about appointments processes, complaints handled, and highlights of the main issues which have arisen during the previous year. The annual report for the previous calendar year should be laid before the Parliament by 31<sup>st</sup> March; \
- Take any other measures deemed necessary for ensuring that processes for public sector appointments that fall in his remit are conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are fully guarded against.

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27. The Code of Practice should provide foundations for transparent merit-based public appointments. All public appointments must be governed by the overriding principle of selection based on merit, out of individuals who through abilities, experience and qualities have a proven record that they best match the need of the public body in question. No public appointment must take place without first being recommended by the Commission. The appointments procedures should be subjected to the principle of proportionality, that is, what is appropriate for the nature of the post and the size and weight of its responsibilities. Those, selected must be committed to the principles and values of public service and perform their duties with highest level of integrity. The information provided about the potential appointees must be made public. The Commission may from time to time conduct an inquiry into the policies and procedures followed by an appointing authority in relation to any appointment. He may also issue a statement or publish a report commenting publicly on any breach or anticipated breach of the Code. The appointment of the successful candidate must be publicized.

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28. In light of discussion made hereinabove, we hold that: -

(a) The Caretaker Cabinet/Prime Minister appointed under Article 224(1)(2) or 224A, as the case may be, is empowered to carry out only day-to-day affairs of the State with the help of the available machinery/resources/ manpower and also to watch national interest against war or national calamity or disaster faced by the nation, including terrorism, etc.

(b) The civil servants who have already been appointed in accordance with the rules/regulations on the subject ought not to be posted/transferred, etc., except in extraordinary circumstances, that too, temporarily.

(c) Major policy decisions including making of appointments, transfers and postings of the Government servants should be left to be made by the incoming government in view of the provisions of Constitution that the affairs of the State are to be run by the chosen representatives of the people.

(d) As newly elected Government is mandated to perform its functions of achieving the object and purpose of welfare of the people for which it has been duly appointed, therefore, caretaker Cabinet/government/Prime Minister, having no mandate of public support, is only caretaker set up and due to this connotation should detach itself from making permanent policies having impact on future of the country.

29. As we have noted hereinabove that since the Caretaker Government after its appointment, had made more than 400 appointments, transfers and postings of Government servants/employees, including transfer on deputation with promotion to next higher grade or as the case may be, heads of autonomous, semi-autonomous bodies, regulatory authorities, heads of government controlled institution, etc., therefore, it may not be possible for this Court to discuss and deal with each and every case in these

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proceedings, therefore, their cases shall be subject to declaration, which is being made hereinbelow.

30. Thus, at the touchstone of the parameters laid down in the paras supra about the powers of the Caretaker Cabinet/Government, it is declared and held as under: -

(a) The orders of appointment/deputation, transfers as well as postings, etc., of civil servants and Chief Executive Officers of statutory bodies, autonomous/semi-autonomous bodies, corporations, regulatory authorities, etc., made by the Caretaker Cabinet/Prime Minister are hereby declared to be void, illegal and of no legal effect w.e.f. date of issuance of notifications respectively, except the transfers and appointments of senior government officers including the Chief Secretaries and IGP of any of the Provinces during the election process.

(i) However, the Federal Government, in exercise of its powers would be authorized to allow to continue any of such appointments, transfers made by the Caretaker Cabinet/Government in the public interest, subject to following requisite provision of law.

(ii) As far as the issue of notifications in the cases of (i) Mumtaz Khan (CMA 3451/2013), (ii) Muhammad Nadeem, AGM Marketing (CMA 3480/2013) and (iii) General Syed Wajid Hussain, Chairman HIT Taxila are concerned, their notification of appointment shall remain frozen as process of their appointments had taken place before assumption of charge by Caretaker Cabinet/Government but their notifications were issued by the Caretaker Government. However, the Federal

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Government through competent authority shall decide fate of their cases within 15 days after receipt hereof and copy of decision shall be sent to Registrar for our perusal in Chambers.

(iii) Needless to say that if there are identical cases as noted in para (a)(ii), same shall be dealt with in the same manner.

(b) All the orders of removal or transfers as well as posting on deputation of civil servants and Chief Executive Officers of statutory bodies, autonomous/semi-autonomous bodies, corporations, regulatory authorities, etc., by the Caretaker Cabinet/Prime Minister are hereby declared void, illegal and of no legal effect w.e.f. date of issuance of notifications respectively, however:

(i) the Federal Government would be empowered to continue the removal or transfers, etc., of Chief Executive Officers/heads of the departments, statutory bodies, autonomous/semi-autonomous bodies, corporations, regulatory authorities, etc. in the public interest, subject to following requisite provision of law.

(c) As far as contract employees are concerned, whose contracts have been cancelled or those to whom fresh contracts of service have been given by the caretaker Cabinet/Government, shall stand cancelled as holders of contract employment of both these categories deserve no interference in view of the judgment of this Court in the case of State Life Insurance Employees Federation of Pakistan v. Federal Government of Pakistan (1994 SCMR 1341), because no relief can be granted to them in these proceedings as no question of public importance with

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reference to enforcement of their any of the fundamental rights arises;

(d) As far as the cases of the transfers of the civil servants/employees before the completion of tenure made allegedly in violation of the law laid down by this Court in Anita Turab case are concerned, the concerned departments of Federal Government shall examine their individual cases on the touchstone of the principles laid down in the said case. However, decision given on the complaint of any of the employees by this Court alleging violation of the principles enunciated in the judgment referred to hereinabove, shall be deemed to be in accordance with law.

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(e) The appointments in autonomous/semi-autonomous bodies, corporations, regulatory authorities, etc., made before the appointment of Caretaker Government shall also be subjected to review by the elected Government by adopting the prescribed procedure to ensure that right persons are appointed on the right job, in view of the observations made in above paras (Para. No. 25 & 26); and

(f) The Federal Government through the concerned Secretaries shall take up the issue of postings of 100 officers on deputation from Balochistan, as it was pointed out during the hearing of this case on 22.05.2013 and accomplish the same, if required, in accordance with law.

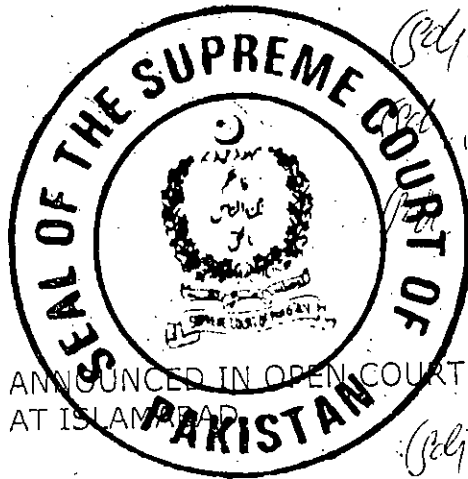
31. The Secretary Establishment is directed to communicate this judgment to all other Divisions, Ministries, Organizations, etc. for implementation of the same.

32. The case of the Ombudsman be de-linked and it shall be heard/decided separately in view of the question of interpretation of law on the subject namely, Establishment of the office of Wafaqi Mohtasib (Ombudsman) Order, 1983.

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33. In the result, Constitution Petition No.30 of 2013 partially allowed and the titled CMAs as well as CMAs No.2991 & 3015/2013 in Constitution Petition No.23/2012 are disposed of accordingly. -



*Chief Justice Muhammad Chaudhry CJ*  
*Justice G Saz Ahmed Chaudhry, J*  
*Justice Rulzar Ahmed J*

ANNOUNCED IN OPEN COURT ON 12.6.13  
AT ISLAMABAD

*Chief Justice Muhammad Chaudhry*  
CHIEF JUSTICE

APPROVED FOR REPORTING

Certified to be True Copy

*[Signature]*  
6/9/13  
Superintendent  
Supreme Court of Pakistan  
ISLAMABAD

*Filed*  
*All changes*  
*Adh*

12.6.13

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Received by:	[Signature]	

**Most immediate**  
**Court Matter**



**DIRECTORATE GENERAL (EXTENSION)**  
**LIVESTOCK & DAIRY DEVELOPMENT KHYBER PAKHTUNKHWA**  
**PESHAWAR**

Tel: 091-9210249/9210276, Fax: 091-9210285, E-mail: dglddext@yahoo.com

Web: www.livestockextkp.gov.pk

Dated Peshawar, the

No 7294

29 / 08/2014.

To

✓  
-The District Director Livestock,  
D.I.Khan.

Subject: **APPEAL NO. 1375/2013 ABUL WAHEED VS GOVERNMENT OF**  
**KHYBER PAKHTUNKHWA & OTHERS**

Memo:

Enclosed please find herewith original comments of the subject case with all annexure duly signed by all respondents for further submission to Khyber Pakhtunkhwa Service Tribunal Camp Court D.I.Khan on the next date of hearing fixed as 30/09/2014.

You are also requested to depute a well versant officer to pursue the instant case in the court and also cooperate with Government Pleader D.I.Khan, at Khyber Pakhtunkhwa Service Tribunal. under intimation to this office, please.

**Encl: As above**

  
(DR. ALAMZEB)  
Director Headquarters



DIRECTORATE GENERAL (EXTENSION)  
LIVESTOCK & DAIRY DEVELOPMENT KHYBER PAKHTUNKHWA,  
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Web: www.livestockextkp.gov.pk

No. 7295

Dated Peshawar, the 29 / 08/2014

**AUTHORITY LETTER**

Dr. Muhammad Asad, Veterinary Officer (H) Civil Veterinary Hospital D.I.Khan, is hereby authorized to pursue the Appeal No.1375/2013 filed by Mr. Abdul Waheed Versus Government of Khyber Pakhtunkhwa & others in the Khyber Pakhtunkhwa Service Tribunal Camp Court D.I.Khan, on behalf of the Chief Secretary Khyber Pakhtunkhwa (Respondent No.1), Secretary Agriculture Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar(Respondent No.2), Director General (Extension), Livestock and Dairy Development Department, Khyber Pakhtunkhwa, Peshawar & District Director Livestock D.I.Khan, (Respondent No.3&4).

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

APPEAL NO. 1375/2013

Abdul Waheed ..... **Appellant**

**VERSUS**

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

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**CAMP COURT D.I.KHAN APPEAL NO. 1375/2013**

Abdul Waheed ..... **Appellant**

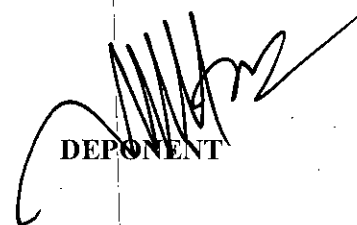
**VERSUS**

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

**AFFIDAVIT**

I, Dr. Muhammad Asad, Veterinary Officer (H), do hereby solemnly affirm on oath that the contents of the departmental reply are true and correct to the best of my knowledge and belief, and that nothing has been concealed from this Honorable Court.

Identified By: \_\_\_\_\_

  
**DEPONENT**

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**APPEAL NO. 1375/2013**

Dr.Abdul Waheed Qureshi..... Appellant

VERSUS

Chief Secretary Government of Khyber Pakhtunkhwa Peshawar & Others.  
..... Respondents

**Para-wise comments on behalf of the respondent No. 1, 2, 3&4.**

Respectfully Sheweth:

**PRELIMINARY OBJECTIONS:**

1. That the Appellant has got no locus standi to file instant appeal.
2. That the Appellant liable to be dismissed on the ground of miss joinder or non joinder of parties.
3. That the appeal is based on illegal and unlawful presumptions.
4. The Appellant has got no cause of action to file the present appeal.
5. The Appeal is not maintainable in this present form.
6. That the Appeal is badly time barred.

**FACTS**

1. Pertains to record hence no comments.
2. Incorrect. The appellant never performed his duties regularly and he was a consistent problem for his superiors. Earlier he was also removed from service due to his absence from duty for the period 01-02-2007 to 31-03-2008, but the appellant authority has accepted his appeal and was reinstated on sympathetic grounds. (Annexure-1).
3. Correct.
4. Correct to the extent that Civil Veterinary Hospital Garrah Essa Khan is about 50 Km from D.I.Khan. Before the posting of the appellant, many other Veterinary Officers were posted there and they performed their duties to the satisfaction of the concerned authorities. The appellant, never bothered to perform his duties regularly on the said station, and he was found absent from his duties many times by District Director and directors from Headquarter at Peshawar.
5. Incorrect. He was always absent from his duties and his statement is not based on facts, therefore he was proceeded as per rules.
6. Incorrect. The appellant did not submit any application for transfer from the Garrah Essa Khan and the fact is that he never performed his duty at Civil Veterinary Hospital Garrah Essa Khan.
7. Incorrect. The appellant did not perform his duties either at CVH Daraban or CVH Gharra Essa khan, but actually he was working in a local NGO "Sath" as president and chief consultant (Annexure-2). He remained absent for the last six months as the Director called his explanation vide letter No.2957-58.(Annexure-3)

8. Incorrect, the enquiry committee was constituted vide letter No. SO (L & F) AD-1(25)PF/2007 dated 31/12/2012(Annexure-4) and its copy was also endorsed to the appellant (Annexure-5).The proper procedure was adopted by the enquiry officer nominated by the Chief Secretary Khyber Pakhtunkhwa (Annexure-6). No question arises regarding obtaining reply forcefully from the appellant, and adequate time was given to appellant for his reply.
9. Correct to the extent that the appellant was removed from service after completion of all codal formalities, and the process was not sudden, but it took considerable time, which can be confirmed from record.
10. Correct. As the worthy Chief Secretary Khyber Pakhtunkhwa had examined and rejected the appeal of the appellant.
11. Incorrect. The removal of the appellant was results of his prolong absence from his official duty, whereas the judgment of Apex Court is providing for only to those Government Servants, who were appointed and transferred by care taker Government. There also include the contract employees, who were removed from the contract service. The appellant was regular employee, and was removed from service as per rules due to his continues long absence from duty, hence he is not entitled for relief.
12. No comments

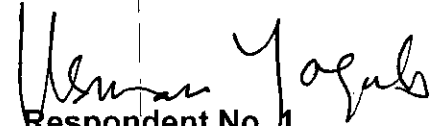
**Grounds:**

1. Incorrect. The removal of the appellant was a result of his prolongs absence from his official duty, whereas the judgment of Apex Court is providing for only to those Government Servants, who were appointed and transferred by care taker Government. There also include the contract employees, who were removed from the contract service. The appellant was regular employee, and was removed from service as per rules due to his continuous long absence from duty hence he is not entitled for relief.
2. Incorrect, proper enquiry procedures were adopted according to the prescribed rules. After completing all codal formalities the competent authority issued the removal order of the appellant from the service, in light of the findings recommended by the enquiry committee.
3. Incorrect, the appellant was given sufficient time by the enquiry officer to defend his case.
4. Incorrect, the appellant was served with statement of allegation and charge sheet duly signed by the competent authority (Annexure-7).
5. Incorrect. The appellant never performed his duties regularly and was a habitually absentee as mentioned in above Para's.
6. The respondents seek permission to raise additional grounds at the times of arguments.



4

In view of the parawise comments based on facts, it is respectfully prayed that by accepting the same, the appeal may kindly be dismissed.

  
**Respondent No. 1**

Chief Secretary Khyber  
Pakhtunkhwa Peshawar

  
**Respondent No. 2**

Secretary Livestock & Dairy  
Development Department Khyber  
Pakhtunkhwa Peshawar

  
**Respondent No. 3**

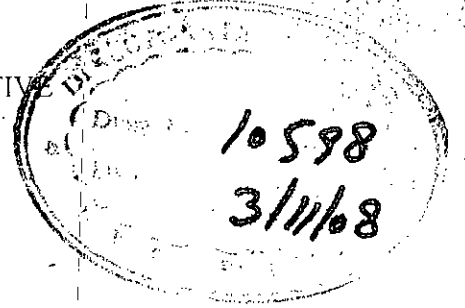
Director General (Ext) Livestock  
& Dairy Development Department  
Peshawar

  
**Respondent No. 4**

District Director Livestock  
D.I. Khan

GOVERNMENT OF NWFP  
AGRICULTURE, LIVESTOCK & COOPERATIVE  
DEPARTMENT PESHAWAR

Dated Peshawar the November 1, 2008



NOTIFICATION.

No.SO(L&DD)AD-J(249)/PF/2007

WHEREAS, Dr. Abdul Waheed Qureshi,

Veterinary Officer (BS-17), Incharge Civil Veterinary Hospital Draban Kalan D.I.Khan was proceeded under the North West Frontier Province Removal from Service (Special Powers) Ordinance, 2000 for the charges mentioned in the Show Cause Notice dated 12.8.2008.

AND WHEREAS, the Chief Secretary, NWFP (competent authority) after having considered the charges/materials on record/explanation of the officer concerned and exercising his powers under Section 3 of the NWFP Removal from Services (Special Powers) Ordinance, 2000 has been pleased to pass on the following orders:-

- i) imposed upon him a minor penalty of "withholding" of three annual increments without cumulative effect.
- ii) The period of his absentee from 01.02.2007 to 31.03.2008 may be treated as Extra Ordinary leave without pay.

Sd/-

SECRETARY AGRICULTURE

Endst: No. & Date even.

Copy to:

1. Accountant General NWFP Peshawar
2. Director, Livestock & Dairy Development, NWFP Peshawar w/r to his letter No.9799/2/1950 dated 8.9.2008.
3. District Accounts Officer, D.I.Khan.
4. Officer concerned C/O Director Livestock and Dairy Development NWFP Peshawar.
5. PS to Secretary Agriculture.
6. Personal file of officer concerned
7. P.S to Secretary Agriculture.
8. Master file.

  
(NAEEMULLAH)  
Section Officer (L&DD)

Sup/xi

6 (Annexure-2)



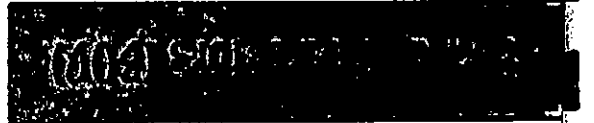
**BOARD OF GOVERNERS**

S.NO	NAME	OCCUPATION	ADDRESS
1	Mr. Makhdum Kazim Hussain Shah	Minister KPK D.I.Khan	Bilot Sharif, D.I.Khan
2	Mr. Samiullah Khan Alizai	MPA / PPP Leader D.I.Khan	Kiri Alizai, D.I.Khan
3	Mr. Prof:Asif Jameel	Chairman PH&E Department, Gomal University, D.I.Khan	Gulshan Colony, Cantt, D.I.Khan
4	Mr. Dr.Zahoor-Ud-Din	Principal VO, L&PP, KPK	Kiri Alizai, D.I.Khan
5	Mr.Shah Zaman Khan	District Social Welfare Officer, D.I.Khan	Gillani Town, D.I.Khan
6	Malik Sultan Khan	Social Activist / Farmer	Jhoke Machi, Parova, D.I.Khan
7	Abdul Majeed Qureshi	Ex-Counselor / Social Activist	Singhar, D.I.Khan

S.No	Ranking	Name	Address
1	President	Dr.A.Waheed	Charl Saddozal, D.I.Khan
2	Vice President	Sanavillah	Athog, D.I.Khan
3	General Secretary	M.Ijaz	Athog, D.I.Khan
4	Finance Secretary	M.Iqbal	Phullari, D.I.Khan
5	Joint Secretary	M.Sharif	Chashma, D.I.Khan
6	Press Secretary	Attaullah	Athog, D.I.Khan
7	Member EB	M.Amir	Athog, D.I.Khan
8	Member EB	M.Arshad	Athog, D.I.Khan
9	Member EB	O.Yasin	Athog, D.I.Khan
10	Member EB	Arshad Iqbal	Durrichel, D.I.Khan
11	Member EB	Sanavillah	Durrichel, D.I.Khan

LEVEL OF EFFORTS	DESIGNATION	EXPERIENCE	QUALIFICATION	NAME	S.No
Part Time	Chief Consultant	15 years in project Management & Design in Livelihood development	DVM / PHMP (The Netherlands)	Dr.A.Wahed Qureshi	1
Full Time	General Secretary	5 Years in Administration	MBA	Muhammah Ijaz Khan	2
Part Time	Finance Consultant	3 Years in Auditing & Account	MBA Finance	Muhammah Fahem Nawaz	3
Part Time	Livelihood Advisor	2 Year in Livelihood development	M.Sc Physics	Yasir Wahab	4
Full Time	Admin Officer SPO	3 Years in HR development	MBA Human Resource Management	Rahel Khan	5
Part Time	Media support Coordinator	8 years in media coordination	M.Sc Journalism & Mass Communication	Abdul Mujet	6
Full Time	Admin & Logistic Officer	10 Years in Finance & Logistics	M.com	Muhammah Yousef Qureshi	7
Part Time	Project Management Advisor	3 year Management & Marketing	M.S Management Science	Muhammah Nabeel	8
Full Time	Office Data Manager	1 Year Office Data Management	B.Sc Computer Science	Shwaila Jabeen	9
Part Time	Community Mobilizer	4.5 Years in Social Mobilization	MBA Banking & Finance	Iftakhar Ahmed	10
Part Time	Community Mobilizer	9 Years in Social Mobilization	BA / VII	Muhammah Saiman	11
Part Time	Women Educationist	3 Year in Education development	M.Ed	Farkhanda Jabeen	12
Part Time	Women Educationist	4 Year in Education development	G.T	Sabina Afsheen	13
Part Time	Community Mobilizer	8 Year in Social Organization	M.Sc Archeology / M.Sc Math / LLB	Humayun Khan	14
Part Time	HRD Advisor	2 Years in HRD	MPA Human Resource Development	Muhammah Izzar	15
Part Time	Community Mobilizer	2 Years in Social Mobilization	LLB	Mansoor Salam	16
Part Time	Community Mobilizer	4 Year in Community Mobilization	MPA	Mohsin Mehmood	17
Part Time	Community Mobilizer	2 Year in Community Mobilization	B.Ed / PIT	Muhammah Zakria	18
Part Time	Environmentalist / Field Chemist in WASH	2 years in WASH	M.S Environmental Sciences / M.Sc Chemistry	Jawad Ali	19
Part Time	Community Mobilizer	1 Year in field Operations	M.Sc Physics	Sharif Uddin	20
Full Time	Community Mobilizer	1 Year in Environment	M.Sc Biological Sciences	Mehmood Khan	21
Full Time	Community Mobilizer	4 Years in Social work	MBA Finance	Muhammah Iqbal	22

SATH DEVELOPMENT ORGANIZATION HUMAN RESOURCE



8  
Annexure-3

**DIRECTORATE GENERAL (EXTENSION),  
DIRECTORATE OF ANIMAL HEALTH AND PRODUCTION,  
LIVESTOCK AND DAIRY DEVELOPMENT DEPARTMENT,  
KHYBER PAKHTUNKHWA, PESHAWAR**

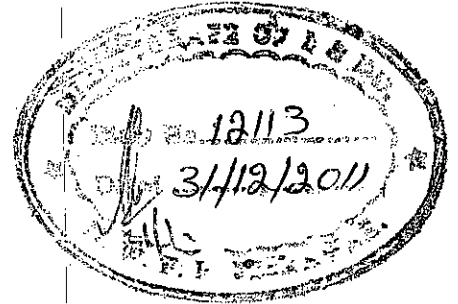
Tel: +92-91-9212973 Fax: +92-91-5286869 E-mail: [dahkpk@yahoo.com](mailto:dahkpk@yahoo.com)

No. Dated Peshawar the

/12/2011

To

Dr. Abdul Waheed Qureshi,  
Veterinary Officer (Health),  
Civil Veterinary Dispensary, Gara Isakhan,  
D.I.Khan.



Subject: **EXPLANATION**

Memo:

With reference to the captioned subject and to inform that the District Livestock Officer, D.I.Khan has reported vide his letter No. nil dated nil (copy enclosed) that you are absent for the last six months without any information.

You are, therefore, directed to explain cogent reasons of your willful absence from official duty within a week time after the receipt of this letter, failing which, disciplinary action will be initiated against you under the rules.

Encl: **As stated above.**

(DR. IHSAN ULLAH KHAN)  
DIRECTOR

No. 2957-58

Dated Peshawar the

31 /12/2011

Copy of the above is forwarded to:

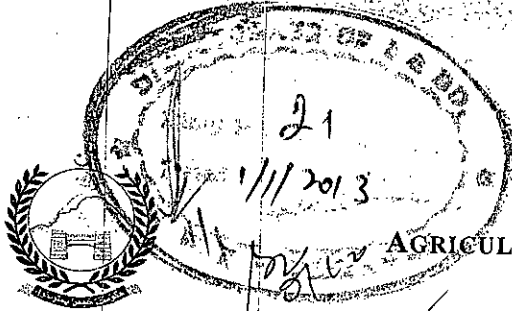
1. Director General (Extension), Livestock and Dairy Development, Khyber Pakhtunkhwa, Peshawar for information at the stage please.
2. District Livestock Officer, D.I.Khan w/r to his letter quoted above please.

  
DIRECTOR

- 16  
15.12.2011

evident from the above facts and findings.

We came to Office of the District Livestock Officer (DLO), DIKhan, and ask him to call the previous two DLOs (Dr. Zahoor-u-Din and Dr. Tariq Mansoor) and Dr. Abdul Waheed Veterinary Officer CVH, Ghara Issa Khan for their statements.



9 (Annexure-4)

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

No.SO(L&F)AD-1(249)/PF/2007,  
Dated Peshawar the 31<sup>st</sup> December, 2012.

To

Mr.Abidullah (PCS EG BS-18),  
Welfare Manager, Tanzeem Lissail-e-Wal Mahroom.

Subject:

**DISCIPLINARY ACTION AGAINST DR.ABDUL  
WAHEED, VETERINARY OFFICER (H), CIVIL  
VETERINARY HOSPITAL, GARA ISSA KHAN, D.I.KHAN  
FOR WILLFUL ABSENCE FROM DUTY.**

I am directed to refer to the subject noted above and to enclose herewith copies of the statement of allegation and charge sheet duly signed by the Competent Authority, Chief Secretary, Khyber Pakhtunkhwa for initiating proceedings against Dr.Abdul Waheed, Veterinary Officer (H), Civil Veterinary Hospital, Gara Issa Khan, D.I.Khan under the provision of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

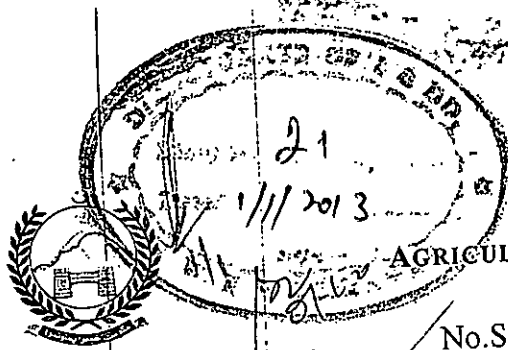
Encl: As above.

(Dr. Mir Ahmad Khan)  
SECTION OFFICER (L&F)

Copy to:

1. Director General (Extension), Livestock & Dairy Development Department with request to depute a departmental representative who is well conversant with the fact of the case alongwith relevant record to assist the Inquiry Officer during the proceedings.
2. Dr.Abdul Waheed, Veterinary Officer (H), Civil Veterinary Hospital, Gara Issa Khan, D.I.Khan with advice to appear before the Inquiry Officer on the date, time and venue fixed by the Inquiry Officer for the purpose of the inquiry proceedings.
3. P.S to Secretary, Agriculture, Livestock & Cooperative Department.

  
SECTION OFFICER (L&F)



10 (Annexure-5)

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

No.SO(L&F)AD-1(249)/PF/2007,  
Dated Peshawar the 31<sup>st</sup> December, 2012.

To

Mr. Abidullah (PCS EG BS-18),  
Welfare Manager, Tanzeem Lissail-e-Wal Mahroom.

Subject:

DISCIPLINARY ACTION AGAINST DR.ABDUL  
WAHEED, VETERINARY OFFICER (H), CIVIL  
VETERINARY HOSPITAL, GARA ISSA KHAN, D.I.KHAN  
FOR WILLFUL ABSENCE FROM DUTY.

I am directed to refer to the subject noted above and to enclose herewith copies of the statement of allegation and charge sheet duly signed by the Competent Authority, Chief Secretary, Khyber Pakhtunkhwa for initiating proceedings against Dr. Abdul Waheed, Veterinary Officer (H), Civil Veterinary Hospital, Gara Issa Khan, D.I.Khan under the provision of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

(Dr. Mir Ahmad Khan)  
SECTION OFFICER (L&F)

Encl: As above.

Copy to:

1.

Director General (Extension), Livestock & Dairy Development Department with request to depute a departmental representative who is well conversant with the fact of the case alongwith relevant record to assist the Inquiry Officer during the proceedings.

2.

Dr. Abdul Waheed, Veterinary Officer (H), Civil Veterinary Hospital, Gara-Issa-Khan, D.I.Khan with advice to appear before the Inquiry Officer on the date, time and venue fixed by the Inquiry Officer for the purpose of the inquiry proceedings.

3.

P.S to Secretary, Agriculture, Livestock & Cooperative Department.

SECTION OFFICER (L&F)

11  
Inquiry Procedure Report. (Annexure-6)

INQUIRY REPORT ON DISCIPLINARY ACTION AGAINST DR. ABDUL WAHEED, VETERINARY OFFICER, CIVIL VETERINARY HOSPITAL, GARA ISSA KHAN D.I.KHAN.

CONDUCTED BY : ABID ULLAH, WELFARE MANAGER,  
TANZEEM LISSAIL-E-WAL MAHROOM, CHIEF MINISTER SECRETARIAT,  
KHYBER PAKHTUNKHWA.



Subject: INQUIRY REPORT ON DISCIPLINARY ACTION AGAINST DR. ABDUL WAHEED,  
VETERINARY OFFICER, CIVIL VETERINARY HOSPITAL, GARA ISSA KHAN D.I.KHAN

Background:

Agriculture, Livestock and Cooperative Department, Government of Khyber Pakhtunkhwa communicated orders of the Competent Authority for initiating proceedings against Dr. Abdul Waheed, Veterinary Officer, Civil Veterinary Hospital, Gara Issa Khan D.I.Khan under the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 vide letter No. SO(L&F)AD-1(249)/PF/2007 dated 31-12-2102 (Annex-A). The letter was received on 10-01-2013 by the undersigned.

Statement of allegations:

2. The charge sheet states that the accused has committed the following irregularities (Annex-B):
- I. He is habitually absenting himself from duty without leave and;
  - II. He has joined an NGO namely SATH in the capacity of its fulltime president.

Proceedings of the Inquiry:

3. Soonafter receipt of the orders for inquiry, Agriculture Department was asked to depute a Departmental Representative to furnish the relevant record and assist the Inquiry Officer. The Department deputed Dr. Jan Mir Khan Distt', Director Livestock D.I.Khan as Departmental Representative (Annex-C). Dr. Jan Mir Khan being Reporting Officer of the accused, the department was asked to depute an impartial Departmental Representative to furnish the relevant record and assist the Inquiry Officer (Annex-D). Dr. Sajjad Ahmed, Research Officer at the Livestock Directorate General was, therefore nominated Departmental Representative in the case. Dr. Jan Mir Khan attended office of the undersigned on 17-01-2013 and furnished the relevant record available at the District level.

*Handwritten initials*

4. Dr. Jan Mir Khan, Distt' Director Livestock D.I.Khan, Dr. Malik Ayaz Wazir, Director Animal Health and Production, Dr. Sajjad Ahmed RO DG Livestock Office and Dr. Abdul Waheed, the accused officer were summoned to the office of the undersigned on 31-01-2013. Written statements of these officers were recorded. Dr. Malik Ayaz Wazir, Director Animal Health and Production and Dr. Ihsanullah Director/Epidemiologist had conducted an inquiry against the accused officer. Dr. Ihsanullah could not turn up because he had proceeded for performance of Umra. His statement was, however recorded later on.

13  
②  
③

5. Dr. Jan Mir Khan, Distt' Director Livestock D.I.Khan submitted his written statement alongwith copies of supporting documents (Annex-E). He stated that the District Livestock Officer D.I.Khan reported on 21-10-2011 that Dr. Abdul Waheed was absent from duty since 15-08-2011 and did not respond to the explanation. Subsequently Director Headquarter called his explanation on 31-10-2011 but the accused officer failed to respond. Dr. Jan Mir Khan further states that he visited Civil Veterinary Hospital Gara Essa Khan alongwith EDO Agriculture D.I.Khan on 01-12-2011 and found the accused officer absent from duty. Dr. Asmatullah Principal Veterinary Officer D.I.Khan was requested to conduct an inquiry against him. The inquiry was conducted which reported that Dr. Abdul Waheed was willfully absent from duty since long. Dr. Ihsanullah, Director Animal Health visited Gara Essa Khan on 10-12-2011, checked all the record and found it unsatisfactory. The daily attendance register was not maintained after August 2003 and no vaccination was carried out after May 2010. Dr. Jan Mir Khan again visited Civil Veterinary Hospital Gara Essa Khan on 23-04-2012 and found Dr. Abdul Waheed absent from duty.

6. Dr. Malik Ayaz Wazir, Director Animal Health and Production submitted his written statement (Annex-F). Dr. Ayaz Wazir states that he conducted an inquiry in the absence case of Dr. Abdul Waheed and found him as habitually and intentionally absenting himself from duty. He also does not maintain vaccination, OPD and other registers of the Civil Veterinary Hospital Gara Essa Khan D.I.Khan. The officer is also running an NGO named 'SATH' for the last many years.

7. Statement of the accused officer, Dr. Abdul Waheed Veterinary Officer Civil Veterinary Hospital Gara Essa in his defence against the allegations was recorded (Annex-G). The officer stated that he always remained punctual and dutiful and is very hardworking and have best potential. He further states that he managed his duties very well but sometimes due to unavailability of public transport to the duty place, he reaches little bit late but is never absenting himself from duty. He further states that due to nature of his work, he visits different surrounding villages for treatment and vaccination purposes.

8. To the allegation of joining an NGO, the accused officer responded that he is not working with any NGO or "SATH" but as different NGOs/Projects collaborate with Livestock and Dairy Development Department D.I.Khan for livestock trainings, vaccinations or field days. He used to assist them off-time. However since December 2011, he is not assisting them. Presently he is not an employee of SATH or any other organization.

9. To the question as to why he did not deposit the chit-fee in time, the accused officer states that he always submitted his chit-fee in time but sometimes he became late due to logistic problems otherwise he is regular in depositing the fee.

10. At the end of his statement, the accused officer has re-iterated that he is dutiful, hard worker and never worked for any NGO. However sometimes he reaches late to his place of duty due to logistic /transport problems.

11. Written statement of Dr. Ihsan Ullah Khan, Epidemiologist DG Livestock Office Peshawar was also recorded (Annex-H). Dr. Ihsan Ullah stated that he had conducted an inquiry in the absence case of Dr. Abdul Waheed. It became very clear that the officer is habitually absenting himself from duty. He never bothered to attend his official duties and to maintain vaccination, OPD and other registers since his posting. The Epidemiologist further states that the services of Dr. Abdul Waheed Veterinary Officer, may be terminated in the interest of public service.

12. The inquiry report jointly submitted by Dr. Malik Ayaz Wazir, Director Animal Health & Production L & DD and Dr. Ihsan Ullah Epidemiologist L & DD Khyber Pakhtunkhwa on 13-07 - 2012, against the accused officer was also perused which is placed at (Annex-I). The report states that the accused officer is habitually absenting himself from duty and also worked for an NGO. Another inquiry report submitted by Dr. Asmatullah, Principal Veterinary Officer CVH D.I.Khan on 10-12-2011 was also perused (Annex-J). This report also states that the officer remained absent from duty.

*Handwritten initials*

13. Proceedings carried out against the accused officer under Removal from Service Ordinance 2000 during the year 2008 for absence from duty were also perused in detail (Annex-K).

14. Findings:

The evaluation of the evidence on record leads to following findings;

- i. Dr. Abdul Waheed Veterinary Officer (H), Civil Veterinary Hospital Gara Essa Khan D.I.Khan is habitually absenting himself from duty without prior approval of leave and is therefore guilty in terms of Rule 3(d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.
- ii. The officer did work for various NGOs which is accepted by the accused officer himself, without any permission from the Competent Authority. The officer, however stopped working for NGOs after objection from his Department. No evidence could be found that he is presently working for any NGO.

- 15 (Signature)
- iii. The officer was proceeded against under Removal from Service Ordinance 2000 during the year 2008 for absence from duty. A Show Cause Notice of "Removal from Service" was served upon him. The major penalty was later on converted into minor penalty of withholding of three annual increments without cumulative effect, after personal hearing.
- iv. During the inquiry proceedings it was noticed that the seat of Veterinary Assistant (VA) is lying vacant in Civil Veterinary Hospital Gara Essa Khan D.I.Khan for quite long time. This has badly affected the vaccination and other activities at the CVH.

15. Recommendations:

- i. Dr. Abdul Waheed, Veterinary Officer (H) CVH Gara Essa Khan D.I.Khan is guilty of habitually absenting himself from duty, the Competent Authority may therefore impose one of the minor or major penalties from the list specified in Rule 4 of the Khyber Pakhtunkhwa (Efficiency and Discipline) Rules 2011 (Annex-L).
- ii. The post of Veterinary Assistant (VA) may be filled at CVH Gara Essa Khan D.I.Khan by transfer from the Civil Veterinary Hospital/Dispensary within the District where the Veterinary Assistant is in surplus.

M. Abid

Abid Ullah 22-02-2013

Welfare Manager,

Tanzeem Lissail-e-Wal Mahroom,  
Chief Minister Secretariat, Khyber Pakhtunkhwa.

16  
Annexure - 7)

**STATEMENT OF ALLEGATIONS**

I, Ghulam Dastagir Akhtar, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Dr. Abdul Waheed Qureshi, Veterinary Officer (H), B-17, In-charge Civil Veterinary Hospital Garra Issa Khan, District D.I.Khan, has rendered himself liable to be proceeded against as he has committed the following acts / omissions within the meaning of Section-3 (b) & (d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

- i. He is un-authorizedly absent from duty since the last two years; and
- ii. He has joined the NGO namely SATH in the capacity of its fulltime President.

2. For the purpose of scrutinizing the conduct of the accused with reference to the above allegations, an Inquiry Officer / Committee consisting of the following is constituted under Section-5 of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline Rules), 2011.

- i.
- ii.

3. The Inquiry Officer/Committee shall, in accordance with the provision of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline Rules), 2011, provide reasonable opportunity of hearing to the accused, record its findings and make within twenty five days of the receipt of this order, recommendations as to fix penalty or otherwise.

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/Committee.

(GHULAM DASTAGIR AKHTAR)  
CHIEF SECRETARY

(COMPETENT AUTHORITY)

17

**CHARGE SHEET**

I, Ghulam Dastagir Akhtar, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Dr. Abdul Waheed Qureshi, Veterinary Officer (BS-17), in charge Civil Veterinary Hospital Garra Issa Khan, District DI Khan, as follows:

That you while posted as District Livestock Officer, Hangu committed the following irregularities:

- i. You are habitually absenting yourself from duty without leave. and
- ii. You have joined an NGO namely SATH in the capacity of its fulltime president.

2. By reason of the above, you appear to be guilty of misconduct and absence from duty 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/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 initiated against you.

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

6. A statement of allegations is enclosed.

  
(GHULAM DASTAGIR AKHTAR)  
CHIEF SECRETARY, KHYBER PAKHTUNKHWA.