

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD**

Service Appeal No. 8485/2020

BEFORE: KALIM ARSHAD KHAN --- CHAIRMAN
FAREEHA PAUL --- MEMBER(E)

Shah Nawaz son of Jehandad R/O Mohallah Nari, Banda Amlook,
Dobthar, Tehsil and District Abbottabad.

.....(*Appellant*)

VERSUS

1. **Secretary**, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. **Director**, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (F)**, District Abbottabad.
4. **District Education Officer (M)**, District Abbottabad.
5. **Principal**, Government Girls Primary School, Karim Pura, District Abbottabad.

.....(*Respondents*)

Present:

MOHAMMAD OWAIS KHAN QAZI,
Advocate

--- For Appellant

SYED NASEER UD DIN,
Assistant Advocate General

--- For respondents

Date of Institution.....23.07.2020

Date of Hearing.....20.05.2020

Date of Decision20.05.2022

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST ORDER ENDORSEMENT NO.2283-86/EBIII/PF/SHAHNAWAZ DATED 21.03.2020 WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE AGAINST WHICH THE APPELLANT FILED DEPARTMENTAL APPEAL ON 16.04.2020 WHICH WAS NOT RESPONDED WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

JUDGEMENT.

KALIM ARSHAD KHAN, CHAIRMAN:- The facts as

narrated in the appeal are that the appellant was serving as Chowkidar

in the Education Department and he submitted an application for his transfer to the post of Driver but Mst. Faiza Shafi DEO(F) demanded illegal gratification from him for appointment of the appellant against the post of Driver on which the appellant filed an application to the Anticorruption Department against the DEO(F); that the Anticorruption department conducted a raid under the supervision of Magistrate and an FIR No.02 dated 03.05.2017 was lodged against the DEO(F); that in retaliation the said DEO(F) relieved the appellant, placing his services at the disposal of the Deputy Commissioner, Abbottabad; that the DEO(F) Faiza Shafi and the Principal Government Girls Primary School, Karimpura, Abbottabad also stopped the salary of the appellant; that the said DEO(F) also issued a show cause notice to the appellant, which she could not; that the appellant was then dismissed from service and he filed appeal before this Tribunal, which was accepted and the order dated 27.10.2017 was set aside, directing the respondents to conduct de novo enquiry; that the appellant was not summoned for de novo enquiry; that the appellant was issued a charge sheet on 26.11.2019 and he submitted reply on 07.12.2019; that during the enquiry, the appellant was summoned for cross examination and personal hearing and he took part in the same; that on 19.02.2020 show cause notice was issued to him, which was responded by the appellant on 20.02.2020; that the de novo enquiry was not properly conducted and the impugned order of dismissal dated 21.03.2020 was, thus, not sustainable. That the


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appellant filed departmental appeal on 16.04.2020, which was not responded within statutory period and, hence, this appeal.

02. On receipt of the appeal, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein various legal and factual objections. The defense setup was, however, a total denial of the claim of the appellant.

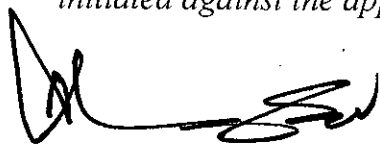
03. We have heard learned counsel for the appellant and learned law officer for the respondents.

04. The learned counsel for the appellant reiterated the grounds detailed in the memorandum and grounds of appeal and prayed for acceptance of the appeal.

05. On the Contrary learned Assistant Advocate General controverted the arguments of learned counsel for the appellant and submitted that.

06. Besides the allegations of misconduct and inefficiency this otherwise appears to be quite simple case of absence from duty. The appellant was issued charge sheet on the following four charges:-

a. that he was key person who plotted criminal proceedings against Mst Faiza Shafi which resulted into registration of FIR against her which was later on found to be false and proceedings under section 182 PPC were initiated against the appellant;


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b. that there were complaints of teachers and students against the appellant about his involvement in immoral activities due to which his posting in female school was not considered appropriate;

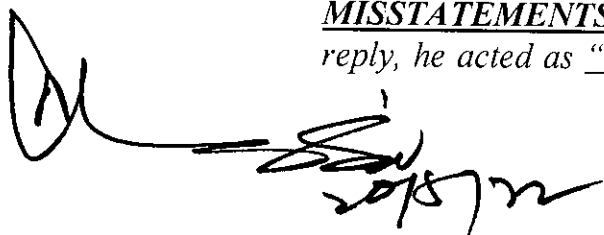
c.(not relevant, therefore, not reproduced)

d. that he was relieved by the DEO(F) vide Memo No.3070 dated 09.05.2017 and vide letter No.4462-69 dated 25.05.2017, the Director Elementary & Secondary Education Peshawar placed his services at the disposal of the DEO(F) office for further posting; but he failed to submit arrival till 12.07.2017 and he was called to explain the reason within seven days; that he was adjusted at GHS No.1 Abbottabad vide order No.8314-19 dated 28.07.2017 but he failed to take charge in the said School vide Principal GHS No.1 Abbottabad No.635 dated 04.08.2017 and remained willful absent from duty till the date of dismissal from service i.e. 27.10.2017.

07. The findings of the enquiry committee conducting de-novo enquiry, are reproduced as under:

Findings: Keeping in available record and observation of office files, replies of the concerned, the undersigned officers are of the opinion that;

1. KEY ROLE IN ENGINEERING CRIMINAL PROCEEDINGS AND MISSTATEMENTS: As per point-4 of his reply, he acted as "TRAP AGENT" on his own



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will to eliminate the corruption in the country and against Ms. Faiza Shafti, Ex-DEO as she demanded Rs. 20000/- from him for the post of Driver in his report to Anti-corruption. His said claim does not stand valid as:

I. He could not apply for the post till 15.03.2017, when advertised on 24.02.2017.

II. He already accepted that he could not apply for new Driver posts with in due time as per his statement to Mr. Riaz, DEO(F) Torgher during inquiry,.

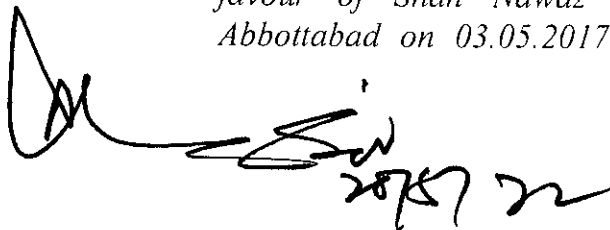
III. He considered himself as senior and most suitable, whereas he was not the competent to decide about it.

IV. He accepted his act of bribery, which is itself a crime.

V. His allegation upon Ms. Faiza, Ex-DEO(F) could not be established as he himself not handed over the Tainted money as per plan. Likewise the raid party under the supervision of a judge could not prove, except that envelope containing Rs. 20000/- from the corner of a table of Ms. Faiza, Ex-DEO on spot on 03.05.2017 as the TAINTED MONEY WAS NOT HANDED OVER TO HER IN OPEN FORM, RATHER PLANTED IN ENVELOPE AND FOUND ON HER TABLE CORNER.

VI. His allegation has also been proved false as Anti-Corruption Department, Khyber Pakhtunkhwa has dropped the case registered under FIR #: 02 dated 03.05.2017 and ordered to register case under section 182 Cr.Pc and 112 PPC vide Letter No. 8595 dated 23.05.2017. He has although, challenged it through writ #: 1077/2017 in the Honourable PHC Abbottabad Bench and got relief as the impugned proceedings U/S 182 Cr. Pc & 112 PPC stands suspended on 11.11.2017.

VII. He skillfully plotted to utilize the service of Shabbana Kauser, by handing over her envelope containing 20000/- as per her statement under 164 before Anti-Corruption Judge on 06.05.2017. Her earlier statement in favour of Shah Nawaz addressed to DC Abbottabad on 03.05.2017 was of no value,

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rather authenticates his and her link of criminal conspiracy act of May, 2017.

VIII. His claim of working as Driver for 3 years in his reply (point 4) is false as he worked for 1 year 4 months, i.e from the date of detailment w.e.f 07.07.2015 to 23.11.2016. Ms. Faiza Shafi has rightly withdrawn his services as no such detailment was allowed and no logic was there in the presence of Gul Wali, the official well-trained driver.

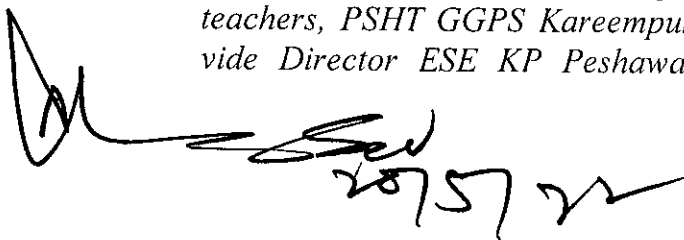
IX. He only applied for the post of Driver during the tenure of Ms. Samina, DEO(F) on 25.02.2016, in the presence of Gul Wali, official Driver of DEO(F).

In the light of above, his key role in engineering criminal proceeding, misstatements, gross misconduct is evident/proved.

2. CHARGE OF WILLFUL ABSENCE, MISCONDUCT AND DEFIANCE:

He was relieved by Ms. Faiza Shafi, Ex-DEO(F) on 0505.2017, which was unjustified as it was wrongly addressed to the DC Abbottabad instead to Director E&SE Khyber Pakhtunkhwa Peshawar; the same unjustified order was withdrawn on the same day. Then he was relieved on the grounds of illegal/illegitimate activities and unfit for female institution vide letter No. 3070 dated 09.05.2017, i.e after raid of 03.05.2017. The Director E&SE, Khyber Pakhtunkhwa later on placed him on the disposal of DEO(M) Abbottabad vide Endst No. 4467-69 dated 25.05.2017. It is concluded that Ms. Faiza Shafi, DEO(F) Abbottabad lost all the grounds of initiating any disciplinary actions or request after 25.05.2017 as his services were placed under the DEO (M) Abbottabad, competent authority to initiate any required disciplinary action. His willful absence, misconduct and open defiance are evident from the following:

i. His plea that he did not receive his transfer order issued on disciplinary grounds on the request of DEO(F) having complaints of teachers, PSHT GGPS Kareempura Letter No. vide Director ESE KP Peshawar Endst No:

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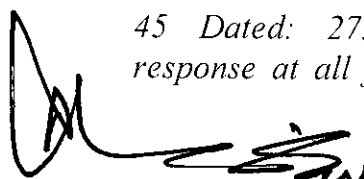
4467-69 Dated: 25.05.2017 has no justification. His transfer order was issued on disciplinary grounds on the request of the DEO (F) having complaints of teachers, PSHT GGPS Kareempura (Annexure: D). He lives in Banda Amlook, which is just 15-20 minutes away from Abbottabad city and he was very much aware of all the proceedings after 03.05.2017.

ii. His plea that he did not even receive his explanation vide letter No: 7688-91 Dated: 12.07.2017, which was sent through registered post at his home address vide registry No. 667 Dated: 13.07.2017, is not understandable as it was not returned back as undelivered.

iii. His plea that he did not know about his posting order at GHS No: 1 Abbottabad issued vide 8314-19 dated 28.07.2017 (on administrative grounds) is again unjustified as Kalimullah, Chowkidar GHS No. 1 Abbottabad was also transferred against his place and he reported. Thereafter, the Principal GHS No: 1 Abbottabad confirmed his absence from duties vide Letter No: 635 Dated: 04.08.2017.

iv. His plea that he did not receive the Show Cause Notice issued by the DEO (M) Abbottabad vide Endst No: 8739-41 Dated: 10.08.2017 indicates his defiance as it was sent through Registered Acknowledgment No: 408 Dated: 10.08.2017. It looks very clumsy that he replied to one Show Cause Notice No: 3607-II Dated: 29.05.2017 issued by Ms. Faiza Shafi, Ex-DEO (F) Abbottabad sent to his same home address. He replied but challenged her authority and termed it as unjustified as she was accused herself (Page 37 of his reply). So how it is possible that his transfer order to GHS No: 1 Abbottabad issued by DEO (M) Abbottabad, explanation order due to his willful absence and later Show Cause Notice sent to the same home address were not delivered/received. Hence his plain claim of not receiving letters of DEO (M) Abbottabad is rejected.

v. His dismissal order by the DEO (M) Abbottabad was issued vide Endst No: 11738-45 Dated: 27.10.2019 after receiving no response at all from him. However it was set


M. J. Khan

aside and Denovo Enquiry was held to decide about his re-instatement.

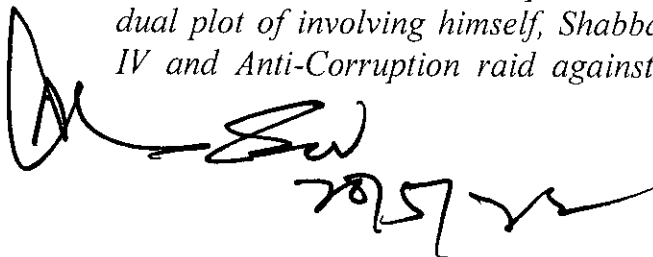
vi. His earlier plain statements of not receiving any registered letter at his home address or having no information about his transfers seem strange. The undersigned officers when asked whether he received his statement of allegations, charge sheet and enquiry notification sent through registered acknowledgement No: RGL38058961 Dated: 29.11.2019, he replied in affirmative instantly on 04.12.2019.

vii. It is very interesting to state that the undersigned failed to receive the acknowledgment No: RGL38058961 till date, which is not only strange but also tells that the local postman of the area concerned failed to perform his duty on different occasions, after delivery of official dock. In this regard, a letter has already been written to the Assistant Postmaster General Abbottabad that nothing was received by the undersigned officer (Principal GHS Sheikh-ul-Bandi) as per report of Mr. Junaid; Postman Sheikh-ul-Bandi till date. This fact indicates that he did receive all the previous letters but deliberately quoting non-receipt of those and defying previous orders of the competent authority.

viii. His statement in his reply point 17 that his dismissal order was issued by the DEO(M) Abbottabad on 27.10.2017, while he serving under DEO(F) Abbottabad, clearly indicates that he expressed himself to be innocent and totally unaware of all proceedings; whereas he is quite sharp and alert, as rightly quoted by Anti-Corruption judge in para-2 of his report of 04.05.2017 to the learned DSJ Abbottabad, "Complainant with us who was sharp enough by instructing us to."

3. CHARGE OF GROSS MISCONDUCT, WILLFUL ABSENCE, INEFFICIENCY AND INSUBORDINATION:

His act of gross misconduct, willful absence, inefficiency and insubordination is proved in the light of point 1 and 2 quoted above. His dual plot of involving himself, Shabbana Class IV and Anti-Corruption raid against his own



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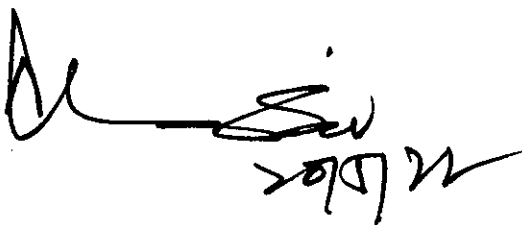
officer in a bribery case, going to the extreme extent of acting as a trap agent, believing himself as a reformer in society but ignoring his limits as government servant and above all defying/violating the service discipline. He completely ignored that he has been performing in a female institution, where a highest degree of disciplinary delicacies are required for females, which unfortunately he failed to observe keeping in view the complaints of teachers, Primary School Head and office that lead to his disposal of services by the competent authority (Director E&SE, Khyber Pakhtunkhwa Peshawar) to the office of the DEO(M) Abbottabad.

4. CROSS EXAMINATION

The opportunity of cross examination is provided to him vide letter on 27.01.2020 at the office of the DEO(M) Abbottabad. Mr. Abdussalam, Principal GHSKokal Barseen (Enquiry Officer), Mr. Ayaz, Superintendent DEO(M), Mr. Zaheer Qureshi, the then Superintendent DEO(F) and Shah Nawaz were present on 27.01.2020; while Ms. Faiza Shafi, Ex-DEO(F) did not come. Similarly Ms. Asia Khatoon, Ex-PSHT GGPS Kareempura, who is retired from service and proceeded to her native town in Mansehra and Shabana Class IV did not come on 27.01.2020. A certificate of cross examination opportunity was signed by Mr. Zaheer Qureshi and Shah Nawaz. The statement of Mr. Zaheer Qureshi, was shown to him and asked to question/examine it, to which he replied in negative. He was shown the statement of Ms. Faiza alongwith its enclosures and asked to question/examine it but he replied the same earlier statements. Similarly he was also asked to examine/question the statement of Shabana Kousar recorded under 164, to which he has written his earlier statement.

08. It was recommended by the enquiry committee that:

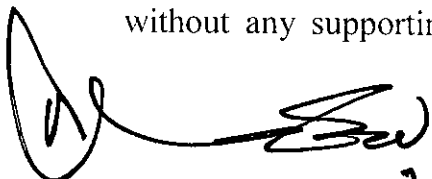
1. He (Shah Nawaz, Chowkidar) shall not be re-instated in the light of findings points 1,2,3 and 4.


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2. The Major Penalty of dismissal from service may be imposed upon him in the light of findings points 1,2,3 and 4.

3. The SOPs for dealing with complaints/raids and traps by Anti-corruption Wing issued by FIA shall be looked/considered for effective actions against the alleged government servants.

09. We deem it appropriate to confine ourselves only to the charge of willful absence of the appellant as the charge of engineering the criminal proceedings by the appellant against his superior officer and resultant actions thereof appear to us to be bit irrelevant or for that matter those may be premature as criminal proceedings are yet to be concluded. It is also because of the action taken by an officer against the subordinate for a criminal case lodged against the said officer, may be a reason for biasness of the authority. Yes we will be quite safe to take up the charge of absence of the appellant. It is in this regard observed that not only an enquiry was held but also the procedure under Rule-9 of the Government Servants (Efficiency & Discipline) Rules 2011 fully adopted by issuing notices to the appellant and publication of the notices in the newspapers but he did not report for his duty. It is admitted by the appellant's counsel, during the course of arguments that the appellant remained absent for the period alleged in the charge sheet and there is no explanation given by him to exonerate him from such charge. A flimsy stance has also been taken by the appellant that he was not aware of his posting order, ^{this is Q} a stance which without any supporting material cannot be accepted. Therefore, the


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appellant could not justify and defend the charge of his willful absence which stood established and thus the impugned action by the authorities dismissing the appellant is justified on this score alone.

10. The upshot of the above discussion is that this appeal is groundless and is accordingly dismissed. Costs shall follow the event.

Consign.

11. *Pronounced in open court in Camp Court Abbottabad and given under our hands and seal of the Tribunal this 20th day of May, 2022.*



(KALIM ARSHAD KAHN)
CHAIRMAN
CAMP COURT ABBOTTABAD

(FAREEHA PAUL)
MEMBER(E)
CAMP COURT ABBOTTABAD


ORDER

20th May, 2022 Counsel for the appellant present. Syed Naseer Ud Din,
Assistant Advocate General for respondents present.

2. Vide our detailed judgement of today placed on file (containing 11 pages), this appeal is groundless and is accordingly dismissed. Costs shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 20th day of May, 2022.*

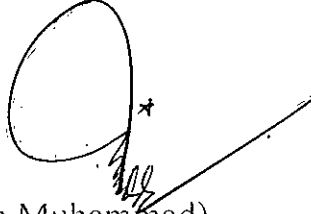

(KALIM ARSHAD KHAN)
CHAIRMAN.
CAMP COURT ABBOTTABAD


(FAREEHA PAUL)
MEMBER(E)
CAMP COURT ABBOTTABAD

21.12.2021

Appellant in person present. Mr. Asif Masood, DDA alongwith Mr. Sohail Ahmad Zeb, Assistant Litigation for respondents present.

Appellant requested for adjournment on the ground that due to general strike of the bar his learned counsel is not in attendance today. Adjourned. To come up for arguments before D.B on 17.02.2022 at camp court Abbottabad.



(Mian Muhammad)
Member(E)

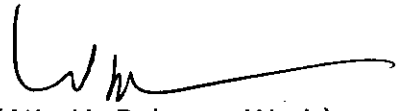


(Salah Ud Din)
Member(J)
Camp Court Abbottabad

15.02.2021


Learned counsel for the appellant and Mr. Riaz Khan Paindakhel learned Asst. AG alongwith Sohail Ahmed Zeb Litigation Officer for respondents present.

Representative of respondents requested for time to submit reply/comments. Granted. To come up for reply/comments on 20.04.2021 before S.B at Camp Court, A/Abad.


(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, A/Abad


20-4-21

Due to COVID-19, case is adjourned to 21-9-2021 for the same.


Reader.

21.09.2021

Learned counsel for the appellant present. Mr. Sohail Ahmed Zeb, Litigation Officer alongwith Mr. Usman Ghani, District Attorney for the respondents present and submitted comments/reply, copy of which handed over to learned counsel for the appellant. Adjourned. To come up for rejoinder, if any, as well as arguments before the D.B on 21.12.2021 at Camp Court Abbottabad.


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

20.11.2020

Mr. Muhammad Owais Khan Qazi, Advocate, for appellant is present.

The learned counsel representing appellant emphasized that on demanding illegal gratification from appellant for the post of Driver a ploy rather stratagem was set against the DEO (Female) for initiation of Anti Corruption Proceedings, on her part the former was bent upon commencement of disciplinary proceedings in retaliation thus entrustment of his duties by placing it at the disposal of the Deputy Commissioner, Abbottabad, the varies of which were challenged before the Hon'ble High Court, Bench Abbottabad, where upon that order was suspended. It was in utter disregard of the aforesaid order that his pay was stopped. A show-cause notice followed suit making reference to two orders without communicating them to appellant sans legal sanction as the referred to official was having no powers to do so, followed by a clandestine withdrawal of order made on 05.05.2017. Endeavors were made for their retrieval which proved abortive necessitating movement of application under the Khyber Pakhtunkhwa Right to Information Act, 2013, however, efforts so made did not materialize. The rest of the disciplinary proceedings so made are sans observance of the codal formalities through conscious application of independent mind thus suffers from baise and prejudice on the basis of which no punishment can be awarded to the appellant thus the appellant called in question the whole episode being tainted with malafide and one sided.

The points so agitated at the bar need consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 15.02.2021 before S.B at Camp Court, Abbottabad.

Appellant Deposited
Security & Process Fee

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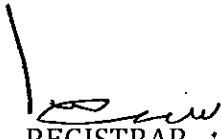
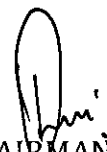
(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT ABBOTTABAD

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 8485 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	23/07/2020	<p>The appeal of Mr. Shahnawaz presented today by Mr. Muhammad Owais Qazi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p>		<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>20-11-20</u></p> <p style="text-align: right;"> CHAIRMAN</p>

بعدالت جناب خیبر پختونخواہ سروس ٹریبونل، خیبر پختونخواہ، پشاور

سروس اپیل نمبر: 2020/

سیکرٹری، E&SE وغیرہ

بناہ

شاہنواز

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مورخہ: 21-07-2020

شاہنواز (اپیلانٹ)

بذریعہ وکلاء:

محمد حبیب دلازاک
ایڈو
محمد اویس خان قاضی
ایڈو کیٹس ایبٹ آباد

محمد اویس خان قاضی
ایڈو کیٹس ایبٹ آباد

بعدالت جناب خیبر پختونخواہ سروس ٹریبونل، خیبر پختونخواہ، پشاور

سروس اپیل نمبر: 485/2020

شاہنواز ولد جہانداوسکنہ محلہ نازی، بانڈہ اٹوک، دوپتھر، تحصیل ضلع ایبٹ آباد Defunct ملازم محکمہ ایجوکیشن ایبٹ آباد۔

0344-5624016 / 0336-5897766 : موبائل نمبر Khyber Pakhtunkhwa Service Tribunal

--- اپیلانٹ

Diary No. 7859

Dated 23/7/2020

بنام

- (1) سیکرٹری، ایلیمینٹری اینڈ سیکنڈری ایجوکیشن (E&SE)، خیبر پختونخواہ، پشاور
- (2) ڈائریکٹر، ایلیمینٹری اینڈ سیکنڈری ایجوکیشن (E&SE)، خیبر پختونخواہ، پشاور
- (3) ڈسٹرکٹ ایجوکیشن آفیسر (DEO)، فی میل، ضلع ایبٹ آباد
- (4) ڈسٹرکٹ ایجوکیشن آفیسر (DEO)، میل، ضلع ایبٹ آباد
- (5) پرنسپل، گورنمنٹ گرلز پرائمری سکول، کریم پورہ، ضلع ایبٹ آباد

--- رسپانڈنٹس

سروس اپیل زبردفعہ آف 4 خیبر پختونخواہ سروس ٹریبونل ایکٹ 1974ء برخلاف

متنازعہ آرڈر نمبری 2283-86/EBIII/PF/Shahnawaz محرمہ 21.03.2020 صادر کردہ

رسپانڈنٹ نمبر 4 جس کے تحت اپیلانٹ کو Major Penalty آف Dismissal from

Service دی گئی۔

Filed to-day

Registrar

23/7/2020

جناب عالی! سروس اپیل ذیل ہے:

- (1) یہ کہ اپیلانٹ محکمہ ایجوکیشن میں بطور چوکیدار تحت لیٹر بھرتی محرمہ 21-06-1993 بھرتی ہوا اور اپیلانٹ نے ہمیشہ افسران بالا کا حکم بجالایا اور محنت، ایمانداری و پابندی کے ساتھ کام انجام دیا۔ (نقولات لیٹر بھرتی محرمہ 21.06.1993 مع Better Copy و لیٹر نسبت ملازمت لف بطور "A" Annexure ہیں)
- (2) یہ کہ آخری دفعہ اپیلانٹ گورنمنٹ گرلز پرائمری سکول، کریم پورہ، ایبٹ آباد میں بطور چوکیدار تعینات تھا اور اس دوران اپیلانٹ نے اپنی ٹرانسفر بطور ڈرائیور کی نسبت ایک درخواست دی۔ (نقل درخواست محرمہ 25.02.2016 لف بطور "B" Annexure ہے)
- (3) یہ کہ موجودہ پوسٹ سے قبل، سائل / اپیلانٹ عرصہ تین سال تک بطور ڈرائیور DEO زمانہ کے دفتر میں ڈیوٹی سرانجام دے چکا تھا۔ ڈرائیور کی کچھ آسامیاں خالی ہوئیں تو سائل / اپیلانٹ نے بحیثیت سینئر ملازم محکمہ اور مذکورہ آسامی کیلئے موزوں ترین امیدوار ہونے کے ناطے مسماۃ فائزہ شفیع [DEO(F)] سے مذکورہ آسامی پر بھرتی کی درخواست کی مگر مذکورہ نے سائل / اپیلانٹ سے رشوت طلب کی جس پر اپیلانٹ نے تحریری درخواست تھانہ اینٹی کرپشن میں برخلاف مذکورہ دی اور از خود Trap

Agent بن کر ملک کو کرپشن سے پاک کرنے کی کوشش میں حصہ بنا۔ (نقل درخواست اینٹی کرپشن محررہ 03.05.2017 معہ

Better Copy لف بطور "C" Annexure ہے)

یہ کہ مورخہ 03-05-2017 کو فاضل سینئر سول جج صاحب اور اسسٹنٹ ڈائریکٹر اینٹی کرپشن پر مشتمل ایک ٹیم نے سائل / (4

اپیلانٹ کو بطور Trap Agent اپنے ہمراہ رکھ کر فائزہ شفیع کے دفتر (DEO(F) پر چھاپہ مارا اور مذکورہ کورنگے ہاتھوں پکڑ کر مقدمہ تحت قانون اینٹی کرپشن درج کیا۔ (نقولات FIR نمبری 02 محررہ 03.05.2017 معہ Better Copy و

رپورٹ نمبری SCJ/ATD 752-53 محررہ 04-05-2017 لف بطور "D" Annexure ہیں)

یہ کہ FIR اندراج کے فوراً بعد مذکورہ فائزہ شفیع نے بحیثیت ملزم محض بدلہ کی غرض سے ایک غیر قانونی آفس آرڈر نمبری (5

3004-06 محررہ 05.05.2017 کے تحت اپیلانٹ کو بغیر کسی انوائری کے محکمہ ہذا سے Relieved Off کر کے اپیلانٹ کی سروس کو DC ایبٹ آباد کے رحم و کرم پر چھوڑنے کا حکم صادر کر دیا۔ اپیلانٹ نے مذکورہ غیر قانونی آرڈر کو فاضل پشاور ہائی کورٹ ایبٹ آباد بیج میں چیلنج کیا اور فاضل پشاور ہائی کورٹ نے مورخہ 22.05.2017 کو مذکورہ غیر قانونی آرڈر محررہ 05.05.2017 کو معطل فرما دیا۔ (نقل غیر قانونی آرڈر نمبری 3004-06 محررہ 05.05.2017 و مصدقہ نقولات

رٹ پٹیشن فاضل پشاور ہائی کورٹ معہ آرڈر محررہ 22.05.2017 لف بطور "E" & "F" Annexure ہیں)

یہ کہ اپیلانٹ نے محکمہ اینٹی کرپشن کے اعلیٰ افسران کے روبرو انصاف کے حصول کیلئے متعدد درخواست ہائے گزاریں نیز (6

اپیلانٹ کے مقدمہ کی گواہ مسماۃ شبانہ کوثر نے بھی DC ایبٹ آباد کے نام برخلاف مسماۃ فائزہ شفیع ایک درخواست دی۔ (نقولات درخواست نسبت گرفتاری ملزمہ فائزہ شفیع بنام ڈائریکٹر اینٹی کرپشن محررہ 03.05.2017 و درخواست تحت

Right to Information محررہ 08.05.2017 و درخواست مسماۃ شبانہ کوثر محررہ 03.05.2017 بنام DC

ایبٹ آباد لف بطور "G" Annexure ہیں)

یہ کہ مسماۃ فائزہ شفیع (DEO) اور پرنسپل گورنمنٹ گرلز پرائمری سکول، کریم پورہ، ایبٹ آباد نے فاضل پشاور ہائی کورٹ کے (7

احکامات پر عملدرآمد نہیں کیا بلکہ ساتھ ہی اپیلانٹ کی تنخواہ بھی بند کر دی جس پر اپیلانٹ نے روبرو فاضل پشاور ہائی کورٹ مقدمہ توہین عدالت بعنوان "شاہنواز بنام مسماۃ فائزہ شفیع وغیرہ" دائر کیا۔ (مصدقہ نقولات مقدمہ توہین عدالت بعنوان

"شاہنواز بنام مسماۃ فائزہ شفیع وغیرہ" معہ آرڈر محررہ 13.06.2017 لف بطور "H" Annexure ہیں)

یہ کہ بعد از اندراج FIR، دائرگی رٹ پٹیشن و توہین عدالت برخلاف مسماۃ فائزہ شفیع، مذکورہ یہ از خود Competent (8

Authority بن گئی اور اپیلانٹ کے خلاف شوکاز نوٹس نمبری Show Cause EB-III/11-3607 محررہ

29.05.2017 جاری کیا اور یوں مذکورہ یہ اپنے ہی مقدمہ میں خود جج بن گئی جو کہ انصاف کے اصولوں کے منافی تھا۔ اپیلانٹ

کو سنا نہیں گیا اور مذکورہ یہ جانبدار تھی اور اپیلانٹ کو شوکاز جاری کرنے کی مجاز نہیں رہی تھی۔ بہر حال اپیلانٹ نے مذکورہ شوکاز کا

حسب ضابطہ جواب ارسال کر دیا۔ (نقولات شوکاز نوٹس نمبری Show Cause EB-III/11-3607 محررہ

29.05.2017 معہ جواب نوٹس محررہ 13.06.2017 لف بطور "I" Annexure ہیں)

یہ کہ مندرجہ بالا شوکاز نوٹس میں دیگر دو (2) آفس آرڈرز کا ذکر بھی موجود تھا جو کہ اپیلانٹ کو ارسال نہیں کیے گئے تھے جبکہ (9

غیر قانونی آرڈر محررہ 05.05.2017 کے Withdraw ہونے کو بھی اس شوکاز نوٹس میں خفیہ رکھا گیا اور کوئی ذکر نہیں کیا

گیا۔ اپیلانٹ نے DEO(Male) کے پاس تحت 2013 KPK Right to Information Act, ایک درخواست دی مگر اپیلانٹ کو ہر دو مذکورہ آرڈرز فراہم نہیں کیئے گئے۔ (نقل درخواست Right to Information محررہ 04.07.2017 لف بطور "J" Annexure ہے)

(10) یہ کہ شوکاز نوٹس نمبری Show Cause 3607-11/EB-III/29.05.2017 کے تحت کی جانے والی نام نہاد انکوآری اینٹی کرپشن FIR اور مسماۃ فاتزہ شفیع کی جانب سے Counter Complaint برخلاف سائل کی بابت کی گئی تھی نہ کہ اپیلانٹ کی غیر حاضری کی بابت۔ اپیلانٹ کو انکوآری آفیسر محمد ریاض سواتی صاحب ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ) تو غرنے بذریعہ لیٹر محررہ 29.06.2017 طلب کیا۔ اپیلانٹ حاضر ہوا اور اپنا موقف پیش کیا مگر نہ تو اپیلانٹ کو الزامات / چارج شیٹ کی نقل فراہم کی گئی، نہ اپیلانٹ کو دفاع کا موقع دیا گیا، نہ گواہان پر جرح کا موقع دیا گیا اور نہ ہی بذاتہ ہی سنے جانے کا حق دیا گیا۔ اس انکوآری رپورٹ میں اپیلانٹ کو محض FIR خارج ہونے کی بناء پر Dismiss کرنے کا لکھا گیا مگر FIR بعد ازاں فاضل پشاور ہائی کورٹ کے حکم پر بحالی کے مراحل میں ہے لہذا یہ انکوآری اب کالعدم وغیر قانونی تصور ہوگی۔ یہاں یہ بات درج کرنا نہایت ضروری و اہم ہے کہ اپیلانٹ کے مقدمہ کے حوالے سے اب تک صرف ایک انکوآری کی گئی جو کہ شوکاز نوٹس نمبری Show Cause 3607-11/EB-III/29.05.2017 کی نسبت تھی جبکہ متنازعہ آرڈر محررہ 27.10.2017 کی نسبت کوئی شوکاز، انکوآری نہیں کی گئی۔ (نقولات لیٹر محررہ 29.06.2017 معہ Better Copy و انکوآری رپورٹ محررہ 01.07.2017 لف بطور "K" Annexure ہیں)

(11) یہ کہ محکمہ اینٹی کرپشن نے ہمراہ ملی بھگت مسماۃ فاتزہ شفیع ختیہ طور پر مدعی مقدمہ کو نوٹس / اطلاع دیئے بغیر تحت آرڈر لیٹر نمبری 8595 محررہ 23.05.2017 کے FIR کو کینسل / منسوخ کر دیا اور سائل / اپیلانٹ کو PPC 211, 182 کانٹریکٹ جاری کر دیا گیا۔ سائل / اپیلانٹ نے مذکورہ نوٹس کا جواب ارسال کیا۔ (نقولات آرڈر لیٹر نمبری 8595 محررہ 23.05.2017، نوٹس PPC 211, 182 محررہ 08.06.2017، جواب نوٹس محررہ 13.06.2017 درخواست تحت Right to Information محررہ 19.06.2017 نسبت حصول ریکارڈ اینٹی کرپشن لف بطور "L" Annexure ہیں)

(12) یہ کہ اپیلانٹ نے مذکورہ بالا آرڈر لیٹر نمبری 8595 محررہ 23.05.2017 نسبت منسوخ FIR کو فاضل پشاور ہائی کورٹ میں چیلنج کیا اور ساتھ ہی اپیلانٹ کے حق میں کارروائی زیر دفعہ PPC 211, 182 کو تحت آرڈر محررہ 09.11.2017 معطل کر دیا گیا۔ (مصدقہ نقولات رٹ پٹیشن و آرڈر محررہ 09.11.2017 لف بطور "M" Annexure ہیں)

(13) یہ کہ بدوران زیر تجویز ہونے مندرجہ بالا رٹ پٹیشن، مسماۃ فاتزہ شفیع (DEO) نے اپنا غیر قانونی آرڈر واپس لے لیا مگر نہ تو مذکورہ نے اس نسبت اپیلانٹ کو مطلع کیا اور نہ ہی فاضل پشاور ہائی کورٹ ایبٹ آباد بیج کو مطلع کیا۔ اپیلانٹ کو مذکورہ غیر قانونی آرڈر محررہ 05.05.2017 کے بعد کسی آرڈر کی کوئی اطلاع نہیں دی گئی تھی۔ اس دوران سائل کی رٹ پٹیشن بوجہ واپس ہونے مذکورہ غیر قانونی آرڈر کے تحت فیصلہ و حکم محررہ 15.02.2018 خارج کر دی گئی اور ساتھ ہی اپیلانٹ کو فاضل سروس ٹریبونل سے رجوع کا کہا گیا۔ اس فیصلہ سے اپیلانٹ کو غیر قانونی آرڈر محررہ 05.05.2017 کے واپس (Withdraw) ہونے کا علم ہوا کیونکہ محکمہ ہذا اور مسماۃ فاتزہ شفیع (DEO) نے جان بوجھ کر فاضل پشاور ہائی کورٹ ایبٹ آباد بیج کو حتمی فیصلہ محررہ 15.02.2018 تک اندھیرے میں رکھا اور اس عرصہ کے دوران اپیلانٹ کو بھی اندھیرے میں رکھ کر لاتعداد آفس

آرڈرز جاری کرتے رہے یوں انصاف کا قتل کیا۔ (مصدقہ نقل فیصلہ و حکم فاضل پشاور ہائی کورٹ ایبٹ آباد بینچ محررہ 15.02.2018 لف بطور "N" Annexure ہے)

(14) یہ کہ شکایات اسٹوڈنٹس و ٹیچرز، اگر کوئی ہوں، برخلاف ایپلانٹ تو وہ محض بے بنیاد ہوگی کیونکہ ایپلانٹ محکمہ ہذا میں 21-06-1993 سے سروس کرتا رہا اور آج تک ایپلانٹ کے خلاف کوئی انکوائری یا کسی انکوائری کی بنیاد پر کوئی محکمہ سزا نہیں دی گئی اور اگر کوئی شکایات تھیں تو آج تک محکمہ خاموش کیوں رہا؟ لہذا یہ محض سنی سنائی باتیں ہیں جن کی قانون میں کوئی وقعت نہیں ہے۔

(15) یہ کہ ایپلانٹ کو کوئی متنازعہ آفس آرڈرز یا شوکاز نوٹس ارسال نہیں کیئے گئے نیز ایپلانٹ کا تعلق گاؤں بانڈہ ملوک سے ہے جہاں اخبار کی سہولت بھی موجود نہیں ہے یوں ایپلانٹ کے خلاف سراسر غیر قانونی، غیر منصفانہ اور یکطرفہ طور پر کارروائی عمل میں لائی گئی ہے۔ مزید یہ کہ ایپلانٹ کو (DEO(Male)) کے دفتر میں غیر قانونی، غیر مجازانہ وغیر منصفانہ طور پر ٹرانسفر کر دیا گیا اور اس آرڈر کو بھی خفیہ رکھا گیا۔ ایپلانٹ نے درخواست تحت Right to Information بھی گزاری۔

(16) یہ کہ ایپلانٹ کو اپنے طور پر نسبت برطرفی (Dismissed) سروس کا علم ہوا جو (DEO(Male)) نے جاری کیا جبکہ ایپلانٹ آخری دفعہ (DEO(Female)) کے تحت ملازم تھا۔ ایپلانٹ نے بمشکل مذکورہ متنازعہ آرڈر کی نقل حاصل کی اور محکمہ اپیل دائر کر دی۔ (نقولات متنازعہ آرڈر نمبری 11738-45/EBIII محررہ 27.10.2017 و محکمہ اپیل محررہ 25.11.2017 مع رسید ڈاکخانہ لف بطور "O" Annexure ہیں)

(17) یہ کہ اسی دوران فاضل پشاور ہائی کورٹ ایبٹ آباد بینچ نے ایپلانٹ کی FIR اینٹی کرپشن کی بحالی کی نسبت بھی فیصلہ و حکم محررہ 08.10.2019 کو صادر فرمایا۔ (مصدقہ نقل فیصلہ محررہ 08-10-2019 نسبت بحالی FIR لف "P" Annexure ہے)

(18) یہ کہ ایپلانٹ کی محکمہ اپیل کا کوئی فیصلہ نہیں کیا گیا لہذا ایپلانٹ نے فاضل سروس ٹریبونل سے رجوع کیا جہاں سے ایپلانٹ کی سروس اپیل منظور ہو کر فاضل KPK سروس ٹریبونل سے مندرجہ ذیل حکم صادر ہوا:

08. As a sequel to above, the appeal is accepted and the impugned order dated 27.10.2017 is set aside. The respondents are directed to conduct de-novo enquiry within a period of 90 days from the date of receipt of this judgment. The reinstatement of the appellant shall subject to the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room. (مصدقہ نقولات سروس اپیل مع فیصلہ و حکم محررہ 24.10.2019 لف بطور "Q" Annexure ہیں)

(19) یہ کہ کورٹ کیسز کے زیر تجویز ہونے اور Stay Orders جاری ہونے کے پیش نظر محکمہ کی جانب سے کسی بھی قسم کا آرڈر غیر قانونی ہے نیز مسماۃ قازہ شفیع از خود ملزم ہے جس نے فاضل پشاور ہائی کورٹ ایبٹ آباد بینچ کے فیصلہ پر عملدرآمد نہیں کیا اور یوں تو بین عدالت کی مرتکب ہوئی نیز FIR اینٹی کرپشن کی ملزم ہوتے ہوئے مدعی مقدمہ کے خلاف شوکاز جاری کرنے سے مذکور یہ کی جانبداری واضح ہے اور مذکور یہ نے محض فوجداری مقدمہ اینٹی کرپشن کی بغض و اناہ میں آ کر ایپلانٹ کے خلاف یہ

جملہ غیر قانونی کاروائیاں کی ہیں۔

(20) یہ کہ ماضی میں مذکور یہ مسماۃ فائزہ شفیع کے خلاف اسی طرح کے غیر قانونی آرڈرز جاری کرنے پر فاضل پشاور ہائی کورٹ ایبٹ آباد بینچ نے سخت سرزنش کی جس پر مذکور یہ نے فاضل ہائی کورٹ کے رو برو بذریعہ نظر ثانی (Review Petition) معافی بھی مانگی۔ (مصدقہ نقولات نظر ثانی (Review Petition) مع آرڈر محررہ 12.04.2016 لف بطور Annexure "R" ہیں)

(21) یہ کہ فاضل KPK سروس ٹریبونل کے حکم محررہ 24.10.2019 کے باوجود محکمہ ہڈانے اپیلانٹ کو De-novo انکوآری کے سلسلے میں طلب نہیں کیا جس پر سائل نے بذریعہ درخواست ہائے محررہ 13.11.2019 حکم عدالت کی مصدقہ نقولات ڈائریکٹر ایجوکیشن پشاور، (M) DEO ایبٹ آباد اور (F) DEO ایبٹ آباد کو ارسال کیں تو (M) DEO نے سائل کو بذریعہ آفس آرڈر نمبر EB-II/PF/C-IV 12372-77 محررہ 26.11.2019 کے Reinstatے کا حکم صادر کر کے De-novo انکوآری کا تحریر کیا۔ (نقولات درخواست ہائے محررہ 13.11.2019 مع رسیدات ڈاکخانہ و آفس آرڈر نمبر EB-II/PF/C-IV 12372-77 محررہ 26.11.2019 لف بطور Annexure "S" ہیں)

(22) یہ کہ تحت قانون اولاً محکمہ کو بغرض انکوآری اپیلانٹ کو Reinstatے کرنے کے ساتھ یا تو ملازمت کو دوبارہ Join کرنے کی اجازت دینی تھی یا Suspend کر کے De-novo انکوآری شروع کرنی تھی مگر محکمہ نے ایسا نہیں کیا جس پر سائل نے بذریعہ درخواست ہائے محررہ 05.12.2019 کو تشریح/وضاحت بنام ڈائریکٹر ایجوکیشن پشاور، (M) DEO ایبٹ آباد اور (F) DEO ایبٹ آباد ارسال کی اور اپنی قانونی ذمہ داری کو پورا کیا۔ (نقولات درخواست ہائے محررہ 05.12.2019 مع رسیدات ڈاکخانہ لف بطور Annexure "T" ہیں)

(23) یہ کہ لیٹرز نمبری EB-II/PF/C-IV 12378-85 محررہ 26.11.2019 کے تحت اپیلانٹ کو چارج شیٹ جاری کی گئی اور اپیلانٹ سے تحریری جواب طلب کیا گیا۔ اپیلانٹ نے جملہ Documentary ثبوت کے ساتھ تفصیلی تحریری جواب مقررہ میعاد کے اندر مورخہ 07.12.2019 کو بمطابق حکم محررہ 26.11.2019 کے متعلقہ انکوآری آفیسر کے پاس جمع کر دیا۔ (نقولات لیٹرز نمبری EB-II/PF/C-IV 12378-85 محررہ 26.11.2019 و تحریری جواب محررہ 07.12.2019 لف بطور Annexure "U" ہیں)

(24) یہ کہ دوران انکوآری، بعد از داخل ہونے تحریری جواب لیٹرز نمبری EB-II/PF/C-IV 12378-85 محررہ 26.11.2019، سائل/اپیلانٹ کو Cross Examination و Personal Hearing کیلئے طلب کیا گیا اور سائل/اپیلانٹ حاضر ہو کر اس کارروائی ہائے کا حصہ بنا۔

(25) یہ کہ مورخہ 19.02.2020 کو اپیلانٹ کو شوکاژ نوٹس نمبر Shahnawaz 1355/EBIII/PF جاری کیا گیا مگر شوکاژ نوٹس ہڈا کے ساتھ انکوآری رپورٹ اور بیانات کی کاپیاں اپیلانٹ کو فراہم نہیں کی گئیں۔ اپیلانٹ نے جملہ Documentary ثبوت کے ساتھ تفصیلی تحریری جواب مقررہ میعاد کے اندر مورخہ 29.02.2020 کو بمطابق حکم محررہ 19.02.2020 کے (M) DEO ایبٹ آباد کو ارسال کر دیا۔ (نقولات شوکاژ نوٹس نمبر 1355/EBIII/PF Shahnawaz محررہ 19.02.2020 و تحریری جواب محررہ 29.02.2020 لف بطور Annexure "V" ہیں)

یہ کہ De-novo انکوائری میں سنگین لاقانونیت اور بے ضابطگیاں برتی گئیں جس پر ایپلنٹ نے بارہا انکوائری آفیسر کے سامنے عذر و اعتراض بھی اٹھائے مگر بے سود۔ یوں متنازعہ آرڈر نمبری 2283-86/EBIII/PF/Shahnawaz محرمہ 21.03.2020 خلاف قانون، خلاف رولز، کالعدم و قابل منسوختی بوجہ ذیل وجوہات ہے:

- (a) موجودہ انکوائری ایپلنٹ کی عملاً Reinstatement کے بغیر خلاف قانون و خلاف رولز عمل میں لائی گئی؛
- (b) ایپلنٹ کے تحریری جواب اور Documentary ثبوت کو یکسر نظر انداز کر دیا گیا اور ان Documents اور ریکارڈ کی بابت مسماۃ فائزہ شفیع سے کوئی وضاحت/انکوائری نہیں کی گئی؛
- (c) ایپلنٹ کو شوکاز نوٹس نمبر Shahnawaz 1355/EBIII/PF محرمہ 19.02.2020 کے ساتھ انکوائری رپورٹ اور بیانات کی کاپیاں فراہم نہیں کی گئیں، مسماۃ فائزہ شفیع از خود بذاتہ یا اُس کا کوئی گواہ بغرض بیان و جرح از خود بذاتہ ایپلنٹ کے روبرو نہیں آیا اور حیران کن طور پر انکوائری آفیسر از خود اپنے تئیں نام نہاد اور جعلی جرح برگواہان میں تنہا ایپلنٹ کو اپنے سامنے بٹھا کر ایپلنٹ سے ہی سوالات پوچھ کر جوابات کو بطور جرح لکھتا رہا اور ایپلنٹ سے انکوائری کے ضروری کاغذات کا بہانہ بنا کر misrepresentation سے دستخط حاصل کر لیے یوں مسماۃ فائزہ شفیع کو دوران انکوائری و جرح روبرو مسائل طلب نہیں کیا گیا اور خفیہ کارروائی عمل میں لائی گئی؛
- (d) بحوالہ نام نہاد غیر حاضری ایپلنٹ، متعلقہ عملہ محکمہ ایجوکیشن نسبت ارسال کرنے متنازعہ آرڈر بنام ایپلنٹ کوئی باز پرس، بیان و جرح نہیں کی گئی اور نہ ہی متعلقہ سٹاف ڈاکٹرانہ سے نسبت وصولی/عدم وصولی آرڈر بنام ایپلنٹ کوئی سوال، باز پرس یا ریکارڈ طلب کیا گیا نیز جملہ Documents فراہم کردہ منجانب ایپلنٹ سے ایپلنٹ کی نام نہاد غیر حاضری، ایپلنٹ کے خلاف نام نہاد شکایات اسٹوڈنٹس و ٹیچرز اور اینٹی کرپشن کی FIR کی نسبت واضح جواب موجود ہے نیز فوجداری مقدمہ (FIR) کا ٹرائل ابھی شروع ہونا ہے جس میں سزایا جزا کا فیصلہ فاضل ٹرائل کورٹ نے کرنا ہے مگر مذکورہ Documents کو یکسر نظر انداز کر دیا گیا؛
- (e) انکوائری نسبت کہ ایپلنٹ کا تعلق دور دراز گاؤں بانڈھہ الملوک سے ہے جہاں اخبار کی سہولت موجود نہیں؛
- (f) اگرچہ بذاتہ سنے جانے کی کارروائی (Personal Hearing) بھی عمل میں لائی گئی مگر مذکورہ کارروائی بمطابق قانون و رولز انجام نہیں دی گئی؛
- (g) فاضل KPK سروس ٹریبونل کے فیصلہ و حکم محرمہ 24.10.2019 کے پیرا نمبرز 6، 5 اور 7 میں مقدمہ ہذا پر اٹھائے گئے جملہ اعتراضات کو ذور نہیں کیا گیا اور نہ ہی اس نسبت انکوائری میں اصل مرتکبان کے خلاف کارروائی کی گئی۔ Competent Authority و آفس آرڈر نمبری Mr. Shahnawaz 3070/EB-III/PF محرمہ 09.05.2017 تحت متعلقہ قانون و رولز انکوائری کی بابت جانبداری سے کام لیا گیا ہے اور انکوائری ہذا مسماۃ فائزہ شفیع کے ساتھ ملی بھگت کا نتیجہ ہے؛ (نقل آفس آرڈر نمبری Mr. Shahnawaz 3070/EB-III/PF محرمہ 09.05.2017 بطور "W" Annexure ہے)

متعلقہ انکوائری آفیسر اور دیگر افسران محکمہ ایجوکیشن نے جان بوجھ کر مبنی بر بد نیتی ملی بھگت ہمراہ مسماۃ فائزہ شفیع انکوائری انجام دے کر فاضل عدالت KPK سروس ٹریبونل کو گمراہ کر کے دوبارہ De-novo انکوائری کا حکم حاصل کرنے کا ایک منصوبہ تیار کیا

ہے تاکہ اپیلانٹ کو اس کے حق سے دُور کر کے مقدمات کے ایک لائٹنی سلسلہ میں الجھا دیا جائے۔
(27) یہ کہ De-novo انکوائری سے محکمہ کوئی بھی الزام برخلاف اپیلانٹ ثابت کرنے میں کامیاب نہیں ہوا بلکہ بری طرح ناکام رہا ہے لہذا متنازعہ آرڈر نمبری 2283-86/EBIII/PF/Shahnawaz محرمہ 21.03.2020 سر اسر غیر قانونی، غیر منصفانہ ہے اور منی بر بدعتی و بے بنیاد الزامات ہے، نتیجہ ملی بھگت ہونے کے ناقابل پذیرائی و قابل منسوخی ہے۔ (نقولات متنازعہ آرڈر نمبری 2283-86/EBIII/PF/Shahnawaz محرمہ 21.03.2020 و لیٹر نمبری 2474-82/EBIII/PF/

Shahnawaz محرمہ 23.04.2020 لف بطور "X" Annexure ہیں)

(28) یہ کہ اپیلانٹ غریب کلاس فور ملازم ہے جو عرصہ زائد از قریباً 3 سال سے اپنی ملازمت و انصاف کے حصول کیلئے تگ و دو کر رہا ہے اور بعد از اندراج FIR سائل / اپیلانٹ کی تنخواہ بند کر دی گئی تھی اور پھر تاقی سروس سے Dismiss بھی کر دیا گیا۔

(29) یہ کہ سائل / اپیلانٹ نے متنازعہ آرڈر نمبری 2283-86/EBIII/PF/Shahnawaz محرمہ 21.03.2020 کے خلاف

مورخہ 16.04.2020 کو محکمانہ اپیل بنام رسپانڈنٹ نمبر 2 دائر کی مگر مذکورہ اپیل کا تاحال کوئی فیصلہ نہیں کیا گیا لہذا بعد از اختتام 90 روز بر مطابق قانون سروس اپیل ہذا دائر کی جارہی ہے۔ (نقولات محکمانہ اپیل محرمہ 16.04.2020 ورسید ڈاکخانہ

لف بطور "Y" Annexure ہیں)

استدعا:

استدعا ہے کہ بمظہوری سروس اپیل ہذا، متنازعہ آرڈر نمبری 2283-86/EBIII/PF/Shahnawaz محرمہ 21.03.2020 کو منسوخ فرمایا جاوے اور اپیلانٹ کو جملہ الزامات سے بری الذمہ قرار دیتے ہوئے محکمہ ایجوکیشن میں دوبارہ بحال کیا جا کر سابقہ حق حقوق (Back Benefits) بھی دیئے جانے کا حکم صادر کیا جاوے۔

مورخہ: 21-07-2020

شاہنواز (اپیلانٹ)

بذریعہ وکلاء:

سحر حبیب دلازاک

ایڈو

محمد اویس خان قاضی

ایڈووکیٹس ایسٹ آباد

تصدیق:

تصدیق کی جاتی ہے کہ جملہ مراتب سروس اپیل ہذا تاحال علم و یقین اپیلانٹ صحیح و درست ہے نیز کوئی امر عدالت ہذا سے مخفی نہیں رکھا گیا ہے۔

مورخہ: 21-07-2020

شاہنواز (اپیلانٹ)



23.07.2020

شاہنواز

بعدالت جناب خیبر پختونخواہ سروس ٹریبونل، خیبر پختونخواہ، پشاور

سروس اپیل نمبر: _____/2020

شاہنواز)
بنام سیکرٹری، E&SE وغیرہ

سروس اپیل

بیان حلفی

حلفاً بیانی ہوں کہ جملہ مراتب سروس اپیل تا حد علم و یقین اپیلانٹ کے صحیح و درست ہے اور کوئی امر عدالت ہذا سے مخفی یا پوشیدہ نہیں رکھا گیا ہے نیز بچوں قسم سروس اپیل دیگر کسی عدالت میں زیر تجویز نہیں ہے۔

مورخہ: 2020-07-21

شاہنواز (اپیلانٹ)

شاہنواز



23.07.2020

Annexure "A"

(3) (9)

OFFICE OF THE DISTRICT SUPERVISOR OF EDUCATION (S.D.O.) DISTRICT: ANANTNAG

O/O, No. 115 / Supdt: Smt: Sr:

Dated: 21/6/1983

26

APPOINTMENT.

The following appointments on the post of _____ in B.P. No. 1 of Rs. 9020-23-1979 plus usual allowances as admissible under the rules are hereby ordered with effect from the date of their taking over charge.

S.NO.	NAME/FULL NAME & ADDRESS	POSTED AT	Remarks
1.	Mubassad Iashir s/o. Mubassad Iashir Village Sumbli Bheri (Abottabad).	GMS Serhan.	Against A/C post of A/Att.
2.	Salik Aman s/o. Sir Zaman Village Sumbli Bheri (Abtd).	GMS Serhan.	Against A/C post of A/Asst.
3.	Jahid Nawaz s/o. Jehan Bhatti KUSTIALA (Abottabad).	GMS Serhan.	Against A/C post of A/Asst.

Conditions:-

- The appointment is purely temporary basis and liable to termination without any notice/return.
- The Post of Institution is required to check original qualification certificate before handing over the charge.
- The candidate is required to produce Age & Health certificate from the medical Supdt: D.H.Q. Hospital, ATD.
- The appointment shall automatically cancelled if he failed to join the post within fifteen days of the issue of this letter.
- In case the candidate wish to resign from service he should have to give one month's notice/or forfeit one month pay in lieu of notice.
- The candidate shall not be given the charge of post if his age below 15 years or exceed 40 years.
- The original domicile certificate may also be checked before handing over the charge.
- The verification roll over character and antecedent shall be verified by the police authority and may be sent to this office for record.

93
75
18

(SIAAL-3-221-82)
DIST: EDUCATION OFFICER (S.D.O.)
DISTRICT: ANANTNAG

And: No. 115 / Supdt: Smt: Sr: ATD: 21/6/83

- Copy of the above is for record to the:-
1. F.S. to Minister of Education M.P.P. Pambur.
 2. Headmaster, The Government School, Serhan.
 3. Candidate concerned.

Attested
A. E. Khan
S. D. O.

OFFICE OF THE DISTRICT EDUCATION OFFICER (F) ABBOTTABAD

O/O No. 115 / Supdtt: Sett: Dr:

Dated Abbottabad the 21/06/1993

APPOINTMENT:

The following appointment on the post in BPS No.1 to BPS 9 020-23-18;9 plus usual allowance as admissible under the rules are hereby ordered with effect from the date of their taking over charge.

S.No.	Name/Father Name & Home Address	Posted at	Post
1.	Muhammad Bashir s/o Muhammad Akbar Village P/o Samli Dheri (Abbottabad).	GHS Sarhan	post of L/Att:
2.	Malik Aman s/o Mir Zaman Village Sumbli Dheri (ATD)	GHS Sarhan	against v/c post of
3.	Shah Nawaz s/o Jehan Dad Kuthiala (Abbottabad).	GHS Sarhan	against v/o post of Chowkidar

CONDITIONS:-

1. Must comply with all the conditions below:-
2. The appointment is made purely temporary basis and liable to termination without any notice/reason.
3. The head of institution is required to check original qualification certificates before handing over the charge.
4. The candidate is required to produce Age & Health certificate from the Medical Supdtt: D.H.Q Hospital ATD.
5. The appointment shall automatically cancelled if he failed to join the post within fifteen days of the issue of this letter.
6. In case the candidate wish to resign from service he should have to give one month's notice / or forfeit one month pay in lieu of notice.
7. The candidate is given the charge of post of his age not below 16 and not above 40 years.
8. The original domicile certificate may also be checked before handing over the charge.
9. The verification roll of character and antecedent duly verified by the police authority and may be sent to this office for record.

Sd/-
(Talal-s-)
Education Officer
Abbottabad

Endst No:164-6-28/

Atd the 21-06-93

Copy to the above is forwarded to the:-

1. P.S to Minister for Education NWFP Peshawar
2. Headmaster
3. Candidate concerned

Sd/-
District Education Officer
Abbottabad

Attested
[Signature]
[Signature]

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) ABBOTTABAD



0992-342533, 0992-342314
dcofemale_abbottabad@gmail.com

OFFICE ORDER

This office order issued under Endst No.9191-93/EB-III dated 07-07-2015 in respect of Mr. Shahnawaz, Ex-Chowkidar GGPS Dobathar Abbottabad regarding performing of duty as Driver in the office of DEO(F) Abbottabad, is hereby withdrawn with immediate effect and the official is directed to report at newly place of posting at GGPS Karimpura Abbottabad without any delay.

Note:-

1. Charge report should be submitted to all concerned.

[Signature]
District Education Officer
(Female) Abbottabad

Endst No. 7388-93 /EB-III Vol-3

Dated 23/11 /2016

Copy for information to:-

1. The District Accounts Officer Abbottabad.
2. The SDEO(F) Primary Abbottabad for necessary action.
3. Budget & Accounts Officer local office.
4. Head Teacher GGPS Karimpura Abbottabad with the direction to send joining report of Class-IV concerned.
5. Class-IV concerned.
6. Office file.

[Signature]
District Education Officer
(Female) Abbottabad

Attested
[Signature]

(12)

~~12~~

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) ABBOTTABAD



No. 9257-62 / EBIII/Trans/C-IV/Vol1-2015

Dated Abbottabad the: 10-7- /2015

☎ 0992-342533, 0992-342314

✉ Deofemale.abbottabad@gmail.com

ADJUSTMENT ORDER

The following C-IV are here by transfer/adjusted in the school noted against each there name on their own pay and grade in the interest of public services with immediate effect.

S.no	Name / Designation	From school	To school	Remarks
1	Muhammad Akram N/Q	GGCMS No.1 ATD	GGHS Sajikot	A.V.Post
2	Attique Ur Rehman Chow:	GGCMS No.1 ATD	GGPS Bandi Atti Khan	A.V.Post
3	Shah Nawaz. Chow:	GGPS Dobather	GGCMSS No.1 Hostel	Vice Mr Ubaid ullah
4	Obaid ullah chow:	GGCMS No.1 Hostel	GGCMS No.1 School	Vice S.no2 Attiq

- Note.**
1. Charge report should be submitted to all concerned.
 2. Necessary entry to this effect should be made in their service book.
 3. No TA/DA as allow to them.

ad/
District Education Officer
(Female) Abbottabad

Endust even no and Date:

Copy for Information to the:-

1. District Account Officer Abbottabad
2. All principal /HM/ HT of concerned schools.
3. All C-IV concerned.
4. Office file.

Sammal
District Education Officer
(Female) Abbottabad
7/7/2015

Attested;
A. Q. Anwar
Gul Jaso

~~19~~

19

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE ABBOTTABAD.

ADJUSTMENT/TRANSFER.

The following Class-IV are hereby adjusted/transfer in the school noted against each on their own pay and grade w.e.f. the date of their taking over charge in the interest of public service.

S/NO.	NAME OF CLASS-IV	FROM	TO	REMARKS.
1.	Saeed Gul Chow	GGHS Kehal ATD	GGPS Dobather	Against vacant post under panel measures.
2.	Asim chow	GGPS Kareem Pura	GGHS Kehal	Vice Sr.No.1
3.	Shah Nawaz Chow	GGCMS No.1 Hostel ATD	GGPS Kareem Pura	Vice Sr.No.2
4.	Muhammad Atteuqe	GGPS Sandi Atti Khan	GGCMS No.1 Hostel	Vice sr. No.3

- NOTE:-
1. Charge report should be submitted to all concerned.
 2. No.TA/DA is allowed.

ed/r
 DISTRICT EDUCATION OFFICER
 (FEMALE) ABBOTTABAD.

Encl:st.No. 112-13-12 / EB-III Adj./Trf. of Class-IV Dated A-Abad the 07/10/2015

- Copy for information to the:-
1. District Accounts Officer Abbottabad.
 2. Principal GGCMS No.1 Atd/ GGHS Kehal Atd.
 3. Sub Divisional Education officer female Abbottabad.
 4. Head teacher GGPS Kareem Pura / GGPS Dobather.
 5. Budget & Accounts Officer Local office.
 6. Class-IV concerned.
 7. Office file.

Samina Ali
 DISTRICT EDUCATION OFFICER
 (FEMALE) ABBOTTABAD.
 7/10/15

Attested;
Amir Gul Feroz

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) ABBOTTABAD

14



0992-342533, 0992-342314

deofemale.abbottabad@gmail.com

OFFICE ORDER

Consequent upon the approval of the competent authority, Mr. Shah Nawaz Chowkdar GGPS Dobather in hereby deputed in the office of the under signed as driver with immediate effect till further order.

[Signature]
District Education Officer
(Female) Abbottabad

Endst. No. 919/93/EB-III (F) Adj: C-IV/Vol: 1

Dated 27/07/2015

Copy forwarded for information to the:

- 1. Sub-Divisional Education Officer (Female) Abbottabad.
- 2. Head Teacher GGPS Dobather Abbottabad.
- 3. Chowkdar Concern.

[Signature]
District Education Officer
(Female) Abbottabad

Attested;
[Signature]

TRANSFER

As approved by the competent authority Mr. Shah Nawaz Chowkidar GGPS Banwari is hereby transferred to GGPS Dobather against vacant post of chowkidar with immediate effect in the interest of public service.


NOTE. Charge report should be submitted to all
No TA/ DA is allowed to him.

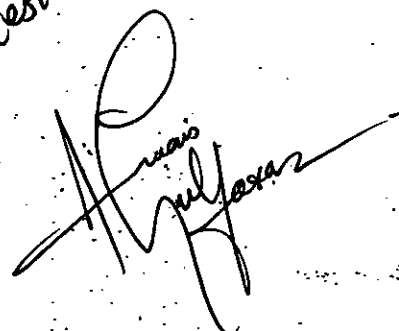
EXECUTIVE DISTRICT OFFICER
E & S. EDU: ABBOTTABAD.

Endst: No. 5648-51 DATED 10/10 108

Copy to:-

1. The E.D.O(E & S) Edu: Abbottabad
2. The D.O(F) Local Office
3. The ADO Circle
4. The Headteacher GGPS Dobather.


DEPUTY DISTRICT OFFICER (F)
PRIMARY ABBOTTABAD.

Attested;


خدمت ماہ ۵۰۰ ۵۰۰ لیس ڈیوٹی ایجنسی آئی سی ۴ ایس آباد

Annexure "B"

16

بیتاب عالمیہ -

عورتانہ گزشتہ ایس ایس ایس کے ۲۳ سال سے گزشتہ گزشتہ گزشتہ

کریم پورہ میں ایس ایس ایس کے ۲۳ سال سے گزشتہ گزشتہ گزشتہ

۲۳ سال سے ایس ایس ایس کے ۲۳ سال سے گزشتہ گزشتہ گزشتہ

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۲۳ سال سے ایس ایس ایس کے ۲۳ سال سے گزشتہ گزشتہ گزشتہ

۲۳ سال سے ایس ایس ایس کے ۲۳ سال سے گزشتہ گزشتہ گزشتہ

25-2-16-

EB-111

Put up the case for process

25/2/16

Attested;

Handwritten signature and name: Gulshan

خیریت ایجازی کتابت القیامیہ (پیشہ ورانہ ایسٹ پیس ہار)

جانب اول

تذکرہ سیک میں قلم تعلیم بطور چھوٹا ڈیوٹی ہونے پر گورنمنٹ کے ذریعہ
 پرانے دنوں کے قلم توڑے اور 20000 سے زائد سیک سرانجام داروں کو
 میں اسے پیل (پنشن) DC اور ڈیوٹی سرانجام داروں سے
 عارضی ڈرائیور (3 سال تک) ڈیوٹی سرانجام داروں سے
 اب قلم تعلیم میں ڈرائیور کی طرف سے آئی جیسٹ ہونے سے
 جب تک کہ وہ اپنے قلم کے دو برسوں سے
 کی طرف سے تیار ہونے سے DC کے فائزہ شفیق صاحبہ سے
 ہونے سے تیار ہونے کے لئے 20000 سے زائد سیک سرانجام
 بطور ڈرائیور آڈیو آرکائیو میں۔ سیک میں ان سے
 میں بیان (3 سال) میں بطور ڈرائیور ڈیوٹی کی اور
 سے آگے۔ جس پر بطور فائزہ شفیق صاحبہ کے تیار ہونے کے
 بہت سے سیک کے لئے اور (قرابت بھی) سے آگے
 سے 20000 سے زائد سیک آڈیو آرکائیو میں۔ سیک میں
 دنیا جیسا ہیں۔ ڈیوٹی کرناہ سیک میں۔ جس پر بطور
 سے شفیق لیا جائی ہے۔ میں (پیشہ ورانہ ایسٹ پیس ہار) میں
 فائزہ شفیق صاحبہ کے لئے (قرابت بھی) سے آگے

انصار

30 اپریل

03-05-2017

شہینواز ولد جیٹا نادر سٹریٹ 3 نمبر ٹاؤن ہائوس اہلوٹ روڈ سیکسٹل
 ضلع استیوارہ محلہ منڈی چوکدار PS 99 (م) پورہ ایسٹ پیس ہار
 1-780764-13101
 موبائل نمبر 0344-9489390
 336-58897766

Attested;
 [Signature]
 Hulfagan

بخدمت جناب تھانہ اینٹی کرپشن ایبٹ آباد۔

جناب عالی!

گزارش ہے کہ میں محکمہ تعلیم بطور چوکیدار ڈیوٹی گورنمنٹ گریڈ پرائمری سکول کریم پورہ ایبٹ آباد میں سرانجام دے رہا ہوں میں اس سے پہلے دفتر (F)DO ایجوکیشن ایبٹ آباد بطور عارضی ڈرائیور 3 سال تک ڈیوٹی سرانجام دی ہے۔ اب محکمہ تعلیم میں ڈرائیور کی پوسٹیں آئی ہوئی ہیں۔ جب مجھے پتہ چلا ہے کہ محکمہ دوپوسٹیں ڈرائیور کی خالی ہیں جس کیلئے میں نے DO فائزہ شفیع صاحبہ سے بات کی تو انہوں نے مجھے کہا کہ -/20000 لے کر آؤں میں تمہارا بطور ڈرائیور آرڈر کرتی ہوں جس کیلئے میں نے ان سے کہا کہ میں یہاں عرصہ 3 سال بطور ڈرائیور ڈیوٹی کی اور یہ میرا حق ہے۔ جس پر میڈم فائزہ شفیع نے کہا کہ تمہارا حق ہے ہمارے بھی چھوٹے چھوٹے بچے اور اخراجات بھی ہیں۔ آپ مجھے -/20000 روپے دو گے تو میں آرڈر کروں گی۔ میں رشوت نہیں دینا چاہتا ہوں۔ رشوت کو گناہ سمجھتا ہوں جبکہ میڈم مذکورہ مجھ سے رشوت لینا چاہتی ہے۔ میں بخوشی خود ٹریپ ایجنٹ بن کر فائزہ شفیع کے خلاف کارروائی کروانا چاہتا ہوں۔

الرقوم: 03-05-2017

العارض

شاہنواز ولد جہاند اسکنہ محلہ ناڑی، بانڈہ ایلوک، دوپتھر، تحصیل ضلع ایبٹ آباد حال ملازم چوکیدار GGPS کریم پورہ ایبٹ آباد۔

13101-7810764-1

موبائل نمبر: 0344-9489390

0336-5897766

Attested;
H. M. Ansari
Gulzar

~~Annexure~~

~~5~~

~~5~~

گورنمنٹ پبلک سروس کمیشن، لاہور۔ 19/04/2007ء (قاریہ/2007ء) (لاہور/قاریہ/شعبہ جوائنٹ) (نام/پیس)

پندرہ روزہ نام نمبر ۲۳

فارم نمبر ۲۳-۵ (۱)

عرقا کیل

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ ۱۵۴ مجموعہ ضابطہ نوجداری

خلع ایسٹ آباد ACE ایسٹ آباد

تاریخ رجسٹریشن و رجسٹریشن نمبر 3/5 وقت 09:00 بجے

تاریخ رجسٹریشن و رجسٹریشن نمبر 02 بجے

تاریخ اور وقت رپورٹ	تاریخ رجسٹریشن و رجسٹریشن نمبر	وقت
۱۱	۳/۵	۰۹:۰۰ بجے
۲	نام و حکومت اطلاع دہندہ مستقیماً شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے	
۳	مختصر کیفیت جرم (معدہ دفعہ) حال اگر کچھ لیا گیا ہو۔	PPC 161 / 5 (2) Pc ACT
۴	جائے وقوعہ فاصلہ تھانہ سے اور دست و قلم کی حالت	تھانہ ایسٹ آباد چاند شرفی جنوب لفافہ ۵/۶
۵	نام و حکومت ملزم یا ملزمہ شہرستان	ایسٹ آباد
۶	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو	مدعی کی طرف سے جاری اور اسٹریٹ ہر مڈل ڈیم رجسٹر ہوا
۷	تھانہ سے روانگی کی تاریخ و وقت	رہنمون ٹراک

ابتدائی اطلاع پینچ درج کرو۔

شہری ماہیاری اور اسٹریٹ ہر مڈل ڈیم رجسٹر ہوا۔ ابتدائی اطلاع ایسٹ آباد چاند شرفی جنوب لفافہ ۵/۶ چوٹیرواں محلہ جوکیر لہور کی ہے۔ ملزمہ شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے۔ ملزمہ شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے۔ ملزمہ شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے۔

ملزمہ شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے۔ ملزمہ شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے۔ ملزمہ شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے۔ ملزمہ شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے۔

ملزمہ شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے۔ ملزمہ شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے۔ ملزمہ شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے۔ ملزمہ شاہی بازار و لہور چاندرا د ساکنہ خیمہ نامی بانڈہ اسٹریٹ چوٹیرواں محلہ جوکیر لہور کی ہے۔

Attested
(Signature)
منصوب

ACE - A - Abad 2/5/07

انسپیکٹر جنرل پولیس صوبہ _____ فارم نمبر:-

فارم نمبر ۲۳-۵ (۱)

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ ۱۵۲ مجموعہ ضابطہ فوجداری

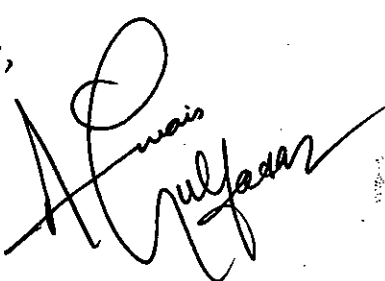
تھانہ:	ACE ایبٹ آباد	ضلع:	ایبٹ آباد
علت نمبر:	02	تاریخ:	وقت وقوعہ 03-05-2017 وقت 09:00 بجے

۱-	تاریخ و وقت رپورٹ:	چاکیزگی پرچہ 03-05-2017 وقت 09:00 بجے۔
۲-	نام و سکونت اطلاع دہندہ مستغیث:	شاہنواز ولد جہاندا سارکنہ محلہ ناڑی بانڈہ الملوک دوہتر حال ملازم چوکیدار GGPS کریم پورہ
۳-	مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو:	161 P.P.C , 5(2) PC ACT
۴-	جائے وقوعہ فاصلہ تھانہ سے اور سمت:	دفتر ڈسٹرکٹ ایجوکیشن آفیسر زمانہ ایبٹ آباد جانب شرق جنوب بفاصلہ 5/6 KM از تھانہ۔
۵-	نام و سکونت ملازم:	
۶-	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع کرنے میں توقف ہوا تو وجہ بیان کرو:	مدعی کی تحریری درخواست پر مقدمہ درج رجسٹر ہوا۔
۷-	تھانہ سے روانگی کی تاریخ و وقت:	روٹین ڈاک

ابتدائی اطلاع نیچے درج کرو۔

مستغیث خانہ نمبر 2 نے بحاضر تھانہ آ کر تحریری درخواست پیش کرتا ہے جس کا متن ذیل ہے بحمدت انچارج ایبٹ آباد جناب عالی گزارش ہے کہ میں محکمہ تعلیم ایبٹ آباد میں بطور چوکیدار اپنی ڈیوٹی گورنمنٹ گراؤنڈ پر انٹری سکول کریم پورہ ایبٹ آباد میں سرانجام دے رہا ہوں میں اس سے پہلے دفتر DO(F) ایبٹ آباد میں بطور ڈرائیور ڈیوٹی آرڈر پر ڈیوٹی عرصہ تین سال تک انجام دیتا رہا اب محکمہ تعلیم میں ڈرائیور کی دو (2) پوسٹیں آئی ہوئی ہیں جب مجھے پتہ چلا ہے محکمہ میں دو (2) پوسٹیں ڈرائیور کی خالی ہیں جس کے لئے میں نے DO(F) فائزہ شفیع صاحبہ سے بات کی تو انہوں نے مجھے کہا کہ بیس ہزار - 20,000 روپے لے کر آؤ میں تمہارا آرڈر بطور ڈرائیور کرتی ہوں جس کیلئے میں نے ان سے کہا کہ میں یہاں عرصہ 3 سال بطور ڈرائیور ڈیوٹی کر چکا ہوں اور یہ میرا حق ہے جس پر میڈم فائزہ شفیع نے کہا کہ تمہارا حق ہے لیکن ہمارے بھی چھوٹے چھوٹے بچے ہیں اور اخراجات بھی ہیں آپ مجھے - 20,000 روپے دو گے تو تمہارا آرڈر کروں گی میں رشوت نہیں دینا چاہتا جبکہ میڈم مذکورہ مجھ سے رشوت لینا چاہتی ہے میں رشوت کو گناہ سمجھتا ہوں میں بخوشی خود ٹریپ ایجنٹ بن کر فائزہ شفیع DO(F) کے خلاف کارروائی کروانا چاہتا ہوں العارض العبد دستخط اردو شاہنواز ولد جہاندا سارکنہ محلہ ناڑی بانڈہ الملوک دوہتر تحصیل و ضلع ایبٹ آباد حال ملازم چوکیدار GGPS کریم پورہ ایبٹ آباد شناختی کارڈ نمبر 1-7810764-13101 موبائل نمبر 0344-9489390, 0336-5897766 مورخہ 2017-5-3 کارروائی تھانہ مدعی کی تحریری درخواست حرف بحرف درج صدر ہو کر سر دست صورت جرم بالا کی پائی جا کر بجرانم بالا میں مقدمہ قائم ہو کر ٹریپ کارروائی کیلئے حسب ضابطہ بند و بست کیا جا رہا ہے میں مصروف تفتیش ہوں پرچہ گزارش ہے۔

CO.ACE.Abbottabad 3/5/2017

Attested:

 A. Ennis

~~Annexure "D"~~ (21)
OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD.

No. _____ SCJ, Dated; Abbottabad, The _____ 2017.

To,

LEARNED DISTRICT & SESSIONS JUDGE,
ABBOTTABAD

Subject: RAID WITH REFERENCE TO CORRUPTION
COMPLAINT.

Respected Sir,

It is submitted that per your direction, I endorsed proceeding in my chamber at about 10.45 A.M. Muhammad Shakeel; Circle Officer, Anti Corruption, Abbottabad accompanied by Mr Sarfaraz; Assistant Circle Officer introduced Shahnawaz; Chowkldar as complainant. I recorded his statement on oath in my chamber. I have made memo of the four currency notes with number each of RS. 5000/- denomination. Thereafter, I tainted it with my initials on their backs meant for corroboration of offence. The memo was duly witnessed by two marginal witnesses. We left the court at about 11.00 A.M. Sardar Jehangir Khan; Assistant Director Anti Corruption, Hazara Division along with two lady constables namely Nagina Shaheen, belt No. 1135 and Rooh Afza belt No. 1155 of police line Abbottabad joined us for raid at the main gate of courts.

Complainant was with us who was sharp enough by instructing us to wait on the other side of road in vehicles until his call for raid. Within 10 minutes, he made a call and we proceed to the spot; the office of District Education (Female), Abbottabad whose name was disclosed later as Faiza Shafee. The distance from our parking to the office was almost of a furlong; could be covered in 5 minutes as pedestrian. Sarfaraz; Assistant Circle Officer led to the office of DEO (F). We reached the office at 12.00 Noon. Both lady constables were asked to enter. We followed them. The marked notes were kept in an official envelope and the same were found and recovered from the opposite corner of office table of the DEO. As the DEO was busy in conducting of official business, it was apparent that the envelope was not in her conscious. Actual position of spot is reflected through snaps where the tainted notes in envelope are

Attested;
[Signature]

lying on the outer side of office table, marked as "A". Her purse was on the left side of her table while drawers of the table were closed. Miss Sadaf Bukhari subsequently learnt as ADEO (F) was engaged in conversation with DEO. In addition to them, Mr Zaheer Qureshi, office superintendent along with Touqeer; Assistant, Naeem; Senior Clerk and Iftikhar, Computer Operator in setting of office files for recruitment of Primary School Teachers (PSTs).

During the raid, the DEO was very confident and found indifferent to raid. She totally denied the allegations. C.O endorsed investigation on spot and I left for court while handing over the tainted four notes of currency totaling Rs. 20,000/- to him. It is pertinent to mention that CCTV Camera was installed within office of DEO but with no power. Hence, no guidance could get from recording of CCTV Camera. Report is submitted.

WALI MUHAMMAD KHAN
SENIOR CIVIL JUDGE
ABBOTTABAD.

No. 752-83 SCJ/ATD

Dated, The 4/5 /2017

Copy forwarded to:-

- 1. The Circle Officer Anti Corruption, Abbottabad.

WALI MUHAMMAD KHAN
SENIOR CIVIL JUDGE
ABBOTTABAD

Senior Civil Judge,
Abbottabad.

Attested;
[Signature]

Annexure "E"

~~Annexure "E"~~

~~23~~

23

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) ABBOTTABAD

Relieving Chit:


Mr. Shahnawaz (Chowkidar) GGPS Kareempura and Mst. Shahbana Bibi (Sweepress) of this office are hereby relieved off today on 05/05/2017 (F/Noon) and their services are placed at the disposal of Deputy Commissioner, Abbottabad immediately for further adjustment.

Endst No: 3004-06 dated: 05/05/2017

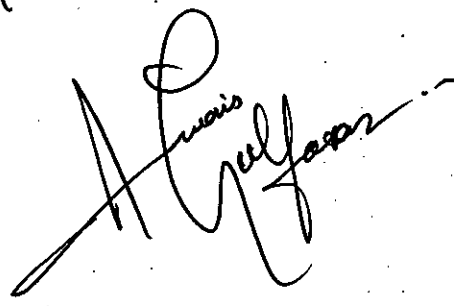
Copy to:

1. Deputy Commissioner, Abbottabad
2. Headmistress, GGPS Kareempura
3. Shahbana Bibi, Sweepress, Local office

-sd-
District Education Officer
(Female) Abbottabad

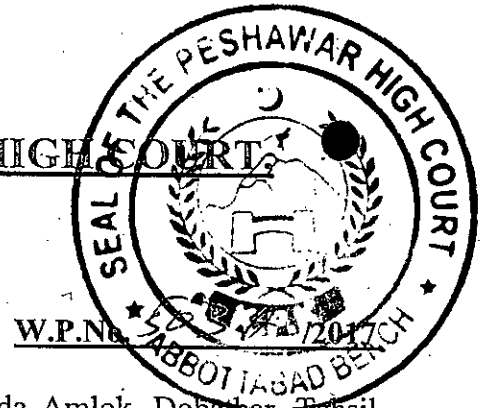

District Education Officer
(Female) Abbottabad

Attested;


Attested Officer

Annexure "F" # (24)

**BEFORE THE WORTHY PESHAWAR HIGH COURT
ABBOTTABAD BENCH.**



Shahnawaz S/o Jehandad resident of Mohallah Naari, Banda Amlok, Dobathar, Tehsil and District Abbottabad, Watchman (Chowkidar) in Government Girls Primary School, Kareem Pura, District Abbottabad **DEFUNCT.**

...PETITIONER

VERSUS

- 1) Secretary, Elementary and Secondary Education (E&SE) Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2) District Education Officer (Female), Abbottabad.
- 3) Deputy Commissioner (DC), Abbottabad.
- 4) Principal, Government Girls Primary School, Kareem Pura, Abbottabad.
- 5) Assistant Director, Anti-Corruption, District Abbottabad.

- 6) Director, Elementary & Secondary Education (E&SE) Department KPK Peshawar.
 - 7) District Education officer (Male) Abbottabad.
- ...RESPONDENTS

VIDE ORDER OF HONORABLE COURT D.D. Dt: 04-10-2017 in CM.No. 715-A/17, No. 6 and 7 are Impleaded as Respondents.

*no. 2303
1215712*

Certified to be True Copy
EXAMINER
07 JUL 2020
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns.

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 FOR DECLARATION TO THE EFFECT THAT THE IMPUGNED ORDER ENDST NO.3004-06 DATED 05.05.2017 PASSED BY RESPONDENT NO.2 VIDE WHICH PETITIONER WAS RELIEVED OFF AND PETITIONER'S SERVICES ARE PLACED AT THE DISPOSAL OF RESPONDENT NO.3 IS VOID AB-INITIO, ILLEGAL, UNLAWFUL AND IS LIABLE TO BE SET ASIDE.

PRAYER:-

ON ACCEPTANCE OF THIS WRIT PETITION,
IMPUGNED ORDER ENDST NO.3004-06 DATED 05.05.2017

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PASSED BY RESPONDENT NO.2 MAY GRACIOUSLY BE SET ASIDE. ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEM FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED.

Respectfully Sheweth,

FACTS:-

1. That petitioner is resident of District Abbottabad who was appointed as Watchman (Chowkidar) in Education Department vide appointment letter dated 21.06.1993. *(Copy of appointment letter alongwith its better copy & copies of other letters pertaining to petitioner's service are annexed as Annexure "A")*
2. That petitioner being subordinate to respondents No.1, 2 & 4, performed his duties with zeal and zest and with his utmost honesty and dedication.
3. That presently petitioner is serving as Watchman (*defunct*) in Government Girls Primary School, Kareem Pura, Abbottabad and prior to this petitioner had served as Driver for 3 years in the Office of EDO (F) / respondent No.2. Recently posts for Driver got vacant and petitioner being most senior servant of the Department and fit for the aforementioned post, requested respondent No.2 for appointment on the said post. Upon which respondent No.2 asked for bribery however petitioner

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 Peshawar High Court Atd. Bench
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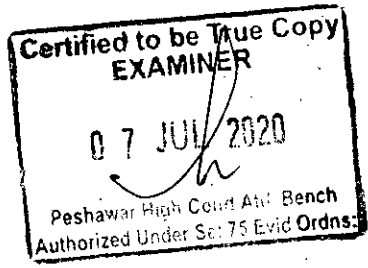
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considered the bribery as most mean act hence move an application before the Police Station Anti-Corruption wherein petitioner solicited to act as a "Trap Agent" in order to bring the Nation's criminal in Anti-Corruption proceedings. (Copy of application is annexed as Annexure "B")

4. That on 03.05.2017, a team comprised of the Senior Civil Judge Abbottabad and Assistant Director Anti-Corruption kept the petitioner as trap agent with them and raided in the office of respondent No.2 and apprehended her red handed, criminal case under the relevant sections of Anti-Corruption was lodged against respondent No.2 and this news was also published in local newspapers. (Copies of news items are annexed as Annexure "C")

5. That after registration of the above mentioned criminal case, respondent No.2 in the capacity of accused, passed an illegal and unjust order Endst No.3004-06 on 05.05.2017 vide which petitioner was relieved off and petitioner's services are placed at the disposal of respondent No.3 as a revenge, without initiating any inquiry. (Copy of impugned order Endst No.3004-06 dated 05.05.2017 is annexed as Annexure "D")

Feeling aggrieved of the impugned order Endst No.3004-06 dated 05.05.2017, petitioner seeks the gracious indulgence of this Hon'ble Court for due redress, inter-alia, the following grounds:-



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GROUNDS:-

- a) That impugned order Endst No.3004-06 dated 05.05.2017 is illegal, unlawful, void ab-initio, unjust, against equity and not maintainable in the eye of law hence liable to be set aside.
- b) That while passing the impugned order, respondent No.2 bypassed the law and passed the same in an entirely illegal and unlawful manner as a revenge, without initiating any inquiry.
- c) That the impugned order was passed after registration of FIR however at that moment respondent No.2 herself was an accused and issuance of such like order in the capacity of accused unwarranted at law.
- d) That **orders should be supplemented by reason is the requirement of law** however respondent No.2 did not mention any **justification or reason** in impugned order hence the impugned order is void ab-initio and delegation of powers by respondent No.2 was illegal.
- e) That while passing the impugned order, respondent No.2 misused the official powers hence committed material illegality and irregularity.
- f) That respondent No.3 / Deputy Commissioner is the Executive Head of the District, an administrative Sub-Unit of a Province. In his capacity as **District Magistrate**, he

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 07 JUL 2020
 Peshawar High Court Attd. Bench
 Authorized Under Se: 75 Evid Ordns

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has the overall responsibility of law & order. In his office is also vested the authority to collect Land Revenue and is therefore also titled as **Collector (Revenue)** and also to control encroachment in his area. Office of respondent No.3 / Deputy Commissioner is governed by the **West Pakistan Land Revenue Act, 1967** and **Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013)** however the Education Department is being governed and controlled under the **Civil Servants Act 1973**, both are the separate departments / authorities and delegating such like powers to respondent No.3 in the manner mentioned / highlighted in preceding paras, is unwarranted at law, in this way respondent No.2 has bypassed the sphere, powers and jurisdiction vested in it and went beyond her jurisdiction which is **illegal** and smells **malafide**.

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 EXAMINER
 07 JUL 2020
 Peshawar High Court Atd. Bench
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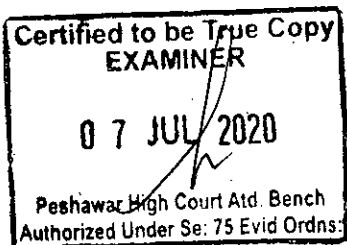
- g) That petitioner has been **condemned unheard** in respect of impugned order hence the same is against the basic and fundamental rights as guaranteed under the **Constitution of Islamic Republic of Pakistan, 1973**.
- h) That impugned order has been passed against the petitioner in order to create hindrance in the way of smooth pursuance of the criminal case.
- i) That respondent No.2 is enough **influential** and **biased** which fact is manifest from issuance of **impugned order** and the act of **respondent No.5 / Investigating Agency**

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who are reluctant to provide the copies of FIR and other record of the criminal case, in this respect petitioner also moved an application for production of the record under the **Khyber Pakhtunkhwa Right to Information Act, 2013** but in vain. *(Copy of application under KPK Right to Information Act, 2013 is annexed as Annexure "E")*.

- j) That petitioner stood in vacuum and preferred to invoke the constitutional jurisdiction of this Hon'ble Court for due redress as per law. Petitioner also moved application before high-ups but in vain. *(Copy of application is annexed as Annexure "F")*
- k) That no other efficacious, alternate and speedy remedy is available hence this Writ Petition.
- l) That Court fees stamp paper worth Rs.500/- is attached herewith. Moreover further points shall be raised at the time of arguments with the prior permission of this Hon'ble Court.



PRAYER:-

On acceptance of this Writ Petition, impugned order Endst No.3004-06 dated 05.05.2017 passed by respondent No.2 may graciously be set aside. Any other relief which this Honourable Court deem fit and proper in the circumstances of the case may also be granted.

INTERIM RELIEF:-

As an interim relief, it is further prayed that the operation of impugned order Endst No.3004-06 dated

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M. A. Khan

05.05.2017 may kindly be suspended till the decision of present Writ Petition.

NOTE; as per the Notification dated 23rd February, 2016 of the Hon'ble Peshawar High Court, Peshawar:-

- 1) *The applicant/ petitioner has never moved the Hon'ble High Court previously for the same relief.*
- 2) *The present case being against the final order, falls within the jurisdiction of Double Bench of this Hon'ble Court.*
- 3) *The Law applicable to the proceedings out of which it arises is The Constitution of Islamic Republic of Pakistan 1973, West Pakistan Land Revenue Act 1967 & Khyber Pakhtunkhwa Local Government Act 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013)*
- 4) *Notice has been served upon respondents as per rules. (Copies of notices alongwith postal receipts are annexed as Annexure "G")*

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 EXAMINER
 07 JUL 2020
 Peshawar High Court Atd. Bench
 Authorized Under Sec: 75 Evid Ordns.

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ساجد
...PETITIONER

Through Counsels:

Dated:- 10/05 /2017

(MALIK AMJAD ALI AWAN)

(SEHRISH HABIB DILAZAK)
Advocates High Court, Abbottabad.

VERIFICATION:-

Verified on this 10th day of May, 2017 at Abbottabad that the contents of the present Writ Petition are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

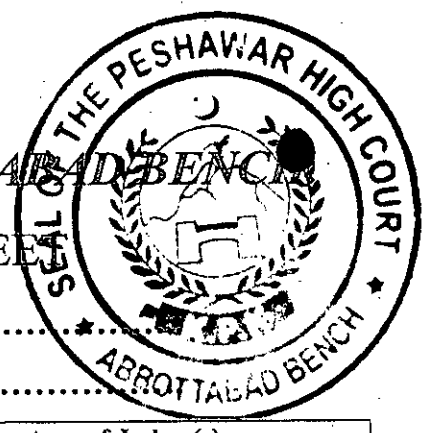
Dated:- 10/05 /2017

ساجد
...PETITIONER

ORIGINAL

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

FORM OF ORDER SHEET



Court of.....

Case No.....of.....

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
22.05.2017	<p><u>W.P.No. 503-A/2017.</u></p> <p>Present: Petitioner with Malik Amjad Ali, Advocate. ***</p> <p>The learned counsel for the petitioner submitted at the bar that relieving chit of the District Education Officer (Female), Abbottabad, dated 05.05.2017 is neither justified in law nor the same is covered under the Service Rules, as the petitioner was an employee of the Education Department; and an FIR against the demand of illegal gratification has also been registered, copy whereof is not being provided to the petitioner, inspite of his repeated requests and applications to the authorities concerned i.e. Assistant Director, Anti-Corruption, District Abbottabad. Therefore, notices be issued to respondent No.2 i.e. District Education Officer (Female), Abbottabad, for appearance in person in order to justify the impugned order under the law / rules; with further direction to the Assistant Director, Anti-Corruption, District Abbottabad i.e. respondent</p>

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EXAMINER
07 JUL 2020
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns:

No.5 to furnish record of the FIR, pertaining to the instant case on 30.06.2017.

Interim Relief.

Meanwhile, operation of the impugned order dated 05.05.2017 is suspended, subject to notice for a short date.

Sd Judge
Sd Judge

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EXAMINER
07 JUL 2020
Peshawar High Court App Bench
Authorized Under Sec 75 E Ordns

بکھنور جناب ڈائریکٹر صاحب انٹی کرپشن خیبر پختونخواہ، پشاور۔

درخواست بمرادوری

جناب عالی! درخواست ذیل عرض ہے۔

یہ کہ سائل محکمہ تعلیم میں بطور چوکیدار ملازم ہے اور اب محکمہ تعلیم میں ڈرائیور آسامیاں آئی ہیں جن کیلئے سائل نے IDEO ایبٹ آباد فائزہ شفیع صاحبہ سے رابطہ کیا اور ڈرائیور کی آسامی کیلئے تعیناتی کیلئے کہا جس پر انہوں نے 20 ہزار روپے طلب کیے۔ میں نے مذکورہ 20 ہزار روپے فائزہ شفیع صاحبہ کے حوالے کیے جو تھانہ انٹی کرپشن ایبٹ آباد نے نشان لگا کر میرے حوالے کیے تھے مذکورہ رقم سینئر سول جج صاحب ایبٹ آباد کی موجودگی میں تھانہ انٹی کرپشن ایبٹ آباد کے اہلکاران نے زیر قبضہ کیے اور موقع کی تصاویر بھی بذریعہ موبائل بنائیں اس موقع پر لیڈیز پولیس اہلکاران بھی ہمراہ تھیں DEO صاحبہ نے میرے خلاف الزامات لگانے شروع کر دیئے۔ تاحال اس کو گرفتار نہ کیا گیا ہے۔ مجھے خطرہ ہے کہ DEO صاحبہ جو کہ انتہائی بااثر اور وسیع تعلقات رکھتی ہیں وہ میرے خلاف کوئی ناجائز کارروائی کر کے کسی جھوٹے مقدمہ میں نہ پھنسا دیں بدیں وجہ اصل واقعات آپ کے نوٹس میں لائے جا رہے ہیں تاکہ میری دادرسی فرمائی جاوے۔
(نوٹوں نقل درخواست لف ہے)

المرقوم: 03-05-2017

العارض
شاہینوز

شاہینوز ولد جہانماد۔۔۔ سائل

سکنہ محلہ ناڑی، بانڈہ الملوک، دوپتھر، تحصیل ضلع ایبٹ آباد۔

شناختی کارڈ نمبر: 1-7810764-13101

رابطہ نمبر: 0336-5897766

کاپی برائے اطلاع:-

- 1- جناب چیف جسٹس صاحب، پشاور ہائیکورٹ، پشاور۔
- 2- جناب وزیر اعلیٰ صاحب خیبر پختونخواہ، پشاور۔
- 3- جناب انچارج صاحب کمپلیٹ سیل وزیر اعلیٰ خیبر پختونخواہ، پشاور۔
- 4- جناب ڈائریکٹر صاحب ایگزیکٹو اینڈ سیکنڈری ایجوکیشن، خیبر پختونخواہ، پشاور۔

Attested;

(Handwritten Signature)

~~Annexure (11)~~

~~(27)~~

(34)

بکھنور جناب اسٹنٹ ڈائریکٹر صاحب انٹی کرپشن، ضلع امیٹ آباد۔

درخواست تحت Right to Information Act اور حصول FIR و جملہ ریکارڈ

جناب عالی! درخواست ذیل عرض ہے۔

۱۔ یہ کہ مدعی کی مدیعت میں برخلاف فائزہ شفیع ڈسٹرکٹ ایجوکیشن آفیسر (زنانہ) FIR درج رجسٹر کی گئی اور من سائل 314 روز سے مذکورہ FIR اور ریکارڈ کے حصول کیلئے تھانہ انٹی کرپشن کے چکر لگا رہا ہوں مگر مذکورہ نقولات فراہم نہیں کی جارہیں۔

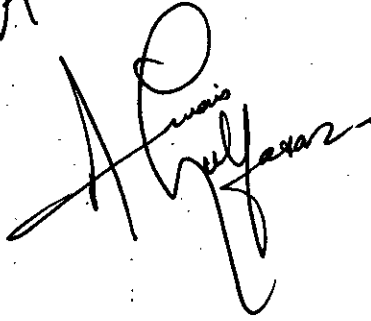
لہذا استدعا ہے کہ FIR و جملہ ریکارڈ فراہم کیا جائے۔

المرقوم: 08-05-2017

الحاضر

شاہنواز ولد جہانماد۔ سائل
سکنہ محلہ ناڑی، بانڈہ الملوک، دوپتھر، تحصیل ضلع امیٹ آباد۔
شناختی کارڈ نمبر: 1-7810764-13101
رابطہ نمبر: 0336-5897766

Attested;



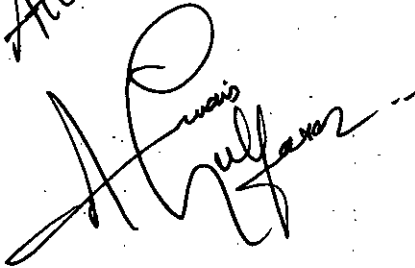
نہایت ہی مؤدبانہ گزارش ہے کہ سالانہ گورنمنٹ ڈسٹرکٹ ایجوکیشن آفس زمانہ ایبٹ آباد میں کلاس فور کی ڈپٹی کرتی ہوں مورخہ 03/05/2017 کو اپنی ڈیوٹی پر گئی اور میری دیوٹی SDO صاحبہ کے ساتھ ہوتی ہے آج مورخہ 03/05/2017 کو دوسری کلاس فور چھٹی پر تھی جو DEO صاحبہ کی ساتھ ڈیوٹی کرتی تھی اس کی چھٹی پر ہونے سے DEO صاحبہ کے ساتھ راجیل نائب قاصد ڈیوٹی پر تھا وہاں پر دفتر میں تمام سٹاف کی میٹنگ میڈم کے ساتھ تھی جب میٹنگ ختم ہوئی راجیل کو میڈم نے بولا تم مجھے یہ کاغذات فوٹو شیٹ کر کر لا دو راجیل نے مجھے بولا کہ میڈم کے پاس جا کر بیٹھ جائیں میں میڈم کے دفتر کے باہر بیٹھ گئی تھوڑی دیر میں وہاں پر ایک عورت اور ایک مرد SPARCO کے آئے میں نے میڈم سے پوچھا کہ آپ سے ملنے کے لئے دو آدمی آئے ہیں میڈم نے بولا کہ آئے دو میں نے میڈم کے ٹیبل سے چائے کی پیالی اٹھائی اور باہر آگئی وہ آدمی ایک گھنٹہ تک میڈم کے پاس بیٹھے رہے اس کے بعد SDO گھنٹی بجائی تو میں وہاں چلی گئی جب دوبارہ میں SDO صاحبہ کی طرف سے میڈم کی طرف آرہی تھی تو شاہنواز ڈرائیور سابقہ DEO شہینہ الطاف صاحبہ کے ساتھ ڈیوٹی کرتا تھا وہ میڈم کے دفتر میں گیا جب وہ باہر نکلا تو پیچھے سے میڈم نے دوبارہ آواز لگائی پھر وہ اندر گیا مجھے کوئی پتہ نہیں کہ شاہنواز کے پاس کوئی چیز تھی یا نہیں میں نے نہیں دیکھی بعد میں میڈم نے نہ مجھے بلایا اور نہ مجھ سے کوئی بات کی بعد میں دو عورتیں اور ایک مرد میڈم کے کمرے میں آئے میڈم نے گھنٹی بجائی اور میں اندر گئی جو مرد تھا اس نے مجھ سے پوچھا شاہنواز لڑکا اندر آیا تو میں نے بولا کہ وہ دفتر میں آیا اور مجھ کو اس آدمی نے بولا کہ تم قسم اٹھا کر کہتی ہو کہ جو میں بتاؤں گی سچ بتاؤں گی اس کے بعد مجھے دوسرے کمرے میں عورتیں لے گئیں اور کمرہ بند کر کے مجھے مارنا شروع کر دیا اور کہا کہ بتاؤ کہ میڈم کے کمرے میں کس نے بیس ہزار روپیہ رکھا میں نے بولا کہ مجھے کوئی پتہ نہیں کس نے رکھا ہے اس پر مجھے کافی مارا اور یہ کہتی رہیں کہ تم یہ بولو کہ شاہنواز نے لفافہ دیا اور میں نے رکھا جس پر میں نے قسم اٹھا کر کہا کہ مجھے کوئی پتہ نہیں ہے اور نہ ہی مجھے شاہنواز نے کوئی لفافہ دیا ہے میں قسم اٹھا کر کہتی ہوں کہ شاہنواز میڈم کے روم میں گیا ہے میڈم وہاں روم میں اکیلی موجود تھیں میں ایک آن پڑھ اور کلاس فور ملازمہ ہوں میڈم کے پاس دن میں سو سے زائد لوگ آتے ہیں مجھے کیا پتہ کہ میڈم کو پیسوں والا لفافہ کس نے دیا ہے میڈم نے میرے ساتھ زیادتی کرانی ہے میڈم کا کام تھا کہ پہلی تمام سٹاف سے پوچھ گچھ کرتی پھر پولیس کو بلائی میڈم نے میری بے عزتی کی اور مجھے تشدد کا نشانہ بنایا ہے میں اعلیٰ حکام سے انصاف کی اپیل کرتی ہوں سابقہ DEO فی میل کے خلاف بیان دو کہ لفافہ اس کے ڈرائیور نے مجھے دیا ہے یہ سراسر غلط ہے اور بے بنیاد الزام ہے نہ مجھے لفافہ شاہنواز نے دیا ہے اور نہ ہی مجھے لفافے کا کوئی علم ہے جب ایٹنی کرپشن والے آفس میں آئے تو انہوں نے لفافہ میڈم کی ٹیبل سے اٹھایا ہے۔

نوٹ:- موقع پر موجود ایٹنی کرپشن (سینئر سول جج صاحب) کے سامنے لیڈر پولیس نے پیسوں والا لفافہ میرے سامنے میڈم کے منہ کے آگے ٹیبل سے اٹھایا جبکہ موقع پر موجود شاہنواز نے بولا کہ میں نے پیسوں والا لفافہ خود میڈم کو دیا ہے کیونکہ میڈم نے مجھ سے رشوت طلب کی تھی اس کے باوجود میڈم نے پولیس کو کہا کہ اس کو مارو اور اس کو اس بات پر آمادہ کرو کہ یہ لفافہ میں نے شاہنواز سے لیا ہے جو کہ سراسر جھوٹ اور الزام ہے مجھے اس بات کی کوئی خبر نہیں ہے جب پولیس والے میڈم کے روم میں گئے اور شور شرابہ ہوا تو میں میڈم کے دفتر میں گئی تو مجھے اس بات کا علم ہوا کہ میڈم رشوت لے رہی تھی اس میں میرا کوئی قصور نہیں ہے اور نہ ہے میرا اس کیس کے ساتھ کوئی تعلق ہے لہذا آپ سے التجا ہے کہ میرے ساتھ انصاف کا برتاؤ کرتے ہوئے مجھے انصاف دلایا جائے۔

سالانہ شاہنواز کور

العارض

کلاس فور ڈسٹرکٹ ایجوکیشن آفیسر زمانہ ایبٹ آباد

Attested;


Annexure "H"

(36)

**BEFORE THE HONOURABLE PESHAWAR HIGH COURT
ABBOTTABAD BENCH.**



Shahnawaz S/o Jehandad resident of Mohallah Naari, Banda Amlok, Dobathar, Tehsil and District Abbottabad, Watchman (Chowkidar) in Government Girls Primary School, Kareem Pura, District Abbottabad (DEFUNCT).

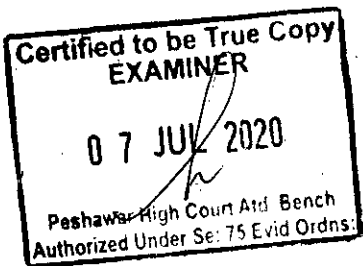
...PETITIONER

VERSUS

- 1) Mst.Faiza Shafi, District Education Officer (Female), Abbottabad.
- 2) Mst.Asia Khatoon, Principal, Government Girls Primary School, Kareem Pura, District Abbottabad.

...CONTEMNORS / RESPONDENTS

CONTEMPT OF COURT PETITION AGAINST
CONTEMNORS / RESPONDENTS NO.1 & 2 FOR
WILLFULLY VIOLATING & DISOBEYING THE ORDER
DATED 22.05.2017 PASSED BY THIS AUGUST COURT IN
WRIT PETITION BEARING W.P NO.503-A/2017 TITLE
"SHAHNAWAZ VS SECRETARY E&SE & OTHERS" AND
PETITIONER PRAYS FOR THE COMPLIANCE /
ENFORCEMENT OF THE AFORE-MENTIONED
JUDGMENT/ORDER.



Respectfully Sheweth,

1. That petitioner (DEFUNCT) employee of Education Department, filed a Writ Petition bearing W.P No.503-A/2017 title "Shahnawaz Vs Secretary E&SE etc" against the

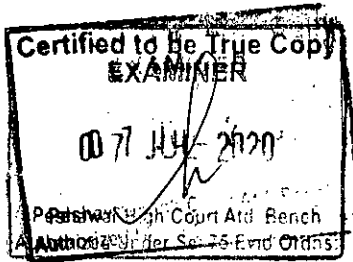
FILED TODAY

**ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH**

contemnors / respondents alongwith three of respondents. **(Attested copy of Writ Petition W.P No.503-A/2017 is annexed as Annexure "A")**

2. That on the first date of hearing i.e 22.05.2017, this Honourable Court has graciously suspended the operation of **impugned order dated 05.05.2017** passed by contemnor / respondent No.1. **(Attested copy of order dated 22.05.2017 is annexed as Annexure "B")**

3. That after issuance of the above mentioned order, the same was duly forwarded and received by contemnors / respondents. **(Copy of letter is annexed as Annexure "C")**



4. That after suspension of the impugned order, contemnors / respondents No.1 & 2 were under an obligation to allow the petitioner to continue his duty / services as per order dated 22.05.2017 of this August Court but contemnors / respondents No.1 & 2 did not comply with the order aforementioned. **Furthermore contemnor / respondent No.1 has also passed order for stoppage of petitioner's salary which further enlarged a contemptuous act.**

5. That respondents' act while prohibiting the petitioner from joining his duty / service and stoppage of salary entirely in contravention of the directions/order of this August Court amounts to contempt of Court and is punishable as such.

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PESHAWAR HIGH COURT
ABBOTTABAD BENCH

908/603

6. That contemnors / respondents No.1 & 2 stated that Courts pass such like orders in routine and they are not duty bound to comply with the same hence both the contemnors / respondents willfully and intentionally violated direction/order of this August Court.

7. That inspite of repeated requests nothing more has been done so far to implement the order and no copy / reason of stoppage of salary is being provided to the petitioner. (Affidavit & application to this effect are annexed as Annexure "D")

8. That the act of willfully flouting or disregard by respondents/contemnors of an Order passed by this Honourable Court in the exercise of its constitutional jurisdiction clearly constitutes Civil Contempt of Court as Contemplated by Section 2(a)(ii) of Contempt of Court Act/Ordinance IV of 2003.

9. That this malafide act of the respondents/contemnors is calculated and tending towards interference with the due course of justice which constitutes Contempt of this Honourable Court.

10. That further points shall be raised at the time of arguments with the prior permission of this Hon'ble Court.

Certified to be True Copy
EXAMINER
07 JUL 2020
Peshawar High Court - All Bench
Authorized Under Section 5 of Contempt

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PESHAWAR HIGH COURT
ARROTIAH BENCH

03/07/20

PRAYER:-

On acceptance of this contempt petition, the respondents / contemnors may graciously be proceeded under Contempt of Court for committing naked defiance of the order of this Hon'ble Court alongwith appropriate orders within the discretion of this Hon'ble Court to the best fitness of circumstances of the case.

...PETITIONER

Through Counsels:

Dated:- 02/06 /2017

(MALIK AMJAD ALI AWAN)

(SEHRISH HABIB DILAZAK)
Advocates High Court, Abbottabad.

VERIFICATION: -

Verified on this 2nd day of June, 2017 that the contents of this **Contempt Petition** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Dated:- 02/06 /2017

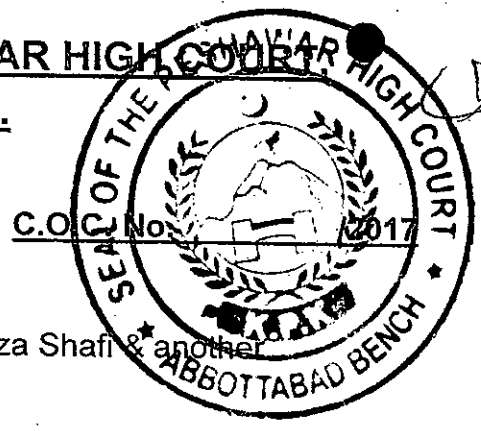
...PETITIONER

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ABBOTTABAD BENCH

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EXAMINER
07 JUL 2020
Peshawar High Court Atrl Bench
Authorized Under S. 75 Evid Ordns.

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**BEFORE THE HONOURABLE PESHAWAR HIGH COURT
ABBOTTABAD BENCH.**



Shahnawaz **VERSUS** Mst.Faiza Shafi & another

CONTEMPT OF COURT PETITION
AFFIDAVIT

I, Shahnawaz S/o Jehandad resident of Mohallah Naari, Banda Amlok, Dobathar, Tehsil and District Abbottabad, Watchman (Chowkidar) in Government Girls Primary School, Kareem Pura, District Abbottabad (**DEFUNCT**) *petitioner*, do hereby solemnly affirm and declare on Oath that the contents of instant **Contempt Petition** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

DEPONENT

Dated:- 02/06 /2017

1301-7810764-1 ...PETITIONER

IDENTIFIED BY:-

(Signature)
(MALIK AMJAD ALI AWAN)
&

(SEHRISH HABIB DILAZAK)
Advocates High Court,
Abbottabad.

(Signature)
DILAZAK

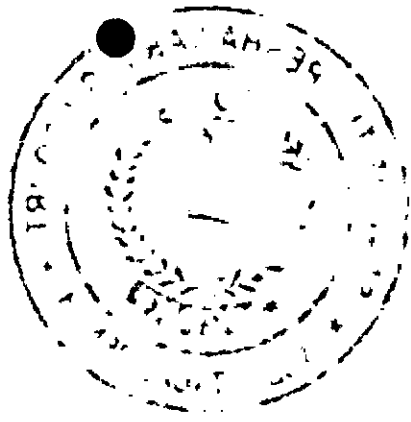
3793/59
3
Mst. Shahnawaz
Mohallah Naari, Banda Amlok
Dobathar D. Abbottabad
Per. on oath 17
Sande Amalok
Attd.
(Signature)
3/6/17

FILED TODAY

**ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH**

(Signature)
02/06/17

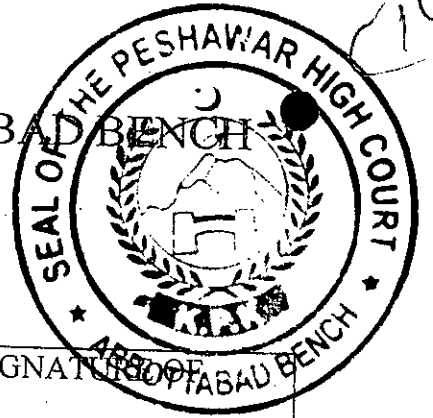
Certified to be True Copy
EXAMINER
07 JUL 2020
Peshawar High Court App Bench
Authorized Under Sec. 75 E. and Ordns.



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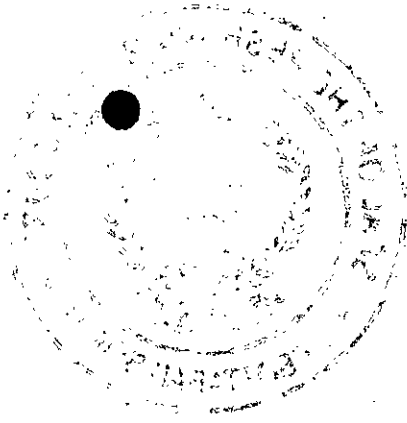
PESHAWAR HIGH COURT, ABBOTTABAD BENCH

FORM 'A'
FORM OF ORDER SHEET



Date of Order or Proceedings	ORDER OR PROCEEDINGS WITH SIGNATURE OF JUDGE/JUDGES
1	2
13.6.2017	<p><u>C.O.C.No.38-A/2017.</u></p> <p>Present: Malik Amjad Ali Awan, Advocate, for the petitioner.</p> <p style="text-align: center;">***</p> <p>Notice of the application be issued to respondents for their personal appearance along with record on a short date to be fixed by the office, preferably in the upcoming week.</p> <p style="text-align: right;"><i>Sd Judge</i> <i>Sd Judge</i></p>

Certified to be True Copy
EXAMINER
07 JUL 2020
Peshawar High Court Afd. Bench
Authorized Under Sec. 75 E. and Ordns.



No	28451
Date of Presentation of Application	6-7-2020
No of Pages	061-
Copying fee	341-
Urgent fee	21-
Total	341-
Name of Copyist	
Date of Preparation of Copy	7-7-2020
Date of Intimation	7-7-2020
Date of Delivery of Copy	7-7-2020



~~Annexure "I"~~

~~42~~

42

Annexure "I"

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) ABBOTTABAD



No. 3607-H / EB-III/Show Cause

Dated Abbottabad the : 29/05/2017

☎ 0992-342533, 0992-342314

✉ deofemale_abbottabad@gmail.com

To,


Mr: Shahnawaz Chowkidar S/O Jhandad
R/Q Mohallah Nari Village Banda Amlook
P/C Dabathar Abbottabad.

Subject:

SHOW CAUSE NOTICE A/C OF ABSENT FROM DUTY AND INVOLVED IN CORRUPT PRACTICES.

Memo,


Enclosed please find herewith Show Cause Notice in duplicate in respect of you i.e. Mr. Shahnawaz Chowkidar GGPS Karim Pura with the directions to receive the show cause notice and second copy of the notice be return to this office duly sign by you as token of receipt for record and further necessary action.


District Education Officer
(Female) Abbottabad

Endost Even No. & Date:-

Copy for information to the:-

1. PS to Secretary E&SE Khyber Pakhtunkhwa Peshawar.
2. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Abbottabad.
4. District Education Officer (Male) Abbottabad.
5. Sub Divisional Educational officer (Female) Abbottabad.
6. Head Mistress GGPS Karim Pura Abbottabad.
7. Office File.


District Education Officer
(Female) Abbottabad

Attested;


letter


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OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) ABBOTTABAD



0992-342533, 0992-342314
deofemale_abbottabad@yahoo.com

SHOW CAUSE NOTICE

I Faiza Shafi District Education Officer (Female) Abbottabad as competent Authority under Khyber Pakhtunhwa Government servants (Efficiency & Discipline rule 2011), do hereby serve upon you Mr. Shahnawaz Chowkidar GGPS Karim Pura Abbottabad Show Cause Notice as follows:-

1. Whereas you Mr. Shahnawaz reported to have a reputation of being corrupt. Moreover you fraudently registered an FIR No.2 dated 03/05/2017 U/S 161 PPC (2) PC Act PSACE Abbottabad against the under signed. But Senior Civil Judge Abbottabad proved that the said case was fake/Bogus and the worthy Director Anti-Corruption Establishment vide his memo No. 8595 dated 23/05/2017 has withdrawn the said FIR against the undersigned.
2. Whereas you were relieved off from GGPS Karim Pura and directed to report to the DEO (M) ATD vide this office letter No. 3069 and 3070 dated 09/05/2017.
3. Whereas you are still failed to give your arrival report before the DEO (M) Abbottabad and still willful absent from your duty till date as per report of the DEO (M) ATD vide his letter No.5677-80 dated 19/05/2017.

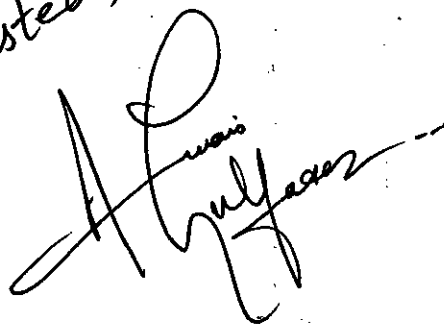
In exercise of power conferred upon me Government Servant (Efficiency & Discipline rule 2011), I, as competent Authority served upon you with the instant show cause notice with the direction to submit reply within 07 days after receipt of instant show cause notice as to why penalties define in rule 04(a) & (b) ibid should not be imposed upon on you and also intimate whether you desired to be heard in person.

In case you failed to submit your reply within the stipulated period, it will be presumed that you have no defense to offer and Ex-parte decision will be taken against you under the rules ibid.

Mr. Shahnawaz
Chowkidar GGPS Karim Pura


COMPETENT AUTHORITY

Attested;


A. P. Khan
Gulistan

(47) (49)

The District Education Officer (Female),
Abbottabad.

**SUBJECT: REPLY TO THE SHOW CAUSE NOTICE BEARING NO.3607-11/EB-III/SHOW CAUSE
DATED 29.05.2017:**

Respected Madam,

Para wise reply to the titled show cause notice is as under;

1. Para No.1 is incorrect. In reply to this para, it is humbly submitted that the FIR is based on true facts and reality moreover learned Senior Civil Judge being witness of the criminal case cannot held the case as fake/bogus. The aforementioned criminal case as mentioned in Para No.1 of the show cause notice itself transpires the malafide and partiality of the competent authority with regard to applicant Shahnawaz, the applicant shall challenge the cancellation proceedings before Honourable High Court in coming future as well.
2. Para No.2 is incorrect. In reply to this para, it is humbly submitted that applicant was relieved off and was directed to report the Deputy Commissioner Abbottabad vide an illegal office order Endst No.3004-06 dated 05.05.2017 which has been challenged before the Honourable Peshawar High Court Abbottabad Bench in Writ Petition, the aforementioned illegal order was graciously suspended by the Hon'ble Court and duly intimated to this office through proper channel as well. The Writ Petition is subjudice before the Hon'ble Court and applicant has no knowledge / intimation of any order subsequent to the aforementioned order dated 05.05.2017. Moreover Contempt of Court petition has already been filed against the DEO (F) for willful violation of Court order. *(Copies of Writ Petition alongwith order dated 22.05.2017 & Contempt Petition are annexed herewith)*
3. Para No.3 is not correct. Detail reply has already been given in preceding para. Moreover in the light of criminal case against Miss Faiza Shafi DEO(F) and pendency of Writ Petition against aforementioned DEO(F) clearly depicts that the competent authority is not impartial and is entirely biased hence applicant has no hope of justice from this forum.

Applicant is being condemned unheard and this competent authority is *Judge* in his own cause which is against the principles of natural justice.

Show cause notice was received by applicant on 07.06.2017 however the date has been deliberately mentioned by this good-office as 29.05.2017 in order *counter blast* the stance of applicant.

It is, therefore, requested that the show cause notice being devoid of merits may kindly be withdrawn and all the adverse actions being initiated against the applicant / aggrieved employee may kindly be stopped in the best interest of justice.

Thanking you in anticipation.

Dated:- 13/6 /2017

Shahnawaz
Shahnawaz (Watchman / Chowkidar)
Defunct employee of Education Department
Presently posted at GPS Kareem Pura
Resident of Mohallah Nari, Village Banda
Amlok, P.O Dobathar, Abbottabad.
Cell : 0344-9489390

COPY TO:-

- i. *The Secretary, E&SE, Khyber Pakhtunkhwa, Peshawar for information and necessary action regarding the illegal orders / actions being carried out by the EDO (F) in Abbottabad.*
- ii. *The Director Education, Khyber Pakhtunkhwa, Peshawar.*

Attested;
Shahnawaz

~~Annexure~~

49

Annexure

J4

45

بمختار جناب ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ)، ضلع ایبٹ آباد۔

درخواست تحت Right to Information Act بمراد حصول آفس آرڈرز نمبرات

3069 و 3070 مورخہ 09-05-2017 و لیٹر نمبر 5677-80 مورخہ 19-05-2017۔

جناب عالی! درخواست ذیل عرض ہے۔

گزارش ہے کہ سائل کو آفس آرڈرز نمبرات 3069 و 3070 مورخہ 09-05-2017 و لیٹر نمبر 5677-80 مورخہ 19-05-2017 کی نقولات درکار ہیں اور مذکورہ آرڈرز ایٹرز کی نقولات کے حصول کیلئے سائل 10/15 روز سے چکر لگا رہا ہوں مگر مذکورہ نقولات فراہم نہیں کی جا رہی ہیں بدین وجہ درخواست ہذا۔

لہذا استدعا ہے کہ مذکورہ بالا آرڈرز ایٹرز کی نقولات فراہم کی جائیں۔

المرقوم: 04-07-2017

العارض

سائینو نمبر

شاہنواز ولد جہانگاہ۔۔۔ سائل

سکنہ محلہ ناڑی، بانڈہ الملوک، دوپٹہ تحصیل ضلع ایبٹ آباد۔

شناختی کارڈ نمبر: 1-7810764-13101

رابطہ نمبر: 0336-5897766

0344-9488

Attested;

Alfayaz

شایبواز ولد جہان نواز سکنہ محلہ ناڈی بانڈہ اہلوک دہتر
تحمل و قلعہ ایٹ آباد

کوالہ واقعہ پیش آمدہ مورخہ 20-5-35 دستہ ڈی ای او (فعل)
ایٹ آباد جو وجہ شکایت برخلاف ڈی ای او (فعل)
دفعہ 147 برسر آئی بحیثیت شکایت کنندہ واقعہ کے متعلق
ایسا تعلق بیان قلمبند کریں۔ نیز آپ نے ڈائریکٹر ایٹ آباد
جنہرہ مختو خواہ بشاد اور اہلکار نے حکمانہ ایٹ آباد
کو جو درخواستیں پیش کی ہیں اُنکے سلسلے میں مہامت کریں

محمد رفیع سواتی (انکوائری آفسر)
ڈسٹرکٹ انکوائری آفس (فعل)
گوردھر

Attested;

A. P. Gull
Gull

شاہنواز ولد چھاندا سکنتہ محلہ ناڑی بانڈہ املوک دوپتھر تحصیل ضلع ایبٹ آباد

بحوالہ واقعہ پیش آمدہ مورخہ 3-5-2017 دفتر ڈی ای او (فیمیل) ایبٹ آباد جو بوجہ شکایت
برخلاف ڈی ای او (فیمیل) وقوع پذیر ہوا۔ آپ بحیثیت شکایت کنندہ واقع کے متعلق اپنا تفصیلی
بیان قلمبند کریں۔ نیز آپ نے ڈائریکٹر اینٹی کرپشن خیبر پختونخواہ پشاور اور انچارج تھانہ اینٹی
کرپشن ایبٹ آباد کو جو درخواستیں پیش کی ہیں اُنکے سلسلے میں وضاحت کریں۔

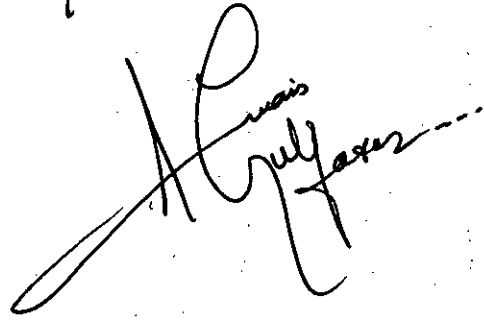
Sd/-

محمد ریاض سواتی (انکوائری آفیسر)

ڈسٹرکٹ ایجوکیشن آفیسر (فیمیل)

تورغر

Attested;





OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)
DISTRICT TOR GHAR

Email: deofemaletorghar@gmail.com



NO. 23 /
Date. 11/7/17 /2017

To

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa
Peshawar

Subject;

ENQUIRY REPORT IN RESPONSE TO CROSS COMPLAINT LODGED BY
DEO (F) ABBOTTABAD AND MR. SHAH NAWAZ CHOWKIDAR.

Memo;

With reference to Directorate of E&SE KP Peshawar notification issued under Endstt. NO. 4233-35 F.NO.A-12/Complaint Vol-16 dated 24-05-2017, detailed enquiry report along with its annexed documents containing Seventy (70) pages is submitted in your honour as desired please.

Muhammad Riaz Swati
Enquiry Officer/District Education Officer (F)
Tor Ghar

Attested;

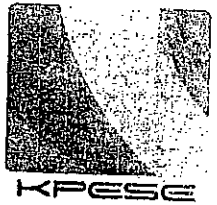
[Handwritten signature]
Enquiry Officer
Tor Ghar



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)
DISTRICT TOR GHAR

Email: deofemaletorghar@gmail.com

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**ENQUIRY REPORT IN RESPONSE TO CROSS COMPLAINT LODGED
BY DEO (F) ABBOTTABAD AND MR. SHAH NAWAZ CHOWKIDAR.**

AUTHORIZATION

Directorate of E&SE KP Peshawar notification bearing Endstt. NO. 4233-35 F.NO.A-12/Complaint Vol-16 dated 24-05-2017 whereby the undersigned was appointed as Enquiry Officer with following TORs.

1. To dig out the matter and unmask the actual character behind the event.
2. To fix responsibility.
3. To submit clear cut recommendations.
4. To investigate/inquire the complaint of Mr. Shah Nawaz S/O Jehandad Mahalla Nari Banda Amlok Dobtar Tehsil and District Abbottabad.

(Copy of Notification attached as Annex. "A")

BACK GROUND

1. Consequent upon the complaint of Mr. Shah Nawaz Chowkidar, officers/officials of Anticorruption Department under the supervision of Senior Civil Judge Abbottabad along with two lady constables raided on the office of District Education Officer (F) Abbottabad on 03-05-2017. The news was published in newspapers as well as highlighted on social media.

(Cutting of newspaper attached as Annex. "B")

2. As per report of Senior Civil Judge Abbottabad vide his office NO. 752-53 dated 04-05-2017, relevant portion of report is reproduced as below:-

"we reached the office (District Education Officer (F) Abbottabad) at 12:00 noon. The marked notes were kept in an official envelope and the same were found and recovered from the opposite corner of the table of the DEO. As the DEO was busy in conducting of official business. It was apparent that the envelope was not in her conscious"

(Copy of report of Senior Civil Judge attached as Annex. "C-1 to C-2")

3. District Education Officer (F) Abbottabad requested Director E&SE KP Peshawar vide her office letter NO. 3104-3107 dated 10-05-2017 for impartial enquiry and to take strict disciplinary action against the accused.

(Copy of letter attached as Annex. "D")

PROCEEDING

1. District Education Officer (F) Abbottabad was informed vide DEO (M) office Battagram Endstt. NO. 8245-48 dated 07-06-2017 to be present in her office on 12-06-2017 while the complainant Mr. Shahnawaz was also directed but no proceeding was carried out on the said date due to the transfer of undersigned.

(Copy of letter addressed to DEO (F) Abbottabad attached as Annex. "E")

2. In continuation to the above mentioned proceeding, subsequently through telephonic message, DEO (F) was informed that further proceeding in the matter will be held on 29-06-2017.

3. Undersigned visited office of the DEO (F) Abbottabad on 29-06-2017 and asked through letter dated 29-06-2017 to submit her written statement in connection to the incident occurred in her office on 03-05-2017 in response to the complaint of Mr. Shah Nawaz S/O Jehandad. She was further requested to produce the following witnesses to record their fresh statement before the

Attested:

[Handwritten signature]

undersigned (who have already vouched their written statement in connection to the said incident as attached with the letter of enquiry)

- i. Qazi Tajammal Hussain DEO (M) Abbottabad.
- ii. Zaheer Ahmad Superintendent DEO (F) Office Abbottabad.
- iii. Shabana Kausar Sweepres DEO (F) Office Abbottabad.
- iv. Any other official.

(Letter addressed to DEO (F) Abbottabad dated 29-06-2017 attached as Annex. "F")

4. DEO (F) submitted her statement along with annexure as attached as Annex. G-1 to G-27 and statements of all other officers/officials mentioned above were recorded and attached as Annex. "G-28 to G-30"

5. Mr. Shah Nawaz complainant was directed through another letter to record his statement and avail the opportunity of defence who appeared in person, recorded his statement and was also cross examined.

(Copy of two different complaints, Letter addressed to Shah Nawaz and his reply attached as Annex. "H-1 to H-5")

FINDINGS

TORs wise Findings are as under:-

1. To dig out the matter and unmask the actual character behind the event.

Contention of complainant Mst; Faiza Shafi DEO (F) is that she is constantly under pressure through Ex DEO (F) Samina Altaf and Shah Nawaz Chowkidar to appoint Mr. Shah Nawaz as driver. During the process of enquiry Samina Altaf Ex DEO (F) was examined and she filed her written statement that she has no concern with such type of official issues from the date of relinquishing the charge of the post of DEO (F).

I am of the opinion that sitting DEO (F) Faiza Shafi could not produce any documentary evidence in support of her version and involvement of Samina Altaf Ex DEO (F) could not be established.

(Copy of statement of Samina Altaf Ex DEO (F) Abbottabad is attached as Annex-I).

2. TORs 2 to 4.

As the common question of facts is involved in all the three TORs, hence comprehensive findings are as under:-

After the perusal of record/statements of witnesses as well as statement of complainant/officer (Faiza Shafi), it has been established that Mr. Shah Nawaz Chowkidar is the principal accused who has plotted the entire scenario and developed engineered criminal proceeding through utilizing Anti Corruption Department. The criminal proceeding against Mst; Faiza Shafi that initiated in the result of FIR NO.02 dated 03-05-2017 has been stopped by the Anti Corruption Department vide letter NO. 8595 dated 23-05-2017 while the proceeding U/S 182 Cr. PC and 211 PPC has been initiated against Mr. Shah Nawaz Chowkidar. It is further added that there were various complaints of teachers and students attached with the statement of Mst; Faiza Shafi that Mr. Shah Nawaz Chowkidar is involved in immoral activities and not deserves for posting in female section due to his unsound moral activities.

Attested;
[Signature]

[Signature]

The other important character attributed towards the instant incident is of Mst; Shabana Kausar Sweepress office of DEO (F) who acted as co-accused/ facilitator and confessed that Mr. Shah Nawaz handed over envelope to her and she kept the same at the opposite corner of the table of DEO (F).

Mr. Shanawaz was called and asked to record his written statement in support of allegation leveled in complaint against DEO (F), Faiza Shafi, who admitted that criminal proceeding was initiated in response to his complaint. He also admitted that he could not apply for the post of driver within due time. The complaint of Mr. Shah Nawaz against DEO (F) that she demanded Rs. 20000 for his appointment but the same allegation could not stand as the Anti Corruption Department has already stopped the proceeding vide letter NO. 8595 dated 23-05-2017.

RECOMMENDATIONS

1. In the light of foregoing proceeding /material facts /evidences, it has been proved that Mr. Shah Nawaz Chowkidar committed gross misconduct and highly ambitious for unlawful gain through mal-practice. The instant case amounts to criminal conspiracy on the part of a civil servant, hence Major Penalty of "**Dismissal from Service**" may please be imposed upon Mr. Shah Nawaz Chowkidar under E&D Rules.
2. Mst; Shabana Kausar who is a co-accused and acted as a facilitator and is a part of criminal conspiracy amounts to misconduct, hence Major Penalty of "**Compulsory Retirement From Service**" may please be imposed upon Mst. Shabana Kausar Sweepress under E&D Rules as her retention in service is continue threat for the officers as well as Department.

Attested;

A. Enais
Gull
Axxox

Muhammad Riaz Swati
Enquiry Officer/District Education Officer (F)
Tor Ghar

Annexure

"L"
~~"A"~~

52



DIRECTORATE OF
ANTI-CORRUPTION ESTABLISHMENT
KHYBER PAKHTUNKHWA

PESHAWAR

No.

Dated 23/05/2017

To

The Assistant Director Crimes,
Anti-Corruption Establishment,
Abbottabad.

Subject:-

CASE FIR NO. 2, DATED 3.5.2017 U/S. 161 PPC/5(2)-PC, ACT, PS,
ACE, ABBOTTABAD AGAINST FAIZA SHAFI, DEO(FEMAL);
EDUCATION DEPARTMENT, DISTRICT ABBOTTABAD.

Reference your report dated 15.5.2017. Case file is returned herewith in original.

The subject case has been dropped. Record be completed accordingly. Moreover, complaint U/Ss. 182 Cr. PC & 211 PPC against Shah Nawaz, Chowkidar of GPS, Karimpura, Abbottabad be made in the competent Court.

[Signature]
Administrative Officer,
Anti-Corruption Establishment,
Khyber Pakhtunkhwa,
Peshawar

No.

Dated

15/2017:

Copy to S.A., ACE, Peshawar.

Administrative Officer,
Anti-Corruption Establishment,
Khyber Pakhtunkhwa,
Peshawar.

CO/ATD

For information and
reference

[Signature]
29/5/17

Attested
[Signature]
Circle Officer,
Police Station A.C.E.
Abbottabad

HC 17
[Signature]
CO/ACE/ATD

Attested;

[Signature]

1 1021

Reference attached.

Subject, CASE F.I.R NO. 02 DATED 03.05.2017 U/S 161 PPC r/w 5(2) P.C Act POLICE STATION A.C.E. ABBOTTABAD AGAINST FAIZA SHAFI D.E.O (FEMALE) EDUCATION DEPARTMENT ABBOTTABAD.

Sir,

Circle Officer Police Station Anti-Corruption Establishment Abbottabad registered above cited case on the complaint of Shah Nawaz S/O Jehandad R/O Mohallah Nari Banda Anlook Dobather presently chowkidar Government Girls Primary School Karimpura Abbottabad for demanding bribe of Rs.20,000/- for change the category i.e Chowkidar to Driver. After registration of case raid was conducted in the presence of Senior Civil Judge Abbottabad. The tainted amount was recovered on the office table of D.E.O (Female). During the course of investigation and statements of concerned it was found that the complainant of above cited case is bad character. He made a drama to trap the D.E.O (Female) Abbottabad in connivance of Shabana Koser Sweeper, so that allegation have not been proved in the light of investigation, in hand case may be dropped and proceeding U/S 182 Cr.P.C against the complainant of Shah Nawaz S/O Jehandad R/O Mohallah Nari Banda Anlook Dobather presently chowkidar Government Girls Primary School Karimpura Abbottabad may be accorded.

It is, therefore, request that in accordance with the above circumstances in hand case may kindly be dropped against accused Faiza Shafi D.E.O(Female) and permission may kindly be granted U/S 182Cr. P.C against complaint of case Shah Nawaz chowkidar Government Girls Primary School Karimpura Abbottabad, after opinion of legal branch.

Dated 15/05/2017.

Assistant Director Crimes, Anti-Corruption Establishment Abbottabad.

ADL-III

As suggested by filed case of NCE and ACC Abbottabad, the case may be dropped being weak in evidence and not fit for judicial action, Howland proceeding U/S 182, 211 PC are suggested against chowkidar, if approved.

Attested, Circle Officer, Police Station A.C.E. Abbottabad

W/O

ADL

Attested;

Signature of official

02 02

Signature of official

1-15/05/2017

جناب سرکل آفیسر تھانا اینٹی کرپشن، ضلع ایبٹ آباد۔

55

نوٹس زبردفعہ 182 P.P.C

بحوالہ مقدمہ علت نمبر 02 مورخہ 203.05.2017 م PPC Act 161 PC (2) 5 تھانہ ACE

جواب نوٹس مخالف مدعی مقدمہ شاہنواز

جناب عالی! جواب نوٹس بلحاظ فقرہ جات ذیل عرض ہے:-

1- فقرہ نمبر 1 غلط ہے جس سے انکار ہے۔ بجواب عرض ہے کہ مدعی کا موقف اور مقدمہ سچ پر مبنی ہے جسے ملی بھگت سے جھوٹا ثابت کرنے کی ناکام کوشش کی گئی ہے جسے مسائل امدعی فاضل پشاور ہائی کورٹ میں چیلنج کرے گا۔

2- فقرہ نمبر 2 غلط ہے جس سے انکار ہے۔ بجواب عرض ہے کہ مدعی نے تحت ٹریپ کاروائی و حسب ہدایت متعلقہ اتھارٹیز کے اولاً خود DEO(F) کے دفتر میں گیا جہاں DEO(F) نے مدعی اسائل سے رقم رشوت وصول کی اور دو نم فوراً اس کے جناب سینئر سول جج صاحب بمعد اینٹی کرپشن ٹیم نے دفتر پر چھاپہ مارا اور مذکورہ DEO(F) کو رٹ لکھے ہاتھوں پکڑا۔ مسماۃ شبانہ کوثر کا اس مقدمہ میں شخص اس حد تک کردار رہا ہے کہ مسماۃ شبانہ Peon ہے جو بوقت وقوعہ دروازہ پر اپنی ڈیوٹی سرانجام دے رہی تھی۔ مزید یہ کہ شبانہ کوثر نے اپنے ساتھ ہونے والی زیادتی کے متعلق ایک درخواست DC صاحب کو بھی گزاری ہے جس میں مسماۃ مذکورہ بیان ہوئی کہ DEO(F) نے ناحق مسماۃ مذکورہ کو اس مقدمہ میں پھنسیا ہے جبکہ مذکورہ کا اس مقدمہ سے کوئی تعلق نہیں ہے۔ (نقل لف ہے)

3- فقرہ نمبر 3 غلط ہے جس سے انکار ہے۔ بجواب عرض ہے کہ جہاں جملہ عملہ حکمہ اینٹی کرپشن اور محکمہ تعلیم DEO(F) کو بچانے میں سرگرم ہو جائے تو وہاں ایک غریب چوکیدار کا کیا بس پھلنا تھا۔ آپ جناب کی جانب سے فقرہ عذا میں یہ درج کرنا کہ "حکومت کی ایک اعلیٰ آفیسر صاحبہ کی تبدیلی کی" کے ضمن میں عرض ہے کہ حکمہ اینٹی کرپشن ایک غیر جانبدار ادارہ ہے جسے کرپشن کے خلاف کام کرنا چاہیے نہ کہ از خود جج بن کر ملزمان کی تبدیلی کی پرواہ اور خیال کرنا۔ مذکورہ DEO(F) فاضل پشاور ہائی کورٹ کے آرڈر کی خلاف ورزی کے باعث توہین عدالت کی طرز میں ہے۔ مزید یہ کہ حکمہ اینٹی کرپشن نے من مسائل کی مددیت میں درج کردہ FIR اور دیگر ریکارڈ کو آج تک مسائل امدعی سے مخفی رکھا ہوا ہے اور اندرون خانہ طور پر مقدمہ کو خارج کر دیا گیا ہے تاکہ مسائل کسی دیگر فورم پر اس کو چیلنج نہ کر سکے۔

مزید عرض ہے کہ DEO(F) نے بعد از درج ہونے FIR ایک ملزمہ کی حیثیت میں ہونے کے باوجود اپنے سرکاری اختیارات کا ناجائز استعمال کرتے ہوئے مسائل امدعی کے خلاف مورخہ 05.05.2017 کو ایک غیر قانونی آرڈر صادر فرمادیا۔ اس غیر قانونی آرڈر کو مسائل نے فاضل پشاور ہائی کورٹ ایبٹ آباد سٹیج میں بذریعہ رٹ پٹیشن چیلنج کیا اور مذکورہ رٹ

صفحہ 241

Attested

منصوب
مفتی

پیشین میں محکمہ اینٹی کرپشن کو بھی فریق مقدمہ بتایا گیا ہے۔ ابتدائی سماعت رٹ پیشین میں نہ صرف مذکورہ غیر قانونی آرڈر کو معطل فرمایا گیا بلکہ محکمہ اینٹی کرپشن کو جملہ ریکارڈ مذکورہ فوجداری مقدمہ کی طلبی کا حکم بھی صادر فرمایا گیا۔ (فقولات رٹ پیشین، فیصلہ محررہ 22.05.2017، درخواست تحت Right to information Act و درخواست توہین عدالت لف ہیں)

سائل امدی اب بھی مذکورہ فوجداری مقدمہ جو کہ محض ملی بھگت سے خارج کر دیا گیا ہے کو فاضل پشاور ہائی کورٹ ایبٹ آباد سٹیج میں چیلنج کرے گا جس کیلئے سائل امدی ہمراہ جواب نوٹس حذا درخواست تحت Right to Information Act برائے حصول جملہ ریکارڈ بھی دے رہا ہے۔

مندرجہ بالا حالات و واقعات کی روشنی میں کوئی کارروائی برخلاف سائل امدی غیر مجاز اندہ غیر قانونی ہوگی۔

استدعا:-

لہذا استدعا ہے کہ نوٹس عنوان بالا کو بلا مزید کارروائی کے داخل دفتر فرمایا جائے اور سائل امدی کو جملہ ریکارڈ فوجداری مقدمہ حسب منسلک درخواست فراہم کیا جائے۔

سورجہ: 13-06-2017

شاہنواز ولد جہانگاہ سنگھ محلہ نازی، بانڈہ اولوک، دوپٹہ، تحصیل ضلع ایبٹ آباد۔ سائل نوٹس

رابطہ نمبر: 0344-9489390

Attested,
Amnis
Gul Jassar

57

جناب برکل آفیسر تھانہ اینٹی کرپشن، ضلع ایبٹ آباد۔

درخواست تحت Right to Information Act اور حصول جملہ ریکارڈ فوجداری

مقدمہ عدالت نمبر 02 مورخہ 03.05.2017م 161 PPC Act (2) 5(2) قتانہ

ضلع ایبٹ آباد۔ ACE

جناب عالی! درخواست ذیل عرض ہے:-

گزارش ہے کہ من سائل مدعی مقدمہ عنوان بالا ہوں اور سائل کو جملہ ریکارڈ مذکورہ فوجداری مقدمہ درکار ہے جس کیلئے سائل متعدد مرتبہ جناب کے دفتر میں چکر لگا چکا ہوں مگر ریکارڈ فراہم نہیں کیا جا رہا ہے بدیں وجہ درخواست ہذا۔

استدعا:-

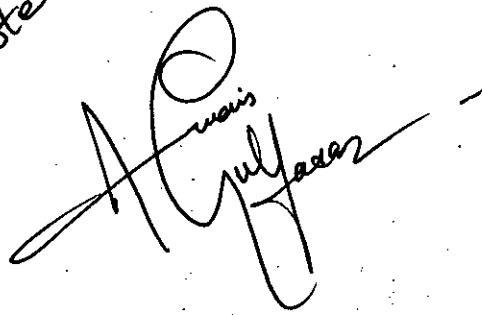
لہذا استدعا ہے کہ سائل امدعی کو جملہ ریکارڈ فوجداری مقدمہ فراہم کیا جائے۔

مورخہ: 19-06-2017

شاہنواز ولد جہانماد سکنہ محلہ نازی، باغہ اولوک، دوپٹر، تحصیل ضلع ایبٹ آباد۔

رابطہ نمبر: 0344-9489390

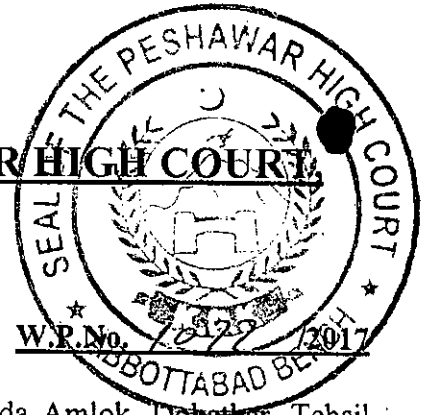
Attested:



Annexure "M" =

58

**BEFORE THE HONOURABLE PESHAWAR HIGH COURT
ABBOTTABAD BENCH.**



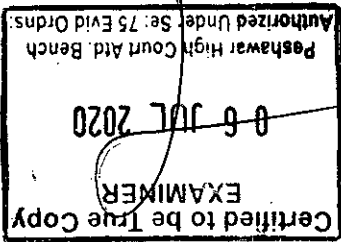
Shahnawaz S/o Jehandad resident of Mohallah Naari, Banda Amlok, Dobathar, Tehsil and District Abbottabad.

...COMPLAINANT / PETITIONER

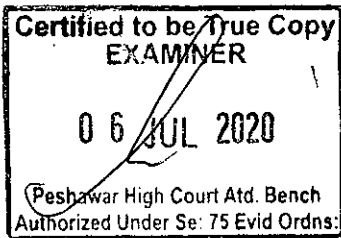
VERSUS

- 1) The State
- 2) Director, Anti-Corruption Establishment, Khyber Pakhtunkhwa, Peshawar
- 3) Assistant Director, Anti-Corruption, District Abbottabad
- 4) Circle Officer, Police Station Anti-Corruption, Abbottabad
- 5) Mst. Faiza Shafi presently District Education Officer (Female), Abbottabad (**ACCUSED**)

...RESPONDENTS



WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AGAINST THE IMPUGNED ORDER / LETTER NO.8595 DATED 23.05.2017 VIDE WHICH RESPONDENT NO.2 DROPPED / DISCARDED THE CRIMINAL CASE BEARING FIR NO.02 U/S 161, 5(2) PC ACT. DATED 03.05.2017 OF POLICE STATION ACE ABBOTTABAD WHICH IS VOID AB-INITIO, ILLEGAL, UNLAWFUL AND THE RESULT OF ILLEGAL EXERCISE OF JURISDICTION HENCE THE IMPUGNED ORDER / LETTER IS LIABLE TO BE SET ASIDE.



PRAYER:-

FILED TODAY

ON ACCEPTANCE OF THIS WRIT PETITION,

ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT

IMPUGNED ORDER / LETTER NO.8595 DATED 23.05.2017

PASSED BY RESPONDENT NO.2 MAY GRACIOUSLY BE SET ASIDE AND CRIMINAL CASE BEARING FIR NO.02 U/S 161, 5(2) PC ACT DATED 03.05.2017 OF POLICE STATION ACE ABBOTTABAD MAY KINDLY BE RESTORED AND PROCEEDINGS AGAINST ACCUSED / RESPONDENT NO.5 BE CARRIED OUT IN ACCORDANCE WITH LAW. ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEM FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED.

Respectfully Sheweth,

FACTS:-

1. That petitioner is resident of District Abbottabad who was appointed as Watchman (Chowkidar) in Education Department vide appointment letter dated 21.06.1993. *(Copy of appointment letter alongwith its better copy & copies of other letters pertaining to petitioner's service are annexed as Annexure "A")*
2. That petitioner being subordinate to respondent No.5 performed his duties with zeal and zest and with his utmost honesty and dedication.
3. That presently petitioner is posted at Watchman (*defunct*) in Government Girls Primary School, Kareem Pura, Abbottabad but petitioner is being prohibited to work on his seat by

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EXAMINER
06 JUL 2020
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns:

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PESHAWAR HIGH COURT
ABBOTTABAD BENCH

respondent No.5 and prior to this, petitioner had served as Driver for 3 years in the Office of EDO (F) / respondent No.5. Recently posts for Driver got vacant and petitioner being most senior servant of the Department and fit for the aforementioned post, requested respondent No.5 for appointment on the said post upon which respondent No.5 asked for bribery however petitioner considered the bribery as most mean act hence moved an application before the Police Station Anti-Corruption wherein petitioner solicited to act as a "Trap Agent". (Copy of application alongwith its better copy is annexed as Annexure "B")

4. That on 03.05.2017, a team comprised of the learned Senior Civil Judge Abbottabad and respondent No.3 / Assistant Director Anti-Corruption kept the petitioner as *Trap Agent* and raided in the office of respondent No.5 and apprehended her red handed, criminal case under the relevant sections of Anti-Corruption was lodged against respondent No.5. (Copy of report No.752-53 SCJ/ATD dated 04.05.2017 of the learned Senior Civil Judge Abbottabad & FIR No.02 alongwith its better copy are annexed as Annexure "C" & "D")

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06 JUL 2020
Peshawar High Court Bench
Authorized Under Sec 75 Evd Ordinst

5. That after registration of the above mentioned criminal case, respondent No.5 in the capacity of accused, passed an illegal and unjust order Endst No.3004-06 on 05.05.2017 vide which petitioner was relieved off and petitioner's services were placed at the disposal of Deputy Commissioner as a revenge,

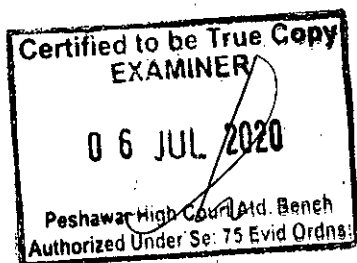
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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

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without initiating any inquiry. *(Copy of order Endst No.3004-06 dated 05.05.2017 is annexed as Annexure "E")*

6. That not only this, accused / respondent No.5 with the connivance of Anti-Corruption Department got succeeded in discarding / dropping the above mentioned criminal case through impugned order / letter No.8595 dated 23.05.2017. *(Copy of impugned order / letter No.8595 dated 23.05.2017 is annexed as Annexure "F")*

7. That thereafter notice U/S 182 PPC was issued to petitioner which was duly replied despite this respondents initiated proceedings U/S 182 /211 PPC in the Court of learned Senior Civil Judge Abbottabad. *(Copies of notice alongwith petitioner's reply are annexed as Annexure "G" & "H" & Attested copy of order sheet of proceedings U/S 182/211 PPC is annexed as Annexure "I")*



Feeling aggrieved of the impugned order / letter No.8595 dated 23.05.2017, petitioner seeks the gracious indulgence of this Hon'ble Court for due redress as per Law, inter-alia, the following grounds:-

GROUND:-

- a) That impugned order / letter No.8595 dated 23.05.2017 is illegal, unlawful, void ab-initio, unjust, against equity, not maintainable in the eye of law and the result of illegal

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B
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

exercise of jurisdiction vested in it hence liable to be set aside.

b) That while passing the impugned order, respondents bypassed the law and passed the same in an entirely illegal and unlawful manner and went beyond jurisdiction which is **illegal and smells malafide.**

c) That the main / key point to proceed in this criminal case is the **recovery of illegal gratification i.e Rs.20,000/-** from the office table of respondent No.5 and no one denied the same fact despite this the entire investigating agency mislead the **machinery of Law** in saving the culprit / respondent No.5 in an entirely illegal and unlawful manner.

d) That respondent No.5 in connivance with respondents No.2 to 4 recorded statements U/S 164 Cr.P.C of their desired witnesses however **no notice has been served** upon complainant / petitioner during this proceedings and in this way no opportunity of **cross-examination** was afforded to the petitioner in order to check the **credibility, veracity / authenticity** of so-called witnesses hence the entire exercise/ proceedings is nullity in the eye of law in this way, glaring irregularities and illegalities have been committed by the concerned Investigating Agency during investigation of the case. *(Copies of statements U/S 164 Cr.P.C are annexed as Annexure "J")*

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Peshawar High Court Atd. Bench
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PESHAWAR HIGH COURT
ABDUL BAZZAL BENCH

e) That petitioner's case is prima-facie and petitioner is aggrieved person but the partial investigation conducted by the I.O under the garb of respondents No.2 & 3 and thereafter discard / cancellation of petitioner's case by the respondents has destroyed the same which ultimately left petitioner in a closed street.

f) That the statement made under Section 164 Cr.P.C was not a substantive piece of evidence, until and unless, the maker of the said statement was confronted by.

g) That the offender as pointed out by the petitioner is given shelter by the respondents No.2 to 4 and petitioner's miseries, sorrows and repeated requests regarding the actual occurrence were neglected.

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EXAMINER
06 JUL 2020
Peshawar High Court Atd. Bench
Authorized Under Se: 75 Evid Ordns.

h) That the impugned order / letter No.8595 dated 23.05.2017 is an administrative order against which no Revision / Appeal lies hence the present Writ Petition. *Reliance;*

PLD 1985 Supreme Court page 62

SCMR 1997 page 1503

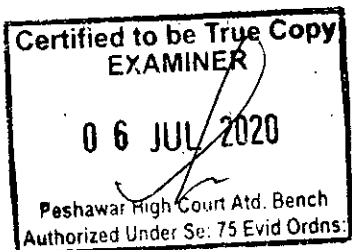
i) That petitioner has been condemned unheard in respect of impugned order / letter hence the same is against the basic and fundamental rights as guaranteed under the Constitution of Islamic Republic of Pakistan, 1973.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOT ABAD BENCH

7 (64)

j) That respondent No.5 is enough **influential** and **biased** which fact is manifest from issuance of order dated 05.05.2017 and the act of respondents No.2 to 4 / Investigating Agency who remained reluctant to provide the copies of FIR and other record of the criminal case to the petitioner, in this respect petitioner moved several applications for production of the record under the **Khyber Pakhtunkhwa Right to Information Act, 2013** but in vain. *(Copies of applications under KPK Right to Information Act, 2013 alongwith postal receipts are annexed as Annexure "K")*

k) That the act of issuance of order dated 05.05.2017 Annexure "E" which respondent No.5 passed after registration of FIR also shows the unjust behavior / attitude however at that moment respondent No.5 herself was an accused and issuance of such like order in the capacity of accused is unwarranted at law.



l) That no other efficacious and alternate remedy is available for the petitioner hence this Writ Petition.

m) That Court fees stamp paper worth Rs.500/- is attached herewith.

n) That further points shall be raised at the time of arguments with the prior permission of this Hon'ble Court.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

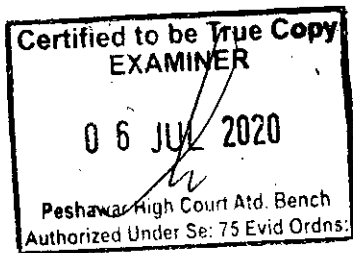
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PRAYER:-

On acceptance of this Writ Petition, impugned order/ Letter No.8595 dated 23.05.2017 passed by respondent No.2 may graciously be set aside and criminal case bearing FIR No.02 U/S 161, 5(2) PC Act dated 03.05.2017 of Police Station ACE Abbottabad may kindly be restored and proceedings against accused / respondent No.5 be carried out in accordance with law. Any other relief which this honourable Court deem fit and proper in the circumstances of the case may also be granted.

INTERIM RELIEF:-

As an interim relief, it is further prayed that the operation of proceedings U/S 182 / 211 PPC pending before learned Senior Civil Judge Abbottabad may graciously be suspended till the decision of present Writ Petition.



NOTE; as per the Notification dated 23rd February, 2016 of the Hon'ble Peshawar High Court, Peshawar:-

- 1) *The applicant/ petitioner has never moved the Hon'ble High Court previously for the same relief.*
- 2) *The present case being against the final order, falls within the jurisdiction of Double Bench of this Hon'ble Court.*
- 3) *The Law applicable to the proceedings out of which it arises is The Constitution of Islamic Republic of Pakistan 1973,*

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

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The Criminal Procedure Code, 1898, The Pakistan Penal Code, 1860 & Prevention of Corruption Act.

- 4) Notices have been served upon respondents as per rules. (Copies of notices alongwith postal receipts are annexed as Annexure "L")

...COMPLAINANT / PETITIONER

Through Counsels:

Dated:- 01/11/2017

(MALIK AMJAD ALI AWAN)

&

(SEHRISH HABIB DILAZAK)
Advocates High Court, Abbottabad.

VERIFICATION:-

Verified on this 1st day of November, 2017 at Abbottabad that the contents of the present *Writ Petition* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Dated:- 01/11/2017

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EXAMINER
06 JUL 2020
Peshawar High Court Atd. Bench.
Authorized Under Sec. 75 Evid Ordns.

...PETITIONER

FILED TODAY

ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTABAD BENCH

BEFORE THE HONOURABLE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.

W.P.No. 1077 /2017

Shahnawaz

...PETITIONER

VERSUS

The State & others

...RESPONDENTS

WRIT PETITION

AFFIDAVIT

I, Shahnawaz S/o Jehandad resident of Mohallah Naari, Banda Amlok, Dobathar, Tehsil and District Abbottabad *petitioner* do hereby solemnly affirm and declare on Oath that the contents of this *Writ Petition* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

DEPONENT

Shahnawaz
...PETITIONER

Dated:- 01/11 /2017

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EXAMINER
06 JUL 2020
Peshawar High Court Atd. Bench
Authorized Under Sec 75 Evid Ordns.

13101-2810764-1

IDENTIFIED BY:-

[Signature]
(MALIK AMJAD ALI AWAN)

AFFIDAVIT

S.No: 7028/22

Receipt No: 22

Certified that the above was verified on Solemn affirmation made before me on this 01/11/2017 by Shahnawaz of Dobathar Tehsil & District Abbottabad who is known to me.

&
(SEHRISH HABIB DILAZAK)
Advocates High Court,
Abbottabad.

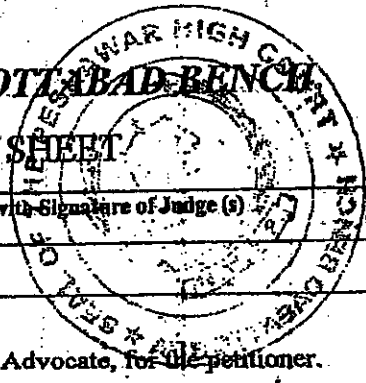
[Signature]
Oath Commissioner
(Additional Registrar)
Peshawar High Court (Circuit) Bench
Abbottabad

FILED TODAY

ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

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PESHAWAR HIGH COURT, ABBOTTABAD BENCH
FORM OF ORDER SHEET



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
09.11.2017	<p><u>W.P.No. 1077-A/2017.</u></p> <p>Present: Malik Amjad Ali, Advocate, for the petitioner. ***</p> <p>Contents, inter alia, that dropping of the proceedings by Anti-Corruption Establishment (respondent No.2) against respondent No.5, followed by proceedings against the petitioner under Section 182 / 211 PPC are ultra vires and against the law, need consideration. Let the other side be put on a pre-admission notice for a short date in office.</p> <p><u>Interim Relief.</u></p> <p>Notice. In the meanwhile, operation of the impugned proceedings under Sections 182 / 211 PPC shall remain suspended.</p>

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EXAMINER
11 NOV 2017
Peshawar High Court, Abbottabad Bench
Authorized Under Sec. 75, 51(d) Ordins.

Signature

Sajf 1/8

Hon'ble Mr. Justice Syed Afsar Shah
Hon'ble Mr. Justice Syed Arshad Ali

Annexure "N"

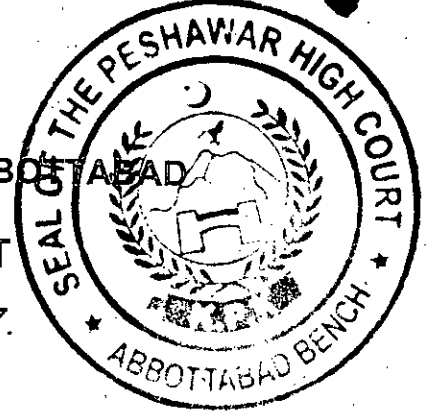
69

Judgment Sheet

IN THE PESHAWAR HIGH COURT, ABBOTTABAD
BENCH
JUDICIAL DEPARTMENT

Writ Petition No. 503-A/2017.

JUDGMENT



Date of hearing.....15.02.2018.....

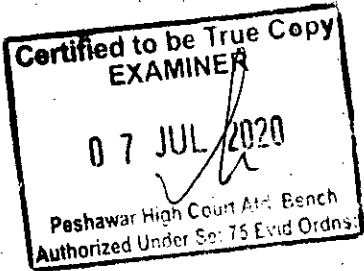
Petitioner/s (Shah Nawaz) By Malik Amjad Ali, Advocate.

Respondents (Secretary Elementary and Secondary Education Department & 06 others) By Sardar Muhammad Asif, Assistant A.G alongwith Faiza Shafi, respondent No.2.

LAL JAN KHATTAK, J.- Petitioner through the instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 has prayed this court for issuance of a writ declaring the order dated 05.05.2017 as null and void whereby his services have been placed at the disposal of the Deputy Commissioner, Abbottabad.

2. Brief facts of the case are that the petitioner was performing his duties at Government Girls Primary School Kareem Pura, District Abbottabad as *Chowkidar*, when on 05.05.2017 the District Education Officer (F) relieved him of his duties by placing his services at the disposal of the Deputy Commissioner.

3. This court on 22.05.2017 had issued notice to the respondents for their



again

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appearance to justify the impugned order.

Pursuant to the notice, respondent No.2 appeared alongwith record.

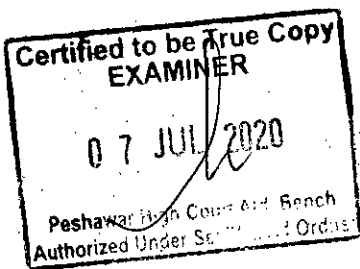
4. Arguments heard and record gone through.

5. Perusal of the case record would show that though services of the petitioner were placed at the disposal of the Deputy Commissioner vide order dated 05.05.2017 which order was quite alien to law on the subject but record further shows that on same date another order was issued whereunder the impugned order was withdrawn.

5. Record also shows that subsequently a departmental enquiry was conducted against the petitioner and ultimately he was dismissed from service vide order dated 27.10.2017.

6. As the petitioner is a civil servant and dismissal from service is one of the terms and conditions of service and if a civil servant is aggrieved from an order qua his terms and conditions of service, then he can impugn the same before the Services Tribunal, established for the purpose but on no count he can agitate his grievance before this court through a writ petition, keeping in view the

gpm



express bar contained in Article 212 (2) of the Constitution of Islamic Republic of Pakistan, 1973.

7. For what has been discussed above, this petition is hereby dismissed for its not being maintainable before this court. However, the petitioner may approach the Services Tribunal for the redressal of his grievance.

Announced:
15.02.2018.

Sel Judge
Sel Judge

Saif. PS/

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EXAMINER
07 JUL 2020
Peshawar High Court Atd Bench
Authorized Under Se: 75 Evid Ordns.

(15)

No	22452
Date of Presentation of Application	6-7-2020
No of Pages	121-
Copying Fee	481-
Urgent Fee	21-
Total	1481-
Name of Applicant	[Signature]
Date of Preparation	7-7-2020
Date of Intimation	7-7-2020
Date of Delivery of Copy	7-7-2020

RECEIVED
[Faint text and stamp]

ORDER

1. WHEREAS, you Mr. Shahnawaz S/O Jahandad Chowkidar, GHS NO. 1 Abbottabad (Resident of Mohallah Nari, Villagge Banda Amlok, P.O Dobather, Tehsil & District Abbottabad) was proceeded for having committed gross irregularities which constitute inefficiency, misconduct, corruption & habitually absenting from duty without prior approval of leave under Rule-3 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.
2. AND WHEREAS, as per findings & recommendation of Inquiry report conducted against you received through Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar Memo No. 2259/F.No. A-12/Complaint Vol-16 dated 12-07-2017, wherein you have availed the opportunity of self defence and cross examination, the following gross irregularities have been committed by you.
3. AND WHEREAS, you are the Principal accused who has plotted the entire scenario and developed engineered criminal proceeding through utilizing anti corruption department. The criminal proceeding against MST Faiza Shafi, DEO(F) Abbottabad that initiated in the result of FIR No. 02 dated 03-05-2017 has been stopped by the Anti Corruption Department by letter No. 8995 dated 03-05-2017, while the proceeding under Section 182 CR. PC and 211 PPC has been initiated against you. It is further added that there were various complaints of teachers and students against you that you are involved in immoral activities and not deserves for posting in female section due to your unsound moral activities.
4. AND WHEREAS, the other important character attributed towards the instant incident is of MST Shabana Kowsar, Sweepress, Office of DEO(F) Abbottabad who acted as co accused - facilitator and confessed that you handed over envelope of Rs. 20000/- to her and she kept the same at the opposite corner of the table of DEO(F) Abbottabad.
5. AND WHEREAS, you were called and ask to record your written statement in support of allegations leveled and complaint against MST Faiza Shafi, DEO(F) Abbottabad, who admitted that criminal proceeding was initiated in response to your complaint. You also admitted that you could not apply for the post of Driver within due time. Your complaint that DEO(F) Abbottabad demanded Rs. 20000/- for your appointment but the same allegation could not stand as the Anti Corruption Department has already stopped the proceeding vide letter No, 8595 dated 23-05-2017.
6. You were relieved by the DEO(F) Abbottabad vide Memo No. 3070 dated 09-05-2017 and further your services were placed at the disposal of this officer for further posting vide Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar office order issued under Endst No. 4462-69 dated 25-05-2017, but you failed to submit your arrival in this office. You were called upon to explain the reason of above within seven days vide this office Memo No. 7688-91 dated 12-07-2017 through Registered Post No. 667 dated 13-07-2017 but again you failed to reply the same upto now.
7. You were adjusted at GHS No. 1 Abbottabad vide this office order issued under Endst No. 8314-19 dated 28-07-2017 but you have failed to take over charge in the said school vide Principal GHS No. 1 Abbottabad No. 635 dated 04-08-2017.
8. In the light of foregoing proceedings/material facts/evidence, it has been proved that you have committed gross misconduct, and highly ambitious for unlawful gain through malpractice which amounts to criminal conspiracy on your part & also remained willful absent from duty w.e.from 29-07-2017 to upto now.
9. AND WHEREAS, Show Cause Notice regarding your MISCONDUCT & WILLFUL ABSENCE from duty was served upon you vide this Office Memo No. 8739-41 dated 10-08-2017 through Principal GHS No. 1 Abbottabad and at your home address through Registered post AD No. 408 dated 10-08-2017, wherein major penalty of Dismissal from service was tentatively proposed under Rule-4 of Khyber Pakhtunkhwa, Govt Servants (Efficiency & Discipline) Rules, 2011.

Attested;


- 10. AND WHEREAS, you failed to submit your reply of the show cause notices within the stipulated time period and remained willful absent from duty upto now.
- 11. AND WHEREAS, absence notice regarding your willful absence from duty was published in the Daily "Mashriq" and "AAJ" Peshawar dated 29-09-2017, wherein you was directed to attend the office of the undersigned within fifteen days of the publication of the said notice and explain the cause of your absence, failing which disciplinary action and ex-parte decision would be taken against you under the rule.
- 12. AND WHEREAS, you failed to appear in person and reply the reason of your misconduct & willful absence from duty within the stipulated period and upto now.
- 13. And by reason of the above, charges leveled against you have been proved and you are found guilty of *misconduct & willful absence* from duty without prior approval of leave under Rule-3 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rule, 2011.

NOW THEREFORE, the Competent Authority in exercise of the power conferred upon him under Rule-4(1) Sub Rule(b)(iv) of Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rule, 2011 is pleased to impose major penalty of "DISMISSAL FROM SERVICE" upon Mr. Shahnawaz S/O Jahandad Chowkidar, GHS NO. 1 Abbottabad (Resident of Mohallah Nari, Village Banda Amlok, P.O Dobather, Tehsil & District Abbottabad).

sd /
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Endst: No. 1738-45 /EBIII/

Dated 27-10 /2017

Copy for information & necessary action to the:-

- 1. Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar with reference to his office Memo No. 2259/F.No. A-12/Complaint/Vol-16 Dated 12-07-2017.
- 2. District Comptroller of Accounts Abbottabad.
- 3. District Monitoring Officer(IMU) Abbottabad.
- 4. District Education Officer(F) Abbottabad.
- 5. Principal GHS No. 1 Abbottabad.
- 6. B&AO local office.
- 7. Assistant Programmer EMIS Branch Local Office
- 8. Mr. Shahnawaz S/O Jahandad Chowkidar, GHS NO. 1 Abbottabad(Resident of Mohallah Nari, Village Banda Amlok, P.O Dobather, Tehsil & District Abbottabad).

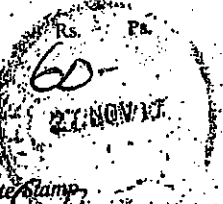
Regd. AD

DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Attested;
[Signature]

No. 230

For Insurance Notices see reverse.
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.



~~66~~

74

Received a registered letter addressed to Director Date Stamp 27 NOV 1972

Initials of Receiving Officer W. K. P. *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) 1000 (in words) one thousand

Insurance fee Rs. 2 (in words) two Weight 100 Kilo Grams

Name and address of sender L. S. Khanna

Attested;

[Signature]
Gulzar

The Hon'ble Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa,
Peshawar.

**SUBJECT: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER
ENDST NO.11738-45/ EBII DATED 27.10.2017 PASSED BY LEARNED
DEO(M) ABBOTTABAD:**

Respected Sir!

Contents of my appeal are as under:-

1. That appellant (*DEFUNCT EMPLOYEE*) had served the Department since long with utmost devotion, dedication and punctuality till now and appellant possess unblemished service track record.
2. That in respect of a post of driver, Faiza Shafi the DEO(F) Abbottabad asked for illegal gratification of Rs.20,000/- from appellant against which appellant filed an application before Anti-Corruption Department who took appellant as trap agent and learned Senior Civil Judge Abbottabad raided the office of DEO(F) and recovered the amount from the office table of Faiza Shafi and prepared its report therein and FIR was registered against said Faiza Shafi. (*Copies of application alongwith its better copy, report dated 752-53 SCJ/ATD dated 04.05.2017 & FIR No.02 dated 03.05.2017 alongwith its better copy are annexed herewith*)
3. That, thereafter appellant was relieved off and was directed to report the Deputy Commissioner Abbottabad vide an illegal office order No.3004-06 dated 05.05.2017 which has been challenged before the Honourable Peshawar High Court Abbottabad Bench in Writ Petition, the aforementioned illegal order was graciously suspended by the Hon'ble Court. The Writ Petition is subjudice before the Hon'ble Court and applicant has no knowledge / intimation of any order subsequent to the aforementioned order dated 05.05.2017. (*Copies of illegal office order No.3004-06 dated 05.05.2017 & Writ Petition alongwith order dated 22.05.2017 are annexed herewith*)
4. That the DEO (F) did not obey the orders of the Hon'ble High Court and the DEO(F) also stopped the salary of appellant against which Contempt of Court petition has already been filed for willful violation of Court orders. (*Copy of Contempt of Court petition is annexed herewith*)
5. That after registration of above mentioned FIR, institution of Writ Petition and Contempt Petition against Miss Faiza Shafi DEO(F) from appellant's side, the

Attested;

[Signature]
Fazal

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aforementioned DEO (F) herself became the competent authority and issued show cause notice to appellant vide No.3607-11/EB-III/Show Cause dated 29.05.2017 however said DEO (F) became *Judge* in her own cause which is against the principles of natural justice, appellant was condemned unheard and DEO (F) was partial and biased and was not competent to issue such like notice. The reply to aforementioned show cause was given by appellant. *(Copies of show cause notice No.3607-11/EB-III/Show Cause dated 29.05.2017 alongwith appellant's reply is annexed herewith)*

6. That it is pertinent to mention here that the inquiry was conducted in respect of show cause notice No.3607-11/EB-III/Show Cause dated 29.05.2017 and appellant was called upon by Inquiry Officer namely **Mohammad Riaz Swati (Inquiry Officer) District Education Officer (Male) Torghar** through written letter dated 29.06.2017. *(Copy of written letter dated 29.06.2017 is annexed herewith)*
7. That appellant appeared before the Inquiry Officer and cleared his stance however no copy of allegations was provided to appellant and no chance of self defense, cross examination or personal hearing is provided to appellant.
8. That later on the FIR was discarded / cancelled by the concerned Anti-Corruption department with the connivance of DEO (F) and notice of proceedings U/S 182, 211 P.P.C was issued to appellant. Appellant submitted a detailed reply of the aforementioned notice. *(Copies of order of Anti-Corruption Department, show cause notice U/S 182, 211 PPC alongwith appellant's reply are annexed herewith)*
9. That recently appellant challenged the above mentioned discard order before the Hon'ble Peshawar High Court Abbottabad Bench alongwith prayer of suspension of proceedings U/S 182, 211 PPC which was graciously accepted and the proceedings pending before learned Senior Civil Judge was graciously suspended vide order dated 09.11.2017. *(Copies of Writ Petition alongwith order dated 09.11.2017 is annexed herewith)*
10. That no office orders or show cause notices have been issued or communicated to the appellant personally and the area where appellant resides is not having the facility of newspaper circulation hence appellant has been condemned unheard. Appellant also moved an application under Right to Information Act. *(Copy of application is annexed herewith)*

Attested;

R. Swati
M. Riaz Swati

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11. That alleged co-accused Shabana Kosar moved an application against the DEO(F) as well. (*Copy of application is annexed herewith*)
12. That it is pertinent to mention that the sole inquiry is the inquiry as conducted in connection with show cause notice No.3607-11/EB-III/Show Cause dated 29.05.2017 and there is no inquiry with regard to present impugned order hence the impugned order is illegal and unlawful and is liable to be set aside.
13. That in the light of pendency of Court petitions, any order passed by the Department is illegal and the DEO (F) herself was an accused who did not appear before the Hon'ble High Court and is a contemnor as well.
14. That entire activities / illegal orders are unwarranted at law and hence the same are illegal and void ab-initio.
15. That appellant is innocent who did not commit any such like offence / act as mentioned in the impugned order.
16. That appellant is moving from pillar to post for hunt of justice.
17. That issuance of show cause notice in the capacity of *accused by DEO(F)* itself transpires the malafide and partiality of the competent authority.
18. That appellant desires to be heard in person as well.
19. That further points shall be raised at the time of personal hearing.

PRAYER:-

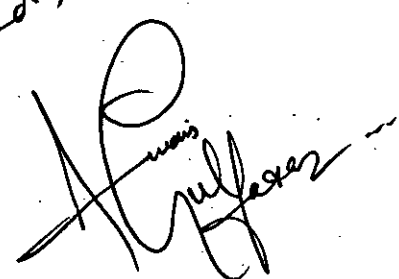
On acceptance of this departmental appeal, it is, therefore, requested that the impugned order Endst No.11738-45/EBIII dated 27.10.2017 passed by learned DEO(M) Abbottabad may kindly be set aside and appellant may kindly be reinstated with back benefits. Any other relief which appellant deserves may also be granted in the best interest of justice.

Thanking you in anticipation.

شہناواز

Shahnawaz (Watchman / Chowkidar)
Defunct employee of Education Department
Presently posted at GPS Kareem Pura
Resident of Mohallah Nari, Village Banda
Amluk, P.O Dobathar, Abbottabad.
Cell : 0311-5978514

Dated: 25/11/2017

Attested;


Annexure CPN

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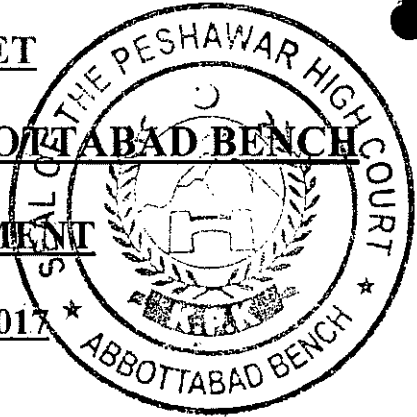
JUDGMENT SHEET

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

W.P No: 1077-A of 2017

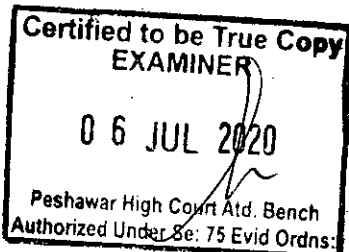
JUDGMENT



Date of hearing.....08/10/2019.....

Petitioner (s) (Shah Nawaz) by M/S Malik Anjad Ali and Sehrish Habib Dilazak, Advocates.....

Respondent (s) (The State & others) by M/S Sardar Muhammad Asif, Assistant Advocate General for respondents No.1 to 4 alongwith Mr. Mohammad Sohail, AD Crime, Anti-Corruption, Abbottabad and Muhammad Arshad Khan Taholi, Advocate, for respondent No.5



IJAZ ANWAR, J:

For reasons recorded in WP No.637-

A/2011, titled 'Nasir Khan Vs. Director Anti-Corruption

Establishment KPK and others', the instant writ petition is

allowed and the order of the respondent No.2 dropping the case against the accused/respondent No.5 is struck down. The

competent Authority within the meaning of Rules, would be at

liberty to proceed further in the matter after their decision to drop

the case, in the light of observation made in the judgment. Copy of

this judgment be sent to the Secretary Establishment, Government

of Khyber Pakhtunkhwa, Peshawar for its circulation and further

action.

Announced:

Dt.08.10.2019.

M.Saleem/PS


JUDGE


JUDGE

(DB) Mr. Justice Ijaz Anwar and Mr. Justice Shakeel Ahmad

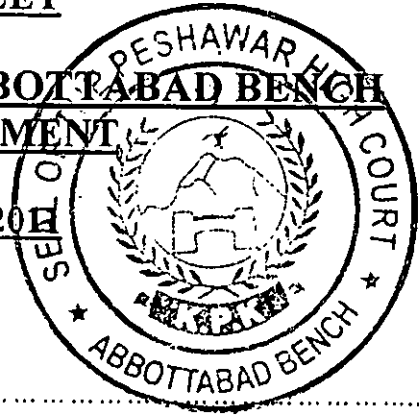
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JUDGMENT SHEET

PESHAWAR HIGH COURT, ABBOTTABAD BENCH
JUDICIAL DEPARTMENT

W.P No: 637-A of 2019

JUDGMENT



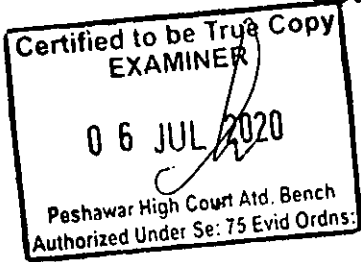
Date of hearing.....08/10/2019.....

Petitioner (s) (Nasir Khan) by M/S Muhammad Ilyas Khan and Hafiz Muhammad Amjad, Advocates.....

Respondent (s) (Director, Anti-Corruption Establishment KPK & others) by M/S Sardar Muhammad Asif, Assistant Advocate General for official respondents alongwith Mohammad Sohail, AD Crime, Anti-Corruption, Abbottabad and Haji Ghulam Basit and Hafiz Kalal Khan, Advocates, for private respondents

IJAZ ANWAR, J: Through this single judgment, this Court shall also dispose of WP No.1077-A/2017, titled 'Shahnawaz Vs. The State etc', as identical legal question is involved in both the writ petitions.

2. Nasir Khan son of Sultan Muhammad Khan, petitioner, in the instant petition seeks the constitutional jurisdiction of this Court, praying that;



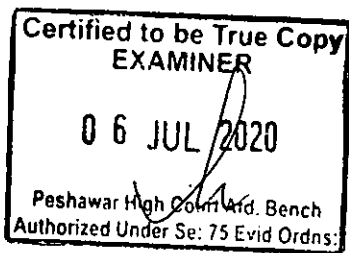
"It is respectfully prayed that on acceptance of the instant writ petition, the impugned order dated 07.04.2011 passed by respondent No.1 alongwith reports of respondents No.2 and 3 regarding dropping of case against respondents No.4 to 8 be set aside as unwarranted at law and facts and respondents No.1 to 3 be directed to proceed against respondents No.4 to 8 in accordance with law and submit complete challan

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before the Court after completion of all legal formalities."

Petitioner, Shah Nawaz son of Jehandad, in the above referred connected writ petition also seeks constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following relief:-

"On acceptance of this writ petition, impugned order No.8595 dated 23.05.2017 passed by respondent No.2 may graciously be set aside and criminal case bearing FIR No.02 under Section 161, 5(2) P.C Act dated 03.05.2017 of Police Station ACE, Abbottabad may kindly be restored and proceedings against accused/respondent No.5 be carried out in accordance with law. Any other relief which this honourable Court deem fit and proper in the circumstances of the case may also be granted."



3. The petitioners, in both the petitions, in essence, are seeking restoration of criminal cases and proceedings in accordance with law registered against the concerned respondents, which were earlier dropped by the Director Anti-Corruption Establishment, KPK, Peshawar.

4. Arguments of learned counsel for the parties heard and record perused.

5. Perusal of the record reveals that in the instant case after preliminary inquiry conducted by respondent No.3 an F.I.R was registered against respondents No.4 to 8 under sections

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419/420/468/471/477-A PPC read with section 5(2) PC Act on 28.02.2011. The record further transpires that when the accused-defaulter deposited the amount vide letter dated 03.03.2011, approval of the authority was sought for withdrawal of the F.I.R by the District Officer Revenue / Collector, Haripur. The respondent No.1 while exercising his powers under Rule 8 of the Khyber Pakhtunkhwa Anti-Corruption Rules, 1999 (hereinafter to be referred as the Rules) vide his letter dated 07.04.2011 dropped the case against the accused and sent the file for completion of record.

6. Similarly, in the connected petition, a case vide F.I.R No.02 dated 03.05.2017 under section 161 PPC read with Section 5(2) PC Act, was registered against respondent No.5, in Police Station ACE, Abbottabad, which was subsequently, dropped by respondent No.2 vide letter dated 23.05.2017.

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 EXAMINER
 06 JUL 2020
 Peshawar High Court Atd. Bench
 Authorized Under Se: 75 Evid Ordns.

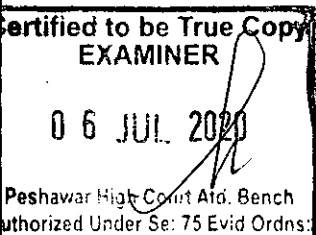
The moot question formulated during the course of argument is whether Director Anti-Corruption Establishment KPK Peshawar can drop the criminal case under the Rules without adverting to the mandatory provisions contained in the Criminal Procedure Code, 1897.

The then Government of West Pakistan for investigation of certain offences relating to Corruption by public servant and for holding preliminary inquiry against such servant, West Pakistan Anti-Corruption Establishment Ordinance (No.XX) of 1961 was promulgated on 8th September, 1961 (hereinafter to be referred as the Ordinance). Under section 3 of the Ordinance, the Anti-

Corruption Establishment was established for the investigation of the offence set forth in the Schedule to the Ordinance. Under Section 3(4) of the Ordinance, Director, officer and members of the Establishment, for the purpose of any preliminary inquiry or investigation were given the powers of search, arrest of persons and seizure of property and all other powers, duties, privileges and liabilities which a police officer has or is exercising in connection with the investigation of the offence under the Code of Criminal Procedure, 1898. Under section 6 of the Ordinance the government has been empowered to make rules for the carrying out the purpose of the Ordinance. While exercising powers under section 6, the province of West Pakistan framed West Pakistan Anti-Corruption Establishment Rules, 1965. The name of West Pakistan was substituted to KPK through KPK Act No.IV of 2011. In these rules the procedure pertaining to initiation of preliminary inquiry and investigation is given. Similarly, under Rule 4 the authorities are designated under the written order of whom inquiry against public officer BPS-18 and below and Public Officer in BPS-19 and above were to be initiated. For the purpose of present controversy, Rule 8 being very relevant, it is reproduced:-

8. Permission for submission of challan, recommending departmental action and dropped of the case.---(1) On completion of investigation, the authorities indicated below may accord permission for submission of challan to the Court:-

- (a) Director in cases in which public servants upto BPS-17 are involved.



(b) Chief Secretary in cases in which officers in BPS-18 and above are involved.

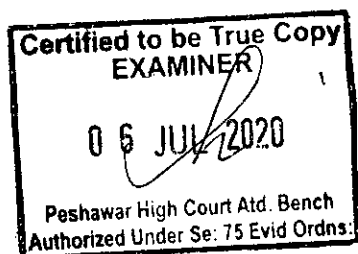
(2) If, after, investigation, it is found that prosecution is not called for but sufficient material is available on record for departmental action, the Establishment shall move the departmental authorities for departmental proceedings under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 1973 or, as the case may be, the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000.

(3) On completion of investigation, if allegations are not established the case shall be dropped and an intimation to this effect shall be sent to the authorities mentioned in sub-rule (2) of Rule-4.

(4) The authorities mentioned in sub-rule (1) above shall decide dropping of cases or departmental action.

(5) After a decision to take departmental action has been made under the foregoing sub-rule, the competent authority shall initiate departmental proceedings against the accused public servant.

(6) Copies of final report and summaries of dropped cases shall not be supplied without permission of the Director.

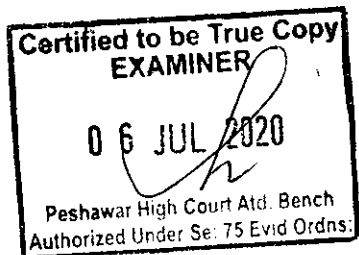


(7) When a decision to hold departmental enquiry against a public servant is taken, the Establishment shall provide facts of the case, statement of allegations, list of witnesses and documents, if any, to the Authority/Authorized Officer prescribed under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 1973 or, as the case may be, to the Competent Authority or Committee under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000."

Under Rule 8 (3) on completion of investigation, if allegations are not established the case shall be dropped and an intimation to this effect shall be sent to the authorities referred to above applicable to the case of civil servant. Under sub rule 4 of the Rules, the Authority above mentioned to decide either to drop the case or to

recommend for departmental action against the accused. In present cases while exercising powers under Rule 8 sub rule 4 of the ibid Rules vide letter dated 07.04.2011 and 23.05.2017, the subject criminal cases were dropped and the record was sent for completion.

8. During the course of hearing, we asked the learned Assistant Advocate General that after the impugned letters identify the procedure which was adopted, he after consulting the representative/Assistant Director, Anti-Corruption Establishment stated that under Rule 8 of the Rules, no further proceedings are required being a special law and the procedure as referred in S.173 Cr.P.C is not applicable. To elaborate this matter, it will be relevant to reproduce S.8 of the Ordinance:



“8. Provisions not in derogation of any other law -
-The provisions of this Ordinance are in addition to and not in derogation of any other law for the time being in force.”

Similarly, Rule 11 of the Rules is also relevant, it is also reproduced:-

“11. Application of Police Rules.---The Establishment shall, as far as may be, follow the provisions of Police Rules 1934 in the investigation and enquiry of offences specified in the Schedule to the Ordinance.”

The provisions of the Ordinance as well as the rules framed thereunder suggest that these are in addition to the Criminal Procedure Code and the Police Rules, 1934 and for all matters not expressly provided without recourse to the Criminal Procedure

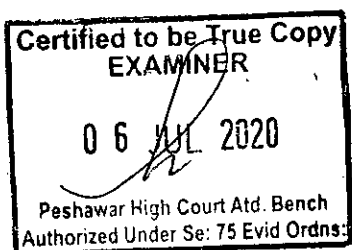
Code, 1898 neither the F.I.R can be cancelled nor the Criminal case can be closed. In the Rules, the decision made under Rule 8 (4) for dropping a case is considered final and no further procedure is provided, as such, there is either deficiency or lacuna left in the Rules. Whatever course the investigating officer adopts i.e. whether acts under section 169 or under section 170 Cr.P.C, it is incumbent upon him to submit a final report under section 173 Cr.P.C with regard to result of his investigation to a competent Magistrate. Reference can be made to the case of 'Habib Vs. The State' (1983 SCMR 370). Section 173 Cr.P.C being relevant it is reproduced.

"173. Report of police officer. (1) Every investigation under this Chapter shall be completed without unnecessary delay, and as soon as it is completed, the officer in charge of the police station shall, through the Public Prosecutor,

(a) forward to a Magistrate empowered to take cognizance of the offence on a police report a report, in the form prescribed by the Provincial Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond, and, if so, whether with or without sureties, and

(b) communicate, in such manner as may be prescribed by the Provincial Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given:

Provided that, where investigation is not completed within a period of fourteen days from the date of recording of the first information report under section 154, the officer in charge of the police station shall, within three days of the expiration of such period, forward to the Magistrate through the Public Prosecutor, an interim report in the form prescribed by the Provincial Government stating therein the result of the investigation



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made until then and the Court shall commence the trial on the basis of such interim report, unless, for reasons to be recorded, the Court decides that the trial should not so commence.

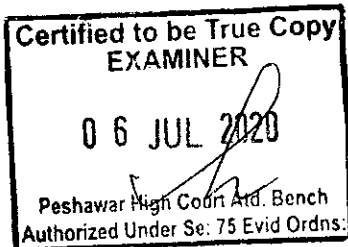
(2) Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the [Provincial Government] by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.

(3) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(4) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial:

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost.

(5) Where the officer in charge of a police station forwards a report under subsection (1), he shall along with the report produce the witnesses in the case, except the public servants, and the Magistrate shall bind such witnesses for appearance before him or some other Court on the date fixed for trial."



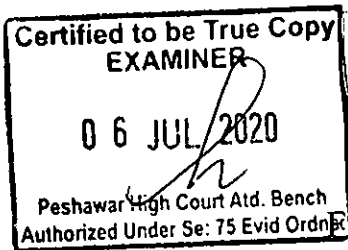
In the case of 'Dr. Muhammad Salman Ashraf Vs. Director, Anti-Corruption Establishment, Punjab, Lahore' (2004 YLR 2962), it is held that:-

"It is noteworthy that after the inquiry under the provisions of the Punjab Anti-Corruption Establishment Rules, 1985 the cases are registered under section 154, Cr.P.C., statements of the witnesses are recorded under section 161, Cr.P.C and after the investigation if the case is recommended for judicial action, final report is submitted under section 173, Cr.P.C. The crux of the provisions of sections 169, 170 and 173, Cr.P.C. is that whatever course the Investigating Officer adopts i.e. whether he acts under section 169 or under section 170, Cr.P.C. It is incumbent upon him to submit a final report under section 173, Cr.P.C. with regard to the result of his investigation to a competent Magistrate and the said Magistrate shall, thereupon, take such action as he may consider proper under subsection (3) of section 173, Cr.P.C or under section 190, Cr.P.C.

as the case may be. In PLD 1999 Lahore 109 this Court after discussing certain rules of the Punjab Anti-Corruption Establishment Rules, 1985 held as under:-

"..Rules have to remain within the parameters of the Act/Ordinance and the moment the same or some of them travel beyond the provisions of parent law the same are struck down as ultra vires..."

The droppage of cases after registration of the cases only at the level of the Officers of the Anti-Corruption Establishment is not only violation of the provisions of Cr.P.C. but also interference in the judicial functions of the Courts empowered to decide the cases finally. Moreover, the Anti-Corruption Establishment is an executive body and instances are there that its functionaries can be influenced by the political as well as influential personalities while exercising their authority. Hence the final action into cases of corruption, which is spreading over very badly and has to be dealt with iron hands in order to revive confidence of the people on the State Departments, cannot be left only at the option of the executive authority."



For the purpose of investigation and inquiries, the Anti-Corruption Establishment is following the Police Rules, 1934, as such, Police Rules, 1934, Chapter 24.7 is relevant, it is also reproduced: -

"Cancellation of cases:-Unless the investigation of a case is transferred to another police station or district, no first information report can be cancelled without the orders of a Magistrate of the 1st Class. When information or other intelligence is recorded under Section 154, Criminal Procedure Code, and, after investigation, is found to be maliciously false or false owing to mistake of law or fact or to be non-cognizable or matter for a civil suit, the Superintendent shall send the first information report and any other papers on record in the case with the final report to a Magistrate having jurisdiction, and being a magistrate of the first class, for orders of cancellation. On receipt of such an order the office in charge of the police station shall cancel the first information report cancelling the case with number and date of order. He shall then the original order to the Superintendent's office to be filed with the record of the case."

We have also gone through the recently amended Punjab Anti-Corruption Establishment Rules, 2014, the amended Rule 10 reads now as under:

“10. Dropping of case or reference for departmental action:- (1) The following procedure shall be followed for dropping a case or, as the case maybe, recommending disciplinary action:

- (a) On completion of investigation, if the allegations are not established, the case shall be dropped and intimation to that effect shall be sent to the concerned administrative department and the public servant; and
- (b) If after investigation, it is found that judicial action is not warranted but reasonable evidence is available to initiate disciplinary action against the public servant, the Establishment shall, after the confirmation of the cancellation report by the concerned court, refer the matter to the competent authority for initiation of such action in accordance with law for the time being in force.

- (2).....
- (3).....
- (4).....
- (5).....
- (6).....”

(under lines provided).

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 EXAMINER
 06 JUL 2020
 Peshawar High Court Atd. Bench
 Authorized Under Se: 75 Evid Ordns:

While the Khyber Pakhtunkhwa Anti-Corruption Establishment Rules, 1999, provide the decision of authority as final for dropping the case/F.I.R. The august Supreme Court of Pakistan in the case of “M. Abdul Latif. V. G.M Paracha and others’ (1981 SCMR 1101) in Para-7 held as under:

“He submitted that such an Establishment had, in fact, been created and it being a special law, only members of this Establishment could investigate the offences of corruption, and that, therefore, Police officers attached to the Anti Smuggling (Rice & Paddy) Mobile Team could not investigate such a case. This contention overlooks the provision of section 8 of the said Ordinance which provides:

“The provisions of this Ordinance are in addition to and not in derogation of any other law for the time being in force.”

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In the case of 'Mirza Muhammad Iqbal v. Government of Punjab (PLD 1999 Lahore 109), registration of cases against public servant at ordinary police stations under section 154 Cr.P.C was held to be maintainable. Para 8 of the judgment is relevant, it is reproduced:-

“Scrutiny of the provisions of the Ordinance shows that it does not contain any non obstante clause. On the contrary, section 8 clearly provides that the provisions of the Ordinance are in addition to and not in derogation of any other law for the time being in force. In other words, the application of all the provisions of Criminal Procedure Code, 1898 including section 154 of the Criminal Procedure Code, 1898 has not been ruled out, rather it has been clearly kept intact. Similarly, section 3 and section 6(2) of the Ordinance in terms do not talk of registration of a case but investigation of case or offences. However, Rule 8 of the Rules does talk of registration of cases and in fact lays down that criminal cases shall be registered by the Establishment under the written orders of officers of the Establishment mentioned in sub-rule (2). Similarly, Rule 9 lays down that if the arrest of a public servant becomes unavoidable during investigation, he may be arrested afterward. However, in the excepted cases permission of Commissioner/Chief Secretary will be required. Similarly, Rule 15 talks of dropping of cases or recommending departmental action. Some of the Rules deal with the Constitution of the District Anti Corruption Committees and Provincial Anti-Corruption Committees and so on. Prima facie some of the provisions of the Rules, 1985 travel beyond the provisions of the Ordinance. In particular, Rule 8(2) placing embargo on registration of cases is not covered by any provision of the Ordinance. The rule-making authority, therefore, seems to have taken upon itself the function of Legislature. It is well settled that rules are made by Executive Authorities and it is not the act of legislation. Rules have to remain within the parameters of the Act/Ordinance and the moment the same or some of them travel beyond the provisions of parent law, the same are struck down as ultra vires. Rules 8 and 9, in particular, and 8 some other rules can be dubbed as an exercise of legislation and an act of usurpation by the rule-making authority. If the objective was to describe the public servants as a

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06 JUL 2020
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns:

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