

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 288/2016

Moin-ud-Din

V/S

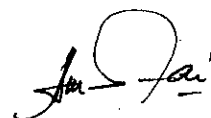
Govt: of KPK.


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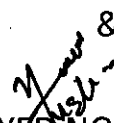
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APPELLANT

THROUGH:

  
(M.ASIF YOUSAFZAI)

  
(TAIMUR ALI KHAN)

  
(SYED NOMAN ALI BUKHARI)  
ADVOCATES, PESHAWAR

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 288/2016

Mr. Moin-ud-Din, Superintendent,  
Administration Department, Civil Secretariat, Peshawar.

**K.P. Province  
Service Tribunal**  
Diary No. 273  
dated 28-03-2016

(APPELLANT)

VERSUS

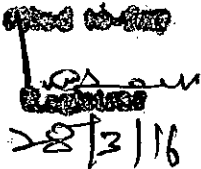
1. The Secretary, Govt: of KPK, Establishment Deptt: Peshawar.
2. The Secretary, Govt: of KPK, Local Govt: & Rural Development Deptt:, Peshawar.
3. The Accountant General, KPK, Peshawar.
4. The Secretary, Govt: of KPK, Inter-Provincial Coordination, Deptt: Peshawar.

(RESPONDENTS)

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 03.03.2016, WHEREIN THE CLAIM OF THE APPELLANT OF REIMBURSEMENT OF RS.176,798/- HAS BEEN DENIED FOR NO GOOD REASONS.**

**PRAYER:**

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 03.03.2016 MAY BE SET ASIDE AND THE RESPONDENT MAY BE DIRECTED TO REIMBURSE THE AMOUNT OF RS. 176,798/- TO THE APPELLANT BEING DUTY ON THE PART OF RESPONDENT DEPARTMENT. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

  
28/3/16

**RESPECTFULLY SHEWETH:**

**FACTS:**

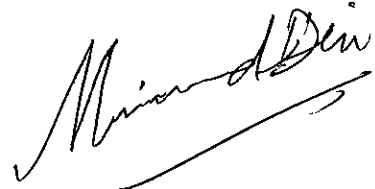
1. That while performing duty as assistant in the Local Government & Rural Development Department, Peshawar, the appellant was charged for some monetary regularizes due to which the appellant was retired compulsory along with recovery of Rs. 160,298/-.the appellant challenged that order in appeal No. 637/2009 before the KPK Service Tribunal. The said appeal was finally heard on 20.7.2009 and the appeal was accepted with the direction for conducting the de-novo inquiry. (Copy of the judgment is attached as Annexure-A)
2. That after the judgment of the Service Tribunal, the inquiry was conducted against the appellant in which was recommended that the confessed amount may be recovered in lump-sum or in installments, punishment of stoppage of annual increment for 3 years, simultaneously the Secretary, LG&RDD was also advised to recheck the record of the appellant if he deserve for reimbursement of any claim made arrangement for that because during the inquiry the petitioner claim that he has also spent some amount of Rs. 1,76,798/- from his personal packet which is yet to be payable to him. (copy of inquiry is attached as annexure-B)
3. That on the basis of the above mentioned inquiry the appellant was penalized for the recovery of Rs.80,000/- in 26 equal installments with a warning to the appellant. (Copy of the order is attached as Annexure-C)
4. That as the appellant claimed for reimbursement of amount of Rs.1,76,798/- was not satisfied, therefore, the appellant applied to the respondent No.1 through an application for his claim it was duly forwarded to the Secretary LG&RDD on 17.5.2010. (Copy of application is attached as Annexure-D)
5. That after the application, the appellant filed remainder on 14.6.2011 but no action was taken even on the remainder. (Copy of remainder is attached as Annexure-E)
6. That finally the appellant filed an appeal for reimbursement of his claim on 4.7.2011 and the same was also rejected on 17.9.2011. (Copies of departmental appeal and rejection order are attached Annexure-F&G)

7. That against the order dated 17.9.2011, the appellant filed service appeal No. 1755/2011 in this august Tribunal which was decided on 5.1.2016 with the direction that the claim of the appellant for Rs. 176798/- made in the application dated 4.5.2011 be considered and decided by the respondents No.2 within a period of two months from the date of receipt of the judgment. In case the respondent No. 2 failed to finally decide the claim of the appellant within specified period then the same would be recoverable from the government but in case of any omission or delay attributable to office of respondent No. 2 the same is to be recovered from his person. (Copies of service appeal and judgment 5.1.2016 are attached as annexure-H&I)
8. That for the implementation of judgment dated 5.1.2016, the appellant filed submitted an application along with the copy of judgment on 13.1.2016 and on the basis of that application the appellant was called for personal hearing on dated 26.1.2016 vide letter dated 22.1.2016. (Copies of application and letter are attached as annexure-J&K)
9. That the appellant appeared on dated 26.1.2016 for personal hearing and gave the detail of his claim of Rs176,798/-, but respondent No.2 dismissed the claim of the appellant on the basis of the receipt in which the appellant acknowledged that he has received 38000/ from SO Muhammad Ismail, which is attached with rejection order of the respondent No. 2, however respondent No. 2 only consider the pending bills of the appellant against SO Muhammad Ismail and did not consider the pending bill of the appellant against Mr.Daud Shah Ex-DDO, which was clearly mentioned in the inquiry report of the appellant. (copy of the dismissal of the claim by the respondent No.2 along with the receipt of the appellant is attached as annexure-L)
10. That the appellant filed an application on dated 29.2.2016 for providing decision taken on his personal hearing in the connection with Service Tribunal judgment by Secretary LG&RDD and on the basis of that application, the dismissal of the claim of the appellant on the basis of judgment dated 5.1.2016 was served to the appellant by letter dated 3.3.2016. (copies of application dated 29.2.2016 and rejection letter dated 3.3.2016 are attached as Annexure-M&N)
11. That now the appellant come to this august tribunal on the following grounds amongst others.

## GROUNDS:

- A) That the impugned order dated 3.3.2016 is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the matter which was primarily concerning some regularizes and financial matters in which there was amount of Rs. 1,60,298/- was due on the part of the appellant, while Rs. 1,76,798/- was due on the respondent department but in the instant case the appellant cleared the amount on his part while the amount for reimbursement of the appellant due on department is still pending which is against the principle of justice, because only claim of one side has been satisfied while the other side is still remaining disputed.
- C) That the inquiry committee has also recommended and advised the Local Government Department to recheck the record and if the appellant deserved for reimbursement then made arrangement for his claim but till-date the recommendation of the inquiry committee are ignored while the authority has acted partially on the recommendation of the inquiry committee by imposing one sided penalty.
- D) That the Honourable Tribunal has already decided the case vide judgment dated 5.1.2016 in which was clearly directed that respondent No. 2 considered the application dated 4.5.2011, but respondent No. 2 did not consider the claim of the appellant for Rs.176798 properly and only consider the pending bills of the appellant against SO Muhammad Ismail and did not consider the pending bill of the appellant against Mr.Daud Shah Ex-DDO, which means that respondent No.2 violate the judgment of this august Tribunal and did not follow the judgment dated 5.1.2016 in its true letter and spirit.
- E) That the appellant has been punished for no fault on his part and order dated 3.3.2016 has not passed on true facts.
- F) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

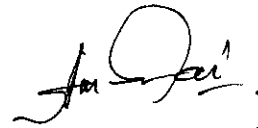
It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.



APPELLANT

Moin-ud-Din

THROUGH:

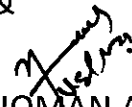


(M.ASIF YOUSAFZAI)



(TAIMUR ALI KHAN)

&



(SYED NOMAN ALI BUKHARI)

ADVOCATES, PESHAWAR

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 637/2009

Date of Institution. ... 21.3.2009  
Date of Decision ... 20.7.2009

(Appellant)

Muhammad-Din, Ex-Assistant (LG&RDD) NWFP Peshawar.

VERSUS

1. The Provincial Government of NWFP through Chief Secretary of NWFP, Peshawar.
2. The Chief Secretary, NWFP, Peshawar.
3. The Secretary, LG&RDD, NWFP Peshawar: .. (Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT 1974 READ WITH SECTION 10 OF THE NWFP REMOVAL FROM SERVICE (SPECIAL POWERS) ORDINANCE, 2000 AGAINST THE ORDER DATED 06.12.2008 WHEREBY THE PUNISHMENT OF COMPULSORY RETIREMENT AND RECOVERY OF RS. 160298/- WERE IMPOSED UPON THE APPELLANT AND AGAINST THE ORDER DATED 24.2.2009 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED ON NO GOOD GROUNDS.

MR. MUHAMMAD ASIF YOUSAFZAI,  
Advocate.

For appellant.

MR. ZAHID KARIM KHALIL,  
Addl. Government Pleader,

For the respondents.

MR. JUSTICE (R) SALIM KHAN,  
MR. ABDUL JALIL KHAN,

CHAIRMAN,  
MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN.- The appellant contended that he had 26 years service at his credit. A show cause notice was given to him on 20.10.2007. He replied to the notice. Charge sheet and statement of allegations were served on the appellant, alongwith Muhammad Daud Shah and Muhammad Ismail Qureshi, Section Officers. During Inquiry proceedings, no chance of defence was provided to the appellant and the copy of the Inquiry report was not given to the appellant. Personal hearing was also not given to the appellant. The penalty of Compulsory Retirement was imposed against the appellant. His departmental appeal was rejected on 24.12.2008.

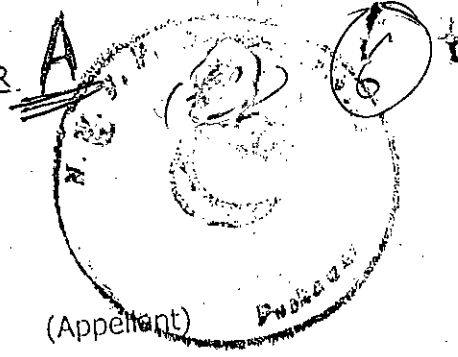
2. The respondents contested the appeal. They contended that the appellant had admitted his guilt and had prayed for permission to deposit the embezzled amount.

ATTESTED



ATTESTED





3. Arguments heard and record perused.

4. The record shows that the appellant had submitted that he was willing to pay the amount, if any, outstanding against him, but after proper accounting. The inquiry in this case was the 5<sup>th</sup> inquiry into the allegations. The matter with ex-D.D.Os with regard to the amounts payable to the appellant was not settled. No efforts were made to recover or adjust the amounts alleged to have been due to the appellant from his D.D.Os, and by adjustment on the basis of double payment. Right of personal hearing after a show cause notice was a legal right, which has never been given to the appellant. It amounts to condemning the appellant unheard, which is against the established principles of law, and against the recognized rules of natural justice and equity. A detailed probe into the case of the appellant is necessary to evaluate the strength of the allegations as well as of the plea of the appellant. A fair chance has to be given to the appellant at all stages of the departmental disciplinary proceedings.

5. In the light of the above, we accept the present appeal, set aside the impugned orders dated 06.12.2008 and dated 24.2.2009, and we direct the official respondents to reinstate the appellant into his service immediately, and to conduct a denovo detailed inquiry in the case of the appellant in order to unequivocally prove the guilt of the appellant, or otherwise. The issue of back benefits from the date of compulsory retirement of the appellant from service, to the date of his reinstatement as consequence of this order may be taken up for decision after completion of the above mentioned denovo inquiry proceedings. Parties are left to bear their own costs.

*Dr. Justice R. S. Sarda*  
*Chairman*  
*Dr. Akhilesh Jaiswal*  
*Member*

ANNOUNCED  
20.07.2009

*[Signature]*  
Secretary  
Department of Public Administration  
Government of India

ATTESTED  
*[Signature]*

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Date of delivery of work



B  
L  
(8)

Subject: INQUIRY AGAINST MR. MOEENUDDIN EX-ASSISTANT LOCAL GOVT. DEPARTMENT.

In light of the order regarding disciplinary proceedings against Mr. Moeenuddin Ex-Assistant Local Govt. Department, endorsed vide No. SO(1-IV), E&A/2(254) 194, dated 08/12/2009, the under signed have been appointed as Inquiry Committee to conduct a denovo detailed Inquiry against the official.

The charge sheet and statement of allegations duly signed by the Competent Authority were served upon the accused, for the following charges (Annexure-I).

- i- That amount of Rs. 1,43,992/- has been proved to be un paid to the concerned quarters pertaining to period of your posting as Accountant / Cashier while Mr. Daud Shah was DDO, Local Government Department.
- ii- That you failed to hand over the record to the concerned incumbent Section Officer / DDO, Local Government Department.
- iii- That during the period 15.05.2006 to 30.06.2006 of Mr. Ismail Qureshi, as DDO, an amount of Rs. 51,450/- remained unpaid as ascertained on the basis of actual payees receipts being unavailable and that you failed to verify the same in cash book from the DDO.
- iv- That you are responsible for non-payment of Rs. 1,56,432/- during the period of both DDO's which has been accepted by him.
- v- That during your tenure as Accountant / Cashier in Local Government Department you failed to verify an amount of Rs. 1,23,838/- and Rs. 1,30,380/- from your concerned DDO's.

#### PROCEEDINGS.

The accused submitted his reply vide Annexure-II. Besides the accused, the following officers were also called, heard and their statements were record.

- (1) Mr. Daud Shah,  
Former DDO, Local Government Department.
- (2) Mr. Muhammad Ismail Qureshi,  
Existing DDO Local Government Department.
- (3) Mr. Bilal,  
Existing Assistant / Cashier of Local Government Department.

The charges and replies to the charges by the accused are examined as under:

**ATTESTED**

*[Signature]*

(2) (9)

CHARGE NO. 1

That amount of Rs. 1,43,992/- has been proved to be un paid to the concerned quarters pertaining to period of your posting as Accountant / Cashier while Mr. Daud Shah was DDO, Local Government Department.

REPLY

I will pay the amount already stated after adjustment of my pending bills of Rs. 1,10,000 --(Approximately) pertaining to the period of Mr. Daud Shah Ex-DDO of Local Government Department and on receipt of payment already made in cash to him i.e. Rs. 19,500 - + 3000/- = 22500/- which has not yet been refunded by him to me.

VIEWS

He is admitting the payment of the amount, but subject to the condition that his pending bills of Rs. 110,000/- are adjusted and Mr. Daud Shah should pay Rs. 22,500/-. The statement of Mr. Daud Shah recorded in presence of the accused Mr. Moeeddin with an opportunity of cross examination. The statement of Mr. Daud Shah and questions / answers amongst Mr. Daud Shah is at Annexure-III.

The committee also examined the accused vide Annexure-IV, wherein he stated that the amount received for clearance of bills of various firms has been incurred by him on other items on verbal directions of high ups.

The committee is of the view that Mr. Moeeddin had no authority to incur the amount on other items which was received for payment to the various items. In case he had incurred such money on other items in emergency, then on re-couplement of the money on the basis of said expenditure, it should have been paid to the concerned firms.

According to the statement of Mr. Daud Shah he has denied the outstanding of any amount against him.

In view of the above and by confession of the accused, the charge is proved.

CHARGE-2

That you failed to hand over the record to the concerned incumbent Section Officer / DDO, Local Government Department.

REPLY

Record of my period has already been handed over to Mr. Bilal Gul Assistant LC&RDD just after last enquiry held in August, 2008.

**ATTESTED**  


VIEWS

The statement of Mr. Bilal present Cashier recorded in presence of Mr. Moeeddin accused. He was also given an opportunity to cross examine Mr. Bilal. The statement is at Annexure-V.

According to the reply and statement of Mr. Bilal, the charge does not  
prove.

CHARGE-3

That during the period 15.05.2006 to 30.06.2006 of Mr. Ismail Qureshi, as DDO, an amount of Rs. 51,450/- remained unpaid as ascertained on the basis of actual payees receipts being unavailable and that you failed to verify the same in cash book from the DDO.

REPLY

The amount of the period mentioned has already been paid and cash book also been signed by Mr. Muhammad Ismail Qureshi, Present DDO Local Government Department which may be verified from record/Cash Book.

VIEWS

The statement of Mr. Muhammad Ismail Qureshi existing DDO record vide Annexure-VI. He admitted the payment of Rs. 51,450/- hence the matter is settled. Therefore charge does not prove.

CHARGE-4

That you are responsible for non-payment of Rs. 1,56,432/- during the period of both DDO's which has been accepted by him.

REPLY

I will pay the amount if any after adjustment of my pending bills/Double payment to Benevolent Filling Station on account of P.O.L Charges, receipts already verified by the Manager Benevolent Filling Station in the presence of both the DDO's on direction of Enquiry Committee held in 08/2008.

VIEWS

The accused is admitting the payment. The position is the same as was for charge No. 1. The amount was incurred by the accused for which he was legally not authorized nor there is anything in writing on record, about incurrence of expenditure on the orders of high ups therefore charge is proved.

CHARGE NO. 5

That during your tenure as Accountant / Cashier in Local Government Department you failed to verify an amount of Rs. 1,23,838/- and Rs. 1,30,380/- from your concerned DDO's.

**ATTESTED**

11

REPLY

The amount pertaining to the period of Mr. Muhammad Ismail Qureshi has already been paid and Cash Book also been signed by him and he also been paid an amount of Rs. 58000/- to me as per receipts attached on account of clearance of my some pending bills pertaining to my period.

While for the period of Mr. Daud Shah-Ex-DDO will be signed by him after adjustment of my claim of Rs. 1,29,500/- (Approximately). After that I will pay the amount if any against me out of total recovery which is already accepted by me.

VIEWS

The reply is ambiguous. The charge was for non-verification of Rs. 123,838/- and 130,380/- whereas he is admitting the payment of Rs. 129,500/- after adjustment of his claims.

FINDINGS

Mr. Moeunddin as cashier, received the funds / money for specific payments but he has incurred that money on other items without any authority even he has not maintained proper documents. In case, in an emergency he was asked to do so, it was required that immediately he should have maintained proper record and got the orders in writing of high ups, therefore his all actions, were illegal and un-lawful which are proved as admitted by him.

It may also be worth mentioning, that in exceptional cases the cashiers faces the problems and provide money for expenditure in emergency, but for this purpose Govt. sanctions the imprest money. In the Local Government Department he had the imprest money of Rs. 25000/-

In this case the every charge has been considered as separate and independent. It is also clarified that Mr. Moeunddin neither in his reply to the charge sheet nor statements before the committee denied that the above charges are not separate and the amount has been wrongly calculated. However, he has the certain reservations, i.e. clearance of his bills etc. which he could not proved.

**ATTACHED**

★

RECOMMENDATIONS

In view of the above, the committee recommends the following.

- 1- The confessed amount may be recovered in lump sum or in installments. ✓
- 2- For his irregular actions the punishment of stoppage of annual increment for three years may be awarded.

Simultaneously the Secretary Local Govt. may be advised to re-check the record and if the accused deserves for re-imburement of any claim make arrangements for that. ✓

(JAVED SIDDIQI)  
 Section Officer  
 Establishment Department  
 Member Inquiry Committee

(MUSHTAQ AHMAD)  
 Deputy Secretary  
 Finance Department  
 Member Inquiry Committee

ATTESTED

A

Statement of Mr. Ismail Qureshi DDO Local Government Department before Inquiry Committee during hearing on 22/01/2010.

When you were DDO in Local Government Department Mr. Moin-un-din Assistant was Cashier with you. The Competent Authority has charged him as under. The reply of the accused is also reproduced there under.

Please clarify your position.

Charge:-

During the period 15/05/2006 to 30.06.2006 of Mr. Ismail Qureshi, as DDO, an amount of Rs.51,450/- remained unpaid as ascertained on the basis of actual payees receipt being unavailable and that you failed to verify the same in cash book from the DDO.

Reply:-

The amount of the period mentioned has already been paid and cash book also been signed by Mr. Muhammad Ismail Qureshi, Present DDO Local Government Department which may be verified from record / Cash Book.

CLARIFICATION

*Reply of Mr. Moin-un-din*

*Correct*

*Moin-un-din*  
*22/1/10*

**ATTESTED**

*A*

*22/1/10*

*Moin-un-din*  
*22/1/10*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHING WING)

Dated Peshawar the 19<sup>th</sup> August, 2010

**ORDER**

No. SOE.IV (E&AD) 2(254)/94.- **WHEREAS**, Mr. Moeen-ud-Din, Assistant (BS-14), Inter Provincial Coordination Department was proceeded against under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 for the charges mentioned in the Charge Sheet and Statement of Allegations.

2. **AND WHEREAS**, the competent authority constituted an Enquiry Committee to conduct Inquiry against the said official for the charges leveled against him, in accordance with the law / rules;

3- **AND WHEREAS**, the Inquiry Committee, after having examined the charges, evidence on record and explanation of the accused official, submitted its report, whereby the charges leveled against the accused official stood proved.

4- **NOW, THEREFORE**, the Competent Authority, after having considered the charges, evidence on record, the explanation of the accused official and the accused having returned an amount of Rs. 80,298/-, out of the total unpaid amount of Rs. 1,60,298/-, and his commitment for returning the remaining amount of Rs. 80,000/- in 26 equal monthly installments, has been pleased to warn him to be careful in future.

5- The Department concerned shall monitor recovery of the remaining amount in installments and report to Establishment Department from time to time.

SECRETARY TO GOVT. OF N.W.F.P.  
ESTABLISHMENT DEPARTMENT

Enclst. No. & Date even

Copy forwarded to: -

1. Secretary to Govt. of Khyber Pakhtunkhwa, Inter Provincial Coord: Department.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Local Govt & RD Department.
3. Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Section Officer (Secret) Establishment Department.
5. The Estate Officer, Administration Department.
6. Mr. Moeen-ud-Din, Assistant C/O SO(G) IPC Deptt.
7. PS to Chief Secretary, Khyber Pakhtunkhwa.
8. PS to Secretary Establishment.
9. PA to Additional Secretary(Estt) / Dy. Secretary(Estt) E&AD.

**ATTESTED**

(KALIMULLAH)  
SECTION OFFICER (E.IV)

D  
15  
2011

243671  
05/5/11

To

The Secretary to Government of Khyber Pakhtunkhawa,  
Establishment Department, Peshawar.

SUBJECT:- PERSONAL HEARING/REVISION OF ORDER.

Dear Sir,

243671  
05/5/2011

With due regards, it is stated that I was personally heard by your good self on 30.6.2010. An order vide No.SOE-IV (E&AD)2(254)/94,dated 19.8.2010 issued(F-A Copy enclosed) wherein recovery from the undersigned was shown while there was no direction issued to Secretary Local Government Department for clearance of my pending bills amounting to Rs.1,76,798/-which is payable to the undersigned as per detail given below:- (on that plea the DDO, LG&RDD not clearing my pending bills/claim). Copy of decision of Service Tribunal dated 20.7.2009 is attached as **Flag-B**).

- 1.Recovery from Benevolent Filling Station on account of Double payment.
- 2.Payment made to Mr.Asif Shahab, Ex-Deputy Secretary (DEV:)LG&RDD. (As per Receipt attached **Flag-C**).
- 3.Pending bills as per Statement of Ex-DDO Mr.Muhammad Daud Shah before the Inquiry Committee.(Copy attached).
- 4.Recovery of permanent Advance from Mr. Muhammad Daud Shah Ex-DDO And payment to the undersigned. As per inquiry report.

Rs.33, 631/-
Rs.10667/-
Rs.1, 10,000/-
Rs. 22,500/-
<b>Total - Rs.1, 76,798/-</b>

An early action is requested in this regard.

Dated. 04.5.2011.

Your Sincerely,

*Muhammad*  
(Muin-ud-Din) 04/5/2011  
Ex-Cashier, LG&RDD  
Presently Assistant, I.P.C Department.

**ALLOTTED**  
A





GOVERNMENT OF KHYBER PAKHTUNKHWA,  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

No. SOE.IV.(E&AD)2(254)/94

Dated Peshawar the 17.05.2011.

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Local Govt. Election & Rural Dev: Department.

Subject: PERSONAL HEARING / REVISION OF ORDER.

Dear Sir,

I am directed to refer to the subject noted above and to forward  
herewith a copy of the inquiry report of the inquiry committee with the request to  
kindly take necessary action in light of last para of the inquiry report as well as  
application of Mr. Muin-ud-Din, Ex-Cashier, LGE&RD Department.

Yours faithfully,

(MAQBOOL HUSSAIN)  
SECTION OFFICER (E.IV)

Encl: as above.

Endst: No. & date even

✓ Copy of the above is forwarded for information to Mr. Muin-ud-Din, Ex-  
Cashier, LG&RDD presently Assistant, Inter Provincial Coordination Department  
w.r to his application dated 04.05.2011.

SECTION OFFICER (E.IV)

ATTESTED

20/5/11  
Dated 19.5.11  
IPC Dept: Peshawar

E (17)  
1/6/11

To

The Secretary to Government of Khyber Pakhtunkhawa,  
Establishment Department (Competent Authority).

Attention:- The Section Officer(E-IV),  
Establishment Department, Peshawar.

SUBJECT:- PERSONAL HEARING/REVISION OF ORDER.

Dear Sir,

With due regards and with reference to Local Government and Rural  
Development Department letter No. SOG(LG)/1-27/2000/PF, dated 21.5.2011(Copy  
enclosed) address to you and copy to the undersigned on the subject noted above and  
state that action taken may please be intimated to the undersigned at the earliest please

Dated. 14.6.2011.

**ATTESTED**  
A

Yours Faithfully  
*Muhammad*  
14/6/2011  
(Muin-ud-Din)  
Ex-Cashier, LG&RDD.  
Assistant, I.P.C Department..

Copy to Section Officer (General) LG&RDD with reference to above.

*Copy to  
13/6/11  
to  
14/6/11*

*Muhammad*  
14/6/2011  
(Muin-ud-Din)  
Ex-Cashier, LG&RDD.  
Assistant, I.P.C Department..

APPEAL THROUGH PROPER CHANNEL.

F  
=

18

To

The Secretary to Govt. of Khyber Pakhtoonkhwa,  
Local Government Elections and Rural Development Department.

SUBJECT: - APPEAL FOR RE-IMBURSEMENT OF PENDING CLAIM OF RS.1,76,798/-

Dear Sir,

With due regards it is stated that I was remained as Cashier; Local Government Department W.e.f.1.3.2004 to 30.6.2006 and worked under the control of Two D.D.O s i.e Mr.Muhammad Daud Shah Ex-D.D.O, LG&RDD and Mr.Muhammad Ismail Qureshi, Present D.D.O, LG&RDD.

My pending bills pertaining to the period of Mr.Muhammad Ismail Qureshi have been cleared by him as he paid an amount of Rs.38,000/-(Copy Enclosed)to me on account of my pending bills, while the pending bills pertaining to the period of Mr.Muhammad Daud Shah, Ex-D.D.O has not cleared so far. The Ex-D.D.O has already been verified my pending bills of Rs.1,10,000/-pertaining to his period as he admitted in written statement recorded before the inquiry Committee by him(Copy attached).

I am, therefore, submit my appeal to your good self with the request to kindly arrange for payment of Rs.1,76,798/-as per my application already forwarded by the Establishment Department (Copy enclosed) to the undersigned and obliged.

"Thanks"

Dated 04.7.2011.

Yours Sincerely,

*Muhammad Ismail Qureshi*  
(MUIN-UD-DIN)  
Ex-Cashier, LG&RDD  
04/7/2011

Assistant, Inter Provincial Coordination Department

**ATTESTED**

*A*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LOCAL GOVERNMENT ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT.

No. SOG(LG)/1-27/2000/PF  
Dated Peshawar, the 17<sup>th</sup> September, 2011

To


The Section Officer (E-IV),  
Government of Khyber Pakhtunkhwa,  
Establishment Department,  
Peshawar.

**Subject:** PERSONAL HEARING / REVISION OF ORDER.

I am directed to refer to your letter No. SOE.IV (E&AD)2(254)/ 1094, dated 10/08/2011 on the subject noted above and to say that in the instant case five inquiries were conducted. The last Inquiry Committee comprising of M/S Zaheer ul Islam, DCO, Abbottabad and Muhammad Zubair Asghar Qureshi, Additional Secretary Coord (FATA) Secretariat decided the case after admitting his irregularities and an amount of Rs. 160,298/- payable by him including POL outstanding dues of his period. Half of the said amount has already been deposited by him in the State Bank of Pakistan and recovery is underway on monthly basis from his salary. A copy of his statement duly signed by him is enclosed for ready reference.

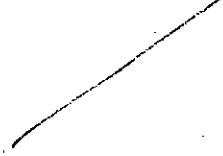
So far his present claim of Rs. 176,798/- is concerned, it is totally baseless neither he claimed it nor any officer/member of the any Inquiry Committee considered it. However Rs. 38,000/- related to Mr. Muhammad Daud Shah Ex. DDO Tenure and paid/cleared by the undersigned (receipt attached).

The matter is of precious time consuming which is wastage of energy of Establishment Department as well as Local Government Department.

  
SECTION OFFICER (GENERAL)  
LGE&RDD, PESHAWAR.

Copy of the above is forwarded to Mr. Muin ud Din, (Ex Cashier, LG&RDD) and now Assistant in IPCD, Peshawar.

**ATTESTED**

  
SECTION OFFICER (GENERAL)  
LGE&RDD, PESHAWAR.



H (20)

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

Appeal No. \_\_\_\_\_/2011

Mr. Moin-ud-Din, Assistant  
Inter Provincial Coordination Department,  
Industrial State, Kohat Road, Peshawar.

**PETITIONER**

VERSUS

- ✓1. The Secretary, Government of Khyber Pakhtunkhwa,  
Establishment Department, Peshawar.
- ✓2. The Secretary, Government of Khyber Pakhtunkhwa, Local  
Government & Rural Development Department, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Secretary, Government of Khyber Pakhtunkhwa, Inter-  
Provincial Coordination Department, Peshawar.

**RESPONDENTS**

.....

APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE ORDER DATED 17.9.2011 RECEIVED BY THE  
APPELLANT ON 05.10.2011 WHEREIN THE CLAIM OF  
REIMBURSEMENT OF RS.176,798/- HAS BEEN DENIED FOR  
NO GOOD REASONS.

**PRAYER:**

.....

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED  
ORDER DATED 17.9.2011 MAY BE SET ASIDE AND THE  
RESPONDENT MAY BE DIRECTED TO REIMBURSE THE  
AMOUNT OF Rs.1,76,798/- TO THE APPELLANT BEING  
DUTY OF THE PART ON THE RESPONDENT DEPARTMENT.  
ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL  
DEEMS FIT AND PROPER THAT MAY ALSO BE AWARDED  
IN FAVOUR OF APPELLANT.

**ATTESTED**



**RESPECTFULLY SHEWETH:**

1. That while performing duty as Assistant in the Local Government & Rural Development Department, Peshawar, the appellant was charged for some monitory regularizes due to which the appellant was retired compulsory along with recovery of Rs.,160,298/-. The appellant challenged that order in Appeal No.637/2009 before the K & Service Tribunal. The said appeal was finally heard on 20.7.2009 and the appellant was accepted with the direction for conducting the deno inquiry. Copy of Judgment is attached as Annexure-A.
2. That after the Judgment of Service Tribunal the inquiry was conducted against the appellant in which it was recommended that the confessed amount may be recovered in lump-sum or in installments, punishment of stoppage of annual increment for 3 years, simultaneously the Secretary, LG&RDD was also advised to recheck the record of the appellant if he deserve for reimbursement of any claim made arrangement for that because during the inquiry the petitioner claim that he has also spent some amount of Rs. Rs.1,76,798/- from his personal pocket which is yet to be payable to him. Copy of the inquiry is attached as Annexure-B.
3. That on the basis of the above mentioned inquiry the appellant was penalized for the recovery of Rs.80,000/- in 26 equal installments with a warning to the appellant. Copy of the Order is attached as annexure-C.
4. That as the appellant claimed for reimbursement of amount of Rs.1,76,798/- was not satisfied, therefore, the appellant applied to the respondent No.1 through an application for his claim it was duly forwarded to the Secretary LG&RDD on 17.5.2010. Copy of Application and Order are attached as Annexure-D.
5. That after the application, the appellant filed reminder on 14.6.2011 but no action was taken even on that reminder. Copy of Reminder is attached as Annexure-E.

**ATTESTED**



- 6. That finally the appellant filed an appeal for reimbursement of his claim on 4.7.2011 and the same was refused/rejected on 17.9.2011, the copy of which was handed to the appellant on 5.10.2011 after of his application. Copies of Appeal, Rejection orders are attached as Annexure-F, G & H.
- 7. That now the appellant comes to this august Tribunal on the following grounds amongst the others:

**GROUNDS:**

- A) That the order dated 17.9.2011 and not reimbursing the claim of the appellant is against the law facts, norms of justice and principle of fair play, therefore, not tenable.
- B) That the matter which was primarily concerning some regularizes and financial matters in which there was amount of Rs.1,60,298/- was due on the part of appellant, while Rs.1,76,798/- was due on the respondent department but in the instant case the appellant cleared the amount on his part while the amount for reimbursement of the appellant due on department is still pending which is against the principle of justice, because only claim of one side has been satisfied while the other side is still remaining disputed.
- C) That the inquiry committee has also recommended and advised the Local Government Department to recheck the record and if the appellant deserved for reimbursement then made arrangement for his claim but till-date the recommendation of the inquiry committee are ignored while the authority has acted partially on the recommendation of the inquiry committee by imposing one side penalty.
- D) That even the claim of the appellant is no properly inquired into due to which the appellant has been kept deprive of Rs.1,76,798/- in an arbitrary and principle matter which is permissible in the eyes of law. *arbitrary manner*
- E) That the appellant has been punished for no fault on his part and the order dated 17.9.2011 has not passed on true facts.
- F) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

**ATTESTED**

*[Signature]*

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

*Moin-ud-Din*  
APPELLANT  
Moin-ud-Din

THROUGH:

*M. Asif Yousafzai*  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

ACCEPTED  
*A*



29



S.No. of order or proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	05.01.2016	<p align="center"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></p> <p align="center"><u>Appeal No.1755/2011</u></p> <p align="center"><u>( Moin-ud-Din -vs- Secretary, Govt. of Khyber Pakhtunkhwa Establishment Department, Peshawar and three others)</u></p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Counsel for the appellant and Mr. Ansar Ahmed, AAO for respondent No. 3 alongwith Mr. Usman Ghani, Senior Government Pleader for respondents present.</p> <p>Appellant Moin-ud-Din has preferred the instant appeal under section-4 of the Khyber Pakhtunkhwa Service Tribunal Act. 1974 against order dated. 17.9.2011 wherein the claim of the appellant for reimbursement of Rs. 176798/- was denied to him by the respondents.</p> <p>Brief facts giving rise to the present appeal are that the appellant was serving as Assistant in Local Government and Rural Development Department, Peshawar and, on the basis of certain monetary irregularities, subjected to inquiry and, consequently, compulsorily retired from service with an order of recovery or Rs. 160298/-. The appellant, aggrieved of the said order, preferred departmental appeal followed by service appeal No. 637/2009 before the Service Tribunal which was decided vide judgment dated 20.7.2009 with directions that a <i>de novo</i> detailed inquiry be conducted in the allegations against the appellant which was accordingly conducted and, as a consequence of the said inquiry, the appellant was penalized but his claim for reimbursement was declined.</p> <p>Learned counsel for the appellant argued that the recommendations made by the inquiry committee were not implemented in totality as the claim of the appellant for reimbursement of Rs. 176798/-</p>

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**ATTESTED**

was not looked into despite directions of Court and clear cut recommendations of the inquiry committee. Learned Senior Government Pleader has argued that all the claims including the claim of the appellant were considered and that the claim of the appellant of Rs. 176798/- was found baseless and was, therefore, declined. In support of his arguments he placed reliance on letter No. SOG(LG)/1-27/2000/PF dated Peshawar the 17<sup>th</sup> September 2011 addressed to the Section Officer (E-IV), Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar under the signature of Section Officer (General) LGE&RDD, Peshawar.

We have heard the arguments of the learned counsel for the parties and perused the record.

We deem it appropriate to reproduce the recommendations of the inquiry committee available at page-11 of the record.

**Recommendations**

“ In view of the above, the committee recommends the following:

1. The confessed amount may be recovered in lump sum or in installments.
2. For his irregular actions the punishment of stoppage of annual increments for three years may be awarded.

Simultaneously the Secretary Local Govt. may be advised to re-check the record and if the accused deserves for reimbursement of any claim make arrangements for that.

Sd/---  
(JAVED SIDDIQI)  
Section Officer  
Establishment Department  
Member Inquiry Committee

Sd/---  
(MUSHTAQ AHMAD)  
Deputy Secretary  
Finance Department  
Member Inquiry Committee”

Perusal of the afore-stated recommendations clearly suggest that the Secretary Local Govt. was to re-check the record and if the appellant was found entitled to re-imburement of any claim, arrangements for the same were to be made. The afore-stated recommendations are in harmony

**ATTESTED**

*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**ATTESTED**

*[Signature]*

... of this Tribunal dated 20.7.2009 which has clearly directed that a detailed probe into the case of the appellant was necessary so as to evaluate the strength of the allegations as well as of the plea of the appellant. Letter referred to by the learned Senior Government Pleader dated 17<sup>th</sup> September 2011 would suggest that the claim was discarded on the ground that the same was not made before the inquiry committee and was also not considered by the inquiry committee. Since the inquiry committee has suggested in an unambiguous terms that the Secretary Local Govt. may re-check the record for assessing the claim of the appellant for reimbursement as such it would not be appropriate to observe that the appellant has not claimed reimbursement before the inquiry committee or that the inquiry committee has not considered the claim of the appellant in its report.

Keeping in view the judgment of this Tribunal dated 20.7.2009 and recommendations of the inquiry committee referred to above we therefore direct that the claim of the appellant for Rs. 176798/- made in the application dated 4.5.2011 be considered and decided by the respondent No. 2 within a period of two months from the date of receipt of this judgment. In case the respondent No. 2 failed to finally decide the claim of the appellant within specified period then the same would be recoverable from the government but in case of any omission or delay attributable to office of respondent No. 2 the same is to be recovered from his person. The appeal is decided in the above terms. Parties are however left to bear their own cost. File be consigned to the record room.

**ATTESTED**

*[Handwritten signature]*

*sdf*  
 (Abdul Latif)  
 Member

*sdf*  
 (Muhammad Azim Khan Afridi)  
 Chairman  
*05.01.16*

ANNOUNCED  
 05.01.2016

**Certified to be true copy**

*[Handwritten signature]*  
 MEMBER  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

Date of Presentation of Application 08-01-2016  
Number of Shares 1200  
Certificate No. 8  
Volume 2  
Total 10  
Name of Co. GM  
Date of Issue 08-01-2016  
Date of Maturity of 08-01-2016

To

J (27)

*Recd*  
14-1-16  
*[Signature]*  
14/1/16

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Local Government & R.D. Department, Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Inter Provincial Coordination Department, Peshawar.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

SUBJECT:- IMPLEMENTATION OF DECISION/JUDGEMENT, OF AUGUST KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR IN APPEAL NO.1755/2011 IN RESPECT OF MR. MUIN-UD-DIN ASSISTANT LG&RDD ON 05-01-2016.

Dear Sir,

With due respect the undersigned is requested to kindly take necessary action on the subject case at earliest please.

Photo copy of Judgment/ Decision is enclosed.

Encl: As Above.

Dated 13.01.2016.C

Your Sincerely

*[Signature]*  
(MUIN-UD-DIN) 13/01/2016

SUPERINTENDENT (B-17)  
ADMINISTRATION DEPARTMENT  
CIVIL SECRETARIAT, PESHAWAR.

ATTESTED

*[Signature]*



K. 28

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
LOCAL GOVERNMENT, ELECTIONS & RURAL DEVELOPMENT  
DEPARTMENT**

No. SOG(LG)/1-27/2000/PF

Dated the Peshawar 22<sup>nd</sup> January, 2016

To

✓  
Mr. Muin ud Din,  
Superintendent,  
Administration Department,  
Peshawar.

**Subject: IMPLEMENTATION OF DECISION/JUDGEMENT OF AUGUST KHYBER SERVICE TRIBUNAL PESHAWAR IN APPEAL NO. 1755/2011 IN R/O MR. MUIN UD DIN, ASSISTANT, LG&R5DD ON 05/01/2016.**

Reference your application No. Nil dated 13/01/2016 on the subject noted above and in compliance of the judgment of Chairman Khyber Pakhtunkhwa Service Tribunal, the Respondent No. 2 i.e. Secretary, LG&RDD has been pleased to call you for personal hearing on **26/01/2016 at 1100 Hrs** in his office.

You are therefore directed to ensure your presence along with relevant record on the above mentioned date and time and venue.

SECTION OFFICE (GENERAL)  
LG,E&RDD,

Copy of the above is forwarded to:

- 1) The Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar for information, please.
- 2) The P.S. to Secretary, LG&RDD, Peshawar.
- 3) The Deputy Secretary (Admn:), LG&RDD, Peshawar with the request to be present on the above date, time and venue as desired by the Secretary, LG&RDD.
- 4) The Section Officer (Lit), LG&RDD, Peshawar.
- 5) The Accountant, LG&RDD, Peshawar

SECTION OFFICE (GENERAL)  
LG,E&RDD, PESHAWAR

**ATTESTED**

IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

IN  
APPEAL NO. 1755/2011

Mr. Muin-ud-Din, Assistant

Appellant

Versus

Secretary to Govt: of Khyber Pakhtunkhwa,  
Local Govt: Elections & Rural Development  
Department and others

Respondents

APPLICATION FOR FILING COMPLAINEE REPORT OF ORDER DATED  
05/01/2016 ON BEHALF OF RESPONDENT NO. 2 I.E SECRETARY LOCL GOVT  
OF KHYBER PAKHTUNKHWA.

Respectfully Sheweth:-

1. That the appellant had filed an appeal before the Hon'able Services Tribunal Khyber Pakhtunkhwa.
2. That this Hon'able Tribunal heard the said case on 05/01/2016, wherein the undersigned/Government of Khyber Pakhtunkhwa was directed to dispose of the case of the appellant within 02-months from the receipt of the judgment.
3. That the undersigned in compliance of orders of the Hon'able Tribunal, called for personal hearing of Mr. Muin-ud-Din, Ex-Accountant, LG,E&RDD (appellant) on 26/01/2016 at 1100 Hrs in presence of Deputy Secretary (Admin) the then D.D.O, Section Officer (General) and Mr. Haji Muhammad Private Secretary, Establishment Section, LG,E&RDD.
4. That the undersigned asked from the appellant about his claim of Rs. 176,798/- and asked him to produce proof in this regard. The appellant failed to submit any record or proof in favour of his claim.
5. That while proceeding the case, Deputy Secretary (Admin), LG,E&RDD showed a receipt to the undersigned wherein Mr. Muin-ud-Din (appellant) admitted that he has received an amount of Rs. 38,000/- from Mr. Muhammad Ismail Qureshi (the then Section Officer (General) and Drawing & Disbursing Officer of LG,E&RDD) and after that nothing is outstanding against the department (Annex-A).
6. That while going through the case, the record of this department clearly shows/reveals that no such amount is pending on the part of LG,E&RDD to be reimbursed to appellant (Mr. Muin-ud-Din).

**ATTESTED**


*[Signature]*

4 (29)

That upon the said action on part of the respondent, the undersigned finally came to the conclusion that the appellant has failed to prove his claim, therefore, the undersigned dismissed the claim of the appellant due to the facts explained in the above paras.

Enclosure

Compliance report is submitted for kind perusal of the Hon'able Tribunal, please.

  
(SYED JAMAL-UD-DIN SHAH)  
Secretary Local Govt: Department  
Khyber Pakhtunkhwa  
(Respondent No. 2)

(SECRETARY)  
Govt of Khyber Pakhtunkhwa  
Local Govt Elections & Rural Devt  
Department

ATTESTED





رہ سید

میں مسی معین الدین سابقہ اکاؤنٹس، محکمہ بلدیات و دیہی ترقی، حکومت صوبہ سرحد کوٹلہ،  
 حواس مندرجہ ذیل گواہوں کی موجودگی میں مبلغ- Rs. 38,000/- (روپے) آج بمسوخہ 29/08/2008 کو  
 جناب مسی محمد اسلمیل قریشی موجودہ سیکشن انسر (جنرل)، بلدیات، صوبہ سرحد سے بائٹ بلز التوا (pending  
 bills) وصول کر کے رسید لکھ دی تاکہ سند رہے اور بوقت ضرورت کام آئے۔ مزید برآں اب سیرا کوئی بقایا ملے یا نقد  
 رقم جناب محمد اسلمیل قریشی صاحب کے ذمے نہیں ہے۔

العارض

*(Signature)*  
 29/8/2008  
 (معیین الدین)

سابقہ اکاؤنٹس، محکمہ بلدیات۔

*(Signature)*  
 29/8/08  
 گواہ نمبر ۳۳- سید نسیم الدین شاہ  
 جوئیہ کلرک، محکمہ بلدیات۔

*(Signature)*  
 29/8/08  
 گواہ نمبر ۲- گل حسن  
 نائب قاصد، محکمہ بلدیات۔

*(Signature)*  
 29/8/08  
 گواہ نمبر ۱- حاجی محمد  
 پرنس اسٹنٹ، محکمہ بلدیات۔

تصدیق کنندہ

*(Signature)*

(جنت گل آفریدی)

نائب معتمد (انتظامیہ)

محکمہ بلدیات و دیہی ترقی۔

DEPUTY SECRETARY  
 LOCAL GOVT. DEPTN  
 H. W. B. P.

ATTESTED

A

M (32)

The Secretary to Government of Khyber Pakhtunkhwa,  
Local Government and Rural Development Department.

SUBJECT:- DECISION TAKEN IN CONNECTION WITH PERSONAL HEARING  
WITH SECRETARY, LG&R.D. DEPARTMENT ON 26.01.2016.

Dear Sir,

With due regards, it is stated that the undersigned personally heard  
On 26.01.2016 by your good self, in connection with Service Tribunal Judgment dated  
05.01.2016.

It is, brought into your kind notice that decision taken in subject case has not  
been provided to the undersigned which may please be provided to the undersigned for record  
please.

Dated 29.02.2016.

GOVERNMENT OF K.P.  
Dated 29/02/16  
29/03/16

Your Sincerely,  
*dc*  
*Muhammad Din*  
(MUJIN-UD-DIN) 29/02/16  
SUPERINTENDENT  
ADMINISTRATION DEPARTMENT/  
EX-ACCOUNTANT, LG&R.D. DEPTT.

ATTESTED  
*[Signature]*



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

N 32

No. SOG/LG/7-1/MISC:/2016  
Dated the Peshawar 03<sup>rd</sup> March, 2016

To

Mr. Muin-d-Din,  
Superintendent, Administration Department,  
Ex-Accountant LG&RDD,  
Peshawar.

Subject: **DECISION TAKEN IN CONNECTION WITH PERSONAL HEARING WITH  
SECRETARY, LG&RD DEPARTMENT ON 26/01/2016.**

I am directed to refer your letter No. Nil, dated 29/02/2016 on the subject noted above and to enclose herewith a copy of the decision taken in connection with Personal Hearing with Secretary, LG&RDD on 26/01/2016 duly approved by the Competent Authority for your information and record.

**Encl: as above.**

SECTION OFFICER (GENERAL)

Copy forwarded to the PS to Secretary, LG,E&RDD for information, please.

SECTION OFFICER (GENERAL)

ATTESTED

# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

Moin-ud-Din

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Govt of KPK

(Respondent)  
(Defendant)

I/We Moin-ud-Din

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

Moin-ud-Din  
( CLIENT )

ACCEPTED

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
Advocate

Taimur Ali Khan  
**TAIMUR ALI KHAN**  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

Syed Womani Ali Bulboos

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

Appeal No.288/2016

Mr. Moin ud Din, Assistant

.... Petitioner

**VERSUS**

Secretary to Govt of Khyber Pakhtunkhwa, Establishment Department & Others

.... Respondents

**PARAWISE COMMENTS FOR/ON BEHALF OF RESPONDENTS NO.1,2 & 4**

**Preliminary Objection:-**

1. That the appellant has got no cause of action and locus standi to institute the instant appeal.
2. That the appellant has not come to the Service Tribunal with clean hands.
3. That the appeal is not maintainable and not covered by the relevant rules.
4. That due to concealment of material facts and misstatement, appeal is liable to be dismissed.
5. That the appellant is estopped by his conduct to file the instant appeal.
6. That the appeal is bad due to non-joinder of necessary party.
7. That appellant filed this appeal with mala-fide intention
8. That the appellant instituted this appeal just to pressurize the respondents.


**ON FACTS.**

**Para.1**

Due to his involvement in embezzlement of Govt money, the appellant was proceeded against under the NWFP Removal from Service (Special Powers) Ordinance-2000. Allegations levelled against the appellant were proved consequent to which the competent authority completion of legal requirements awarded a major penalty of compulsory retirement as well as recovery of Rs. 160,298/- upon the appellant. However, in pursuance of judgment announced by the Khyber Pakhtunkhwa Service Tribunal on 20.7.2009, the appellant was re-instated in the Service and a deno<sup>vo</sup> inquiry was initiated against him.

**Para.2**

Correct to the extent that in compliance of judgment of Khyber Pakhtunkhwa Service Tribunal a deno<sup>vo</sup> inquiry was conducted against the appellant. The Inquiry Committee recommended imposition of minor penalty of stoppage of Annual Increment and recovery of Rs. 160,298/- upon the appellant. As recommended by the Inquiry Committee the record was rechecked and it was confirmed that the recovery of Rs. 160,298 from the appellant was rightly decided by the

  
Section Officer (LT)  
Local Govt. Elections & RDP  
Khyber Pakhtunkhwa

Inquiry Committee. The appellant has himself admitted and confessed that there is an amount of Rs. 160,298 which is payable by him including POL outstanding dues pertaining to his stay as Accountant/Cashier in LG E & RDD. The breakup of the amount in question as well as the statement of the appellant given 11.09.2008 is at **Annex-A**. Hence, claim of the petitioner that he has spent Rs. 176,798 from his personal pocket being false/baseless hence denied.


**Para.3**


Incorrect and denied. The Inquiry Committee has recommended recovery of Rs. 160,298 from the appellant as confessed by him out of which an amount of Rs. 80,298 was deposited in lump sum in State Bank of Pakistan, Peshawar on 07.02.2010 **Annex-B** while the remaining amount of Rs. 80,000 deducted from the monthly salary of the appellant

**Para.4**

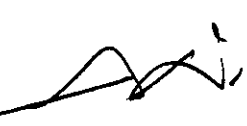
On receipt of the application from the appellant claiming of Rs. 176,798 the case was examined and after confirmation from the relevant record as well as statement given by the appellant on 11.09.2008 as **Annex-A** above, his claim was not proved and as such his application was filed being baseless. It is clarified that the appellant was required to agitate this amount before the Inquiry Committee but he did not provide any authentic documentary proof in support of his claim.

In light of the position explained above, it is humbly prayed that the appeal having no legal value may be dismissed with cost.

  
Secretary  
Establishment Department  
Khyber Pakhtunkhwa  
Respondent No. 1  
**SECRETARY ESTABLISHMENT**  
Establishment & Administration  
Department.

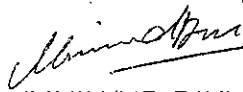
  
Secretary  
Inter Provincial Coordination Department  
Khyber Pakhtunkhwa  
Respondent No. 4

July 28/2016  
Secretary  
Government of Khyber Pakhtunkhwa  
Inter Provincial Coordination Department


  
Secretary  
Local Government, Election  
& Rural Development Department  
Khyber Pakhtunkhwa  
Respondent No.2  
**(SECRETARY)**  
Govt. of Khyber Pakhtunkhwa  
Local Govt: Election & Rural Dev:  
Department

**DETAIL OF BILLS/AMOUNT NOT VERIFIED/SIGNED BY THE D.D.O.  
(MR.MUHAMMAD DAUD SHAH) CONCERNED IN THE CASH BOOK  
FOR THE PERIOD WITH EFFECT FROM MARCH, 2005 TO JUNE, 2006.**

S.No.	Cash Book Page No.	Cheque No. & Date	Kind of bill	Amount not Signed by D.D.O.
1	2-3	AB/28, 323542, dt: 9/3/06	Stationery Charges	Rs. 2,973/-
2	10-11	BB/25, 326627, dt: 9/5/05	P.O.L.	Rs. 8,128/-
3	20-21.	HB/78, 464359, dt: 25/6/05	P.O.L.	Rs. 5,050/-
4	30-31	AB/96, 466934, dt: 31/8/05	P.O.L.	Rs. 8,154/-
5	54-55	0002902, dated 31/03/2006	P.O.L.	Rs. 8736/-
<b>Sub Total:</b>				<b>Rs. 34,893/-</b>
<p>Besides above, an amount of Rs. 224,487/- was also drawn on account of POL Charges but not paid to the Benevolent Fund Filling Station which has later on demanded from the Finance Department vide Flag-A and paid to Benevolent Fund of their pending dues. Copies of said letter addressed to Finance Department, advice of the Finance Department, bill passed by A.G. received by the Manager, BFF on the face of the bill is also attached for ready reference.</p>				<b>Rs. 125,405/-</b>
<p>Out of Rs. 224,487/- an amount of Rs. 125,405 pertain to my period (w.e.f. 03/03/2005 to 30/06/2006).</p>				
<p>The remaining amount of Rs. 99,082/- pertains to my predecessor and they are responsible for the same (i.e. M/S Muhammad Tufail, Fida Muhammad).</p>				
<p>The total amount of Rs. 160,298/- is now payable by the undersigned including POL outstanding dues of my period.</p>				

  
 11/8/2008  
 (MUIN-UD-DIN)  
 EX-ACCOUNTANT/CASHIER,  
 LG&RDD, NWFP, PESHAWAR.

Section Officer (LT)  
 Local Govt. Elections & RO  
 Khyber Pakhtunkhwa

Attested  


Annexure-B

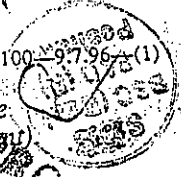
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4379

SECTION OFFICER (GENERAL)  
LOCAL GOVT. ELECTIONS AND  
RURAL DEVELOPMENT DEPT.

GS&PD.—NWFP.—11-F.S.—5000 P of 100—9796—(1)

(This portion to be transmitted by the Bank Agent to the  
Treasurer of the Government in his daily account)



To

THE MANAGER, STATE BANK OF PAKISTAN.

PROVINCIAL

Peshawar

State Bank of Pakistan  
Peshawar  
RECEIVED IN CASH  
07 JUL 2010

dated the 02<sup>nd</sup> of July 2010  
Received from the bearer the sum of Rs. 80,298/- (Rupees Eighty thousand two hundred  
and ninety eight only) at which the sum of Rs. 80,298/- is  
to be credited to Government account under the head  
of account of Govt. Indus. Adm. Un-Dir. Ex. Acct: L4  
Admn. CO 2870 - other

Signature and full official designation of the  
officer ordering the money to be paid in.

STATE BANK OF PAKISTAN

dated the.....of.....19

Received from the bearer.....

the sum of Rs.....

to be credited to Government account under the head.....

on account of.....

Manager

This portion to be returned to the payee received by the Agent.

Note.— The Bank Agent is instructed not to receive money unless both portion of  
the invoice are carefully and clearly filled in.

See reverse.

N.W.F.P. A&T 200

SECTION OFFICER (GENERAL)  
LOCAL GOVT. ELECTIONS AND  
RURAL DEVELOPMENT DEPT.  
N.W.F.P.

Attested  
Section Officer (LT)  
Local Govt. Elections & RD  
Peshawar



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

Appeal No. 288/2016

Mr. Moin Ud Din, Assistant

..... Petitioner


**Versus**

1. Secretary to Govt of Khyber Pakhtunkhwa, Establishment Department &  
Others.

..... Respondents

**AFFIDAVIT**

I, Mr. Muhammad Sahibzada, Section Officer (Litigation), Local Government, Elections & Rural Development Department, Peshawar do hereby solemnly affirm and declare on oath that Parawise Comments/reply in Appeal No.288/2016- Moin Ud Din Versus Secretary Establishment etc. on behalf of Respondent No. 1, 2 & 4 are true and correct to the best of my knowledge & belief and nothing has been concealed from this Honorable Court.

  
DEPONENT  
CNIC# 17301-1482474-7  
22/8/2016

IDENTIFIED BY

Additional Advocate General,  
Khyber Pakhtunkhwa.

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

Appeal No.288/2016

Mr. Moin ud Din, Assistant

.... Petitioner

**VERSUS**

Secretary to Govt of Khyber Pakhtunkhwa, Establishment Department & Others

.... Respondents

**PARAWISE COMMENTS FOR/ON BEHALF OF RESPONDENTS NO.1,2 & 4**

**Preliminary Objection:-**

1. That the appellant has got no cause of action and locus standi to institute the instant appeal.
2. That the appellant has not come to the Service Tribunal with clean hands.
3. That the appeal is not maintainable and not covered by the relevant rules.
4. That due to concealment of material facts and misstatement, appeal is liable to be dismissed.
5. That the appellant is estopped by his conduct to file the instant appeal.
6. That the appeal is bad due to non-joinder of necessary party.
7. That appellant filed this appeal with mala-fide intention
8. That the appellant instituted this appeal just to pressurize the respondents.

**ON FACTS.**

**Para.1**

Due to his involvement in embezzlement of Govt money, the appellant was proceeded against under the NWFP Removal from Service (Special Powers) Ordinance-2000. Allegations levelled against the appellant were proved consequent to which the competent authority completion of legal requirements awarded a major penalty of compulsory retirement as well as recovery of Rs. 160,298/- upon the appellant. However, in pursuance of judgment announced by the Khyber Pakhtunkhwa Service Tribunal on 20.7.2009, the appellant was re-instated in the Service and a deno<sup>vo</sup> inquiry was initiated against him.

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*Attested*  
*[Signature]*  
Section Officer (LIT)  
Local Govt: Elections & RDD  
Khyber Pakhtunkhwa

Inquiry Committee. The appellant has himself admitted and confessed that there is an amount of Rs. 160,298 which is payable by him including POL outstanding dues pertaining to his stay as Accountant/Cashier in LG E & RDD. The breakup of the amount in question as well as the statement of the appellant given 11.09.2008 is at **Annex-A**. Hence, claim of the petitioner that he has spent Rs. 176,798 from his personal pocket being false/baseless hence denied.

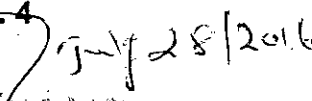
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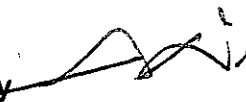
**Para.4** On receipt of the application from the appellant claiming of Rs. 176,798 the case was examined and after confirmation from the relevant record as well as statement given by the appellant on 11.09.2008 as **Annex-A** above, his claim was not proved and as such his application was filed being baseless. It is clarified that the appellant was required to agitate this amount before the Inquiry Committee but he did not provide any authentic documentary proof in support of his claim.

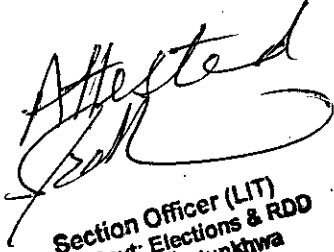
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Khyber Pakhtunkhwa  
Respondent No. 1  
SECRETARY ESTABLISHMENT  
Establishment & Administration  
Department.

Secretary  
Inter Provincial Coordination Department  
Khyber Pakhtunkhwa  
Respondent No. 4

  
Secretary  
Government of Khyber Pakhtunkhwa  
Inter Provincial Coordination Department

  
Secretary  
Local Government, Election  
& Rural Development Department  
Khyber Pakhtunkhwa  
Respondent No.2  
(SECRETARY)  
Govt. of Khyber Pakhtunkhwa  
Local Govt. Election & Rural Dev.  
Department

  
Section Officer (LIT)  
Local Govt. Elections & RDD  
Khyber Pakhtunkhwa

**DETAIL OF BILLS/AMOUNT NOT VERIFIED/SIGNED BY THE D.D.O.  
(MR.MUHAMMAD DAUD SHAH) CONCERNED IN THE CASH BOOK  
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The total amount of Rs. 160,298/- is now payable by the undersigned including POL outstanding dues of my period.				

*Attested*

**Section Officer (LIT)  
Local Govt: Elections & RDD  
Khyber Pakhtunkhwa**

*Muhammad Din*  
11/9/2008  
**(MUIN-UD-DIN)  
EX-ACCOUNTANT/CASHIER,  
LG&RDD, NWFP, PESHAWAR.**

Annexure - B

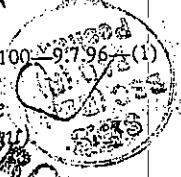
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4379

SECTION OFFICER (GENERAL)  
LOCAL GOVT. ELECTIONS AND  
RURAL DEVELOPMENT DEPT.

GS&PD.—NWFP.—11-F.S.—5000 P of 100—9796—(1)

(This portion to be transmitted by the Bank Agent to the  
Treasury Office in his daily account)



To THE MANAGER, STATE BANK OF PAKISTAN.

*Peshawar*

State Bank of Pakistan  
Peshawar  
RECEIVED IN CASH  
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Signature and full official designation of the  
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N.W.F.P. A&T 200

SECTION OFFICER (GENERAL)  
LOCAL GOVT. ELECTIONS AND  
RURAL DEVELOPMENT DEPT.  
N.W.F.P.

*Attested*  
*[Signature]*

Section Officer (LIT)  
Local Govt. Elections & RDO  
Khyber Pakhtunkhwa

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 281/2016

Moin ud Din

VS

Govt: of KPK.

.....  
**REJOINDER ON BEHALF OF APPELLANT**  
.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

1. The basis on which the appellant was compulsory retired was set aside by this august Tribunal and directed for denovo inquiry in which the inquiry committee recommended that the confessed amount may be recovered in lump-sum or in installments, punishment of stoppage of annual increment for 3 years, simultaneously the Secretary, LG&RDD was also advised to recheck the record of the appellant if he deserve for reimbursement of any claim made arrangement for that because during the inquiry the petitioner claim that he has also spent some amount of Rs. Rs.1,76,798/- from his personal packet which is yet to be payable to him but the respondents did not take any action the recommendation of the inquiry committee in respect of the claim of the appellant.
2. First portion of para 2 is admitted correct hence no comments while the rest of para is incorrect as the inquiry committee has itself recommended and advised the Local Government Department to recheck the record and if the appellant deserved for reimbursement then made arrangement for his claim but till-date the recommendation of the inquiry committee are ignored while the authority has acted partially on the recommendation of the inquiry

committee by imposing one side penalty and did not consider the claim of the appellant. Which means that the appellant cleared the amount on his part while the amount for reimbursement of the appellant due on department is still pending which was denied by the respondents which is against the principle of justice.

3. No comments.
4. Incorrect. While para 4 of the appeal is correct.

Reply to the facts from 5 to 11 and similarly reply to ground was not given by the respondents which mean that facts from 5 to 11 and grounds of the appeal are correct.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

Through: APPELLANT  
*M. Asif Yousafzai*  
( M. ASIF YOUSAFZAI )  
ADVOCATE SUPREME COURT,  
&

( TAIMUR ALI KHAN )  
ADVOCATE HIGH COURT.

### AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

**ATTESTED**  
Oath Commissioner  
Zahoor Khan Advocate  
Distt: Court Peshawar

12 JAN 2017

*Rai*  
DEPONENT

Before the Service Tribunal Khyber Pakhtunkhwa Peshawar

Moin-ud-Din.....Plaintiff.

V/S

The Secretary to Government of Khyber Pakhtunkhwa  
Establishment Department Peshawar and others.....Respondents.

(Reply on behalf of respondent No. 3)

**Preliminary Objections:**


- 1) That the appellant has no cause of action.
- 2) That the appellant has no locus standi.
- 3) That the appeal in hand is not maintainable.
- 4) That appellant is bad due to joinder and non joinder of necessary parties.

**Respectfully Sheweth:-**

Para 1 to 11:-No Comments.

Being an administrative matter, the issue relates to respondent No. 1, 2 & 4. And they are in better position to satisfy the grievances of the appellant. Hence the appellant is required to approach the above respondents.

Keeping in view the above mentioned facts, it is therefore humbly prayed that the appeal in hand having no merits may be dismissed with cost.

  
ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA