

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMPT COURT ABBOTTABAD.

Service Appeal No. 707/2018

BEFORE: **MR. KALIM ARSHAD KHAN** ... **CHAIRMAN**
 MISS. FAREEHA PAUL ... **MEMBER(E)**

Muhammad Nabi S/O Gul Namir, Ex- Naib Qasid BPS-03 at the office of District Population Welfare Office, Kohistan.

... **(Appellant)**

Versus

1. **The Govt. of Khyber Pakhtunkhwa through Director General Population Welfare Department, Peshawar.**

2. **District Population Welfare Officer, Kohistan at Dasso.**

... **(Respondents)**

Mr. Abdul Saboor Khan
Advocate

...

For appellant

Mr. Muhammad Riaz Khan Paindakhel
Asstt. Advocate General

...

For respondents

Date of Institution.....23.05.2018

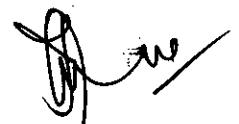
Date of Hearing.....17.05.2022

Date of Decision.....18.05.2022

JUDGEMENT

FAREEHA PAUL MEMBER (E) The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned order/notification dated 16.01.2018 issued by respondent No. 2 whereby major penalty of removal from service was imposed upon him on grounds of willful absence and conviction in a criminal case.

2. Brief facts of case, as given in the memorandum of appeal, are that the appellant was appointed as Naib Qasid (BPS-3) in the office of District



Population Welfare vide order dated 02.05.2001. During the service a criminal case vide FIR No. 19 Dated 22.03.2008 under Sections 419/420/468/471/477-A PPC r/w 5(2) PC Act P.S. ACE Kohistan was registered against him in which he was convicted and which was upheld by the august Supreme Court of Pakistan. On the basis of good conduct of the appellant, he was released on parole under Good Conduct Prisoner's Probational Release Act 1926/Rules1927/amended rules/2011 and later on after undergoing the probation period he was released vide order dated 02.02.2017. After getting released appellant filed application dated 07.02.2017 to respondent No. 2 seeking permission to resume his duty. In response, respondent No. 2 served a showcause notice upon the appellant on 17.08.2017. That showcause notice referred to an inquiry conducted by DPWO Battagram, which found him convicted and sentenced by Anti Corruption Court under Section 420/PPC and Section 5(2)PC Act. The inquiry also found him willfully absent from duty w.e.f 15.10.2014 to 07.02.2017 despite issuance of notices to join the duty. To the showcause notice the appellant responded on 31.08.2017. Finding his reply not satisfactory, the competent authority issued the order of removal from service w.e.f 15.10.2014 vide office order dated 16.01.2018.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the Assistant Advocate General and perused the case file with connected documents minutely and thoroughly.

4. Learned counsel for the appellant admitted that the appellant was convicted and sentenced but he was released on parole based on his good conduct and that it should be given due consideration for reinstating him in service.



5. Learned AAG contended that the appellant was absent without informing his higher ups. Notices were issued to him to which he did not respond. Absence notice was issued in the newspaper also but it was not responded.

6. After going through the available record and hearing the arguments presented by the learned counsel for the appellant and the learned AAG, we have come to the conclusion that the appellant remained absent from duty without any information to his office. He was convicted by the Anti Corruption Court on account of charges under Sections 419/420/468/471/477-A PPC r/w 5(2) PC Act, which was upheld by the august Supreme Court. In view of the facts narrated above, the appeal in hand is dismissed being devoid of merit. Parties are left to bear their own cost. Consign.

7. *Pronounced in open court in Abbotabad and given under our hands and seal of the Tribunal this 18th day of May, 2022.*



(KALIM ARSHAD KHAN)
Chairman

(FAREEHA PAUL)
Member (E)


Service Appeal No. 707/2018

Mr. Abdul Saboor Khan, Advocate for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgement containing 03 pages, we have arrived at the conclusion that the appellant remained absent from duty without any information to his office. He was convicted by the Anti Corruption Court on account of charges under Sections 419/420/468/471/477-A PPC r/w 5(2) PC Act, which was upheld by the august Supreme Court. In view of the facts narrated above, the appeal in hand is dismissed being devoid of merit. Parties are left to bear their own cost. Consign.

3. *Pronounced in open court in Abbotabad and given under our hands and seal of the Tribunal this 18th day of May, 2022.*




(KALIM ARSHAD KHAN)
Chairman


(FAREEHA PAUL)
Member (E)

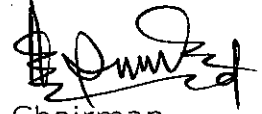
01.12.2021

Learned counsel for the appellant present. Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 15.03.2022 before the D.B at Camp Court Abbottabad.



(Salah-ud-Din)
Member (J)
Camp Court Abbottabad



Chairman
Camp Court Abbottabad

15.03.2022

Due to retirement of the Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned for the same before on 17.05.2022

Reader

17.05.2022

Mr. Abdul Saboor Khan, Advocate for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Arguments heard. To come up for order on 18.05.2022 before D.B at camp court Abbottabad.



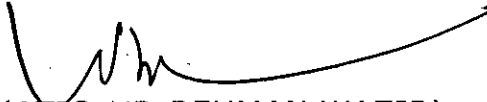
(Fareeha Paul)
Member (E)

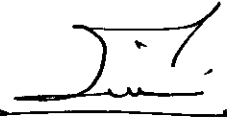
(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

20.09.2021

Nemo for the appellant. Mr. Usman Ghani, District Attorney for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for arguments before the D.B on 15.11.2021 at Camp Court Abbottabad.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD

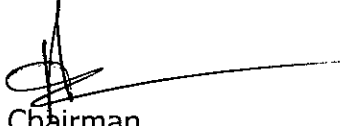

(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

15.11.2021

Counsel for the appellant and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for the respondents present.

Counsel for the appellant requests for short adjournment. Request is accepted. To come up for arguments on 17.11.2021 before the D.B at Camp Court, Abbottabad.

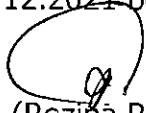

(Rozina Rehman)
Member(Judicial)
Camp Court, A/Abad


Chairman
Camp Court, A/Abad

17.11.2021

Counsel for the appellant and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for the respondents present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Request is accorded. To come up for arguments on 01.12.2021 before the D.B.


(Rozina Rehman)
Member(J)
Camp Court, A/Abad


Chairman
Camp Court, A/Abad

18.01.2021

Due to COVID-19, the case is adjourned for the same on 15.02.2021 before D.B.


READER

15.02.2021

Learned counsel for the appellant.

Mr. Riaz Khan Paindakhel learned Assistant Advocate General alongwith Ahmed Yar A.D for respondents present.

Former request for adjournment as issue involved in the present case is pending before a Larger Bench of this Tribunal.

Adjourned to 19.04.2021 for arguments before D.B at Camp Court Abbottabad.



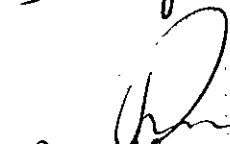
(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Abbottabad



(Rozina Rehman)
Member (J)
Camp Court, Abbottabad

19.4.2021

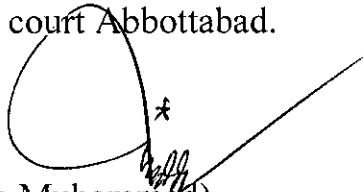
Due to covid-19, The case is adjourned to 20-9-21 as before.


Reader

16.11.2020

Assistant to counsel for the appellant is present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Pir Khan, Junior Clerk for respondents are present.

The Lawyers community is not appearing in the Tribunal for the reason that they are observing sough of the Hon'able Chief Justice, Peshawar High Court, Peshawar, therefore, the case is adjourned to 18.01.2021 for arguments before D.B at camp court Abbottabad.



(Mian Muhammad)
Member(E)

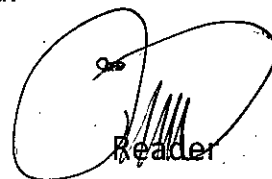


(Muhammad Jamal Khan)
Member(J)
Camp Court Abbottabad

Due to covid ,19 case to come up for the same on / /
at camp court abbottabad.

Reader

Due to summer vacation case to come up for the same on 1/6
9/1/20 at camp court abbottabad.

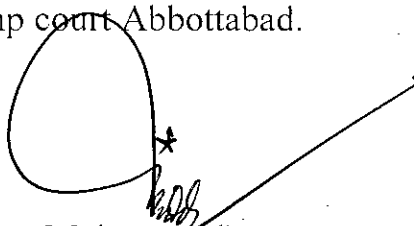

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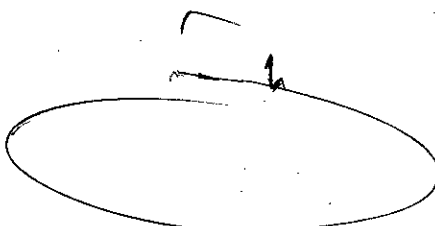
16.09.2020

Appellant is present in person. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Ahmad Yar Khan, AD (Lit) for respondents present.

According to the appellant his counsel Mr. Abdul Saboor Khan, Advocate has proceeded to District Kohistan and is not available at Abbottabad today, therefore, he requested for adjournment. Accordingly adjournment is allowed.

Adjourned to 16.11.2020 for arguments before D.B at camp court Abbottabad.


(Mian Muhammad)
Member(E)


(Muhammad Jamal)
Member
Camp Court A/Abad

Service Appeal No. 707/2018

16.12.2019

Appellant alongwith his counsel and Mr. Ziaullah, Deputy District Attorney for the respondents present. Appellant requested for adjournment on the ground that his counsel as gone to Kohistan and cannot attend the Tribunal today. Adjourned to 22.01.2020 for arguments before D.B at Camp Court Abbottabad.


(Hussain Shah)

Member
Camp Court Abbottabad

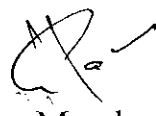

(M. Amin Khan Kundi)

Member
Camp Court Abbottabad

22.01.2020

Clerk to counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Pir Khan, Clerk for the respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 20.02.2020 before D.B at camp court Abbottabad. Appellant be put on notice for the date fixed.


Member


Member
Camp Court A/Abad

22.08.2019

Learned counsel for the appellant present. Mr. Muhammad Bilal learned DDA present. Complete record of inquiry not available on file. No one present on behalf of respondent department. Respondent No.2 is directed to appear in person or depute a well conversant representative to attend this Tribunal alongwith complete record of inquiry on the next date. Adjourn. To come up for record/arguments on 19.09.2019 before D.B at Camp court, Abbottabad.



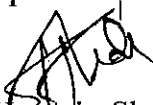
Member




Member
Camp Court A/Abad

19.09.2019

Appellant in person and Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Respondent No. 2 is directed to appear in person or depute a well conversant representative to attend this Tribunal alongwith complete record of inquiry on the next date. Adjourned to 22.10.2019 before D.B at Camp Court Abbottabad.




(Hussain Shah)
Member
Camp Court Abbottabad



(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

22.10.2019

Malik Ishfaq Gilani, Advocate on behalf of counsel for the appellant present and seeks adjournment. Mr. Usman Ghani, District Attorney for respondents present. Adjourn. To come up for arguments on 16.12.2019 before D.B at Camp Court, Abbottabad.



Member




Member
Camp Court Abbottabad

21.05.2019

Appellant in person and Mr. Muhammad Bilal, DDA alongwith Mr. Naveed Gul, Projectionist for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourned. Case to come up for arguments on 09.07.2019 before D.B at camp court Abbottabad.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member
Camp Court A/Abad

09.07.2019

Appellant in person and Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 22.08.2019 for arguments before D.B at Camp Court Abbottabad.


(Hussain Shah)
Member


(Muhammad Amin Khan Kundi)
Member

~~09.07.2019~~
~~member counsel for the appellant present at~~
~~Camp Court Abbottabad~~ ~~Camp Court Abbottabad~~
~~Respondent No 2 is directed to appear in person or~~
~~depute a well conversant representative alongwith~~
~~complete record of inquiry on the next date. Adjourn. To~~
~~come up for record/arguments on 19.08.2019 at D.B~~
~~Camp Court Abbottabad.~~

~~Members~~

~~Member~~
~~Camp Court A/Abad~~

19.10.2018

Counsel for the appellant Mr. Abdul Saboor Advocate present. Mr. Muhammad Aslam Tanoli, Advocate present and heard in limine. Let a pre-admission notice be issued to the respondents. To come up for preliminary hearing on 15.01.2019 before S.B at Camp Court Abbottabad.



Chairman
Camp court, A/Abad

15.01.2019

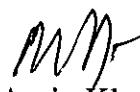
Appellant in person present and seeks adjournment as his counsel is not in attendance. Adjourn. To come up for preliminary hearing on 20.03.2019 before S.B at camp court Abbottabad.



Member
Camp Court Abbottabad

20.03.2019

None present on behalf of the appellant. Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Amin Khan, Junior Clerk for the respondents present and submitted written reply. Adjourned to 21.05.2019 for rejoinder and arguments before D.B at Camp Court Abbottabad.



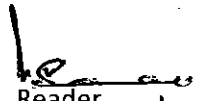


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 707/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23/05/2018	<p>The appeal of Mr. Muhammad Nabi received today by post through Mr. Abdul Saboor Khan 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>
2-	31-5-2018	<p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>31-08-2018</u></p> <p style="text-align: right;"> CHAIRMAN</p>
31.08.2018		<p>Due to summer vacations, the case is adjourned .To come up for the same on 19.10.2018 at camp court Abbottabad.</p> <p style="text-align: right;"> Reader</p>

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

Service appeal No. 707 of 2018

Muhammad NabiAppellant

VERSUS

Government of Khyber Pakhtunkhwa through
Director General Population Welfare
Department, Peshawar etc.....Respondents

SERVICE APPEAL

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Dated 12.05.2018

Muhammad Nabi
.....Appellant

Through

ABDUL SABOOR KHAN
Advocate High Court,
Mansehra.

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

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 759

Dated 23/05/2018

Service appeal No. 767 of 2018

Muhammad Nabi son of Gul Namir, Ex-Naib
Qasid BPS-03 at the office of District
Population Welfare Officer, Kohistan
.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through
Director General Population Welfare
Department, Peshawar.
2. District Population Welfare Officer, Kohistan at
Dassu.....Respondents.

**SERVICE APPEAL UNDER SECTION 4
OF SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED OFFICE
ORDER/NOTIFICATION DATED 16.01.2018
ISSUED BY RESPONDENT NO.2
WHEREBY MAJOR PENALTY OF
REMOVAL FROM SERVICE UNDER
SECTION 4(B)(III) OF GOVERNMENT OF
KHYBER PAKHTUNKHWA E&D RULES,
2011 WAS IMPOSED ON THE GROUND
OF ALLEGED WILLFUL ABSENCE AND
CONVICTION IN A CRIMINAL CASE.**

Filed to Day
Somali
Registrar
25157A

PRAYER: -

On acceptance of the instant appeal, the impugned order/notification dated 16.01.2018 issued by respondent No.2 may graciously be declared illegal, unlawful, without lawful authority and of having no legal effect and the appellant be ordered to be reinstated into service with all back benefits admissible under the relevant law/rules.

Respectfully Sheweth!

1. That, the appellant was appointed as Naib Qasid in the office of respondent No.2 vide order dated 09.05.2001.

(Copy of appointment order is annexed as annexure "A").

2. That, during the service in the year 2008, a criminal case vide FIR No.19 dated 22.03.2008 under sections 419/420/468/471/477-A PPC r/w 5(2) PC Act P.S. ACE Kohistan in which he was convicted which remained upheld upto the Supreme Court of Pakistan.

(Copy of FIR is annexed as annexure "B").

3. That, later on, considering the good conduct of the appellant, he was released on payroll under probational release Act, 1926/rules 1927/amended rules 2011 Act.
4. That, after undergoing the probation period, appellant was released on the liabilities vide order dated 02.02.2017.

(Copy of order is annexed as annexure "C").

5. That, the absence of the appellant from duty for the period mentioned in the impugned order was neither deliberation rather beyond his control as he had been in prison from 22.09.2014 to 14.06.2016 in the aforesaid criminal case. After having released, appellant filed an application to respondent No.2 seeking permission to resume his duty but no order was passed thereon.

(Copy of the application is annexed as annexure "D").

6. That, respondent No.2 served a show cause notice upon the appellant on 17.08.2017 in response thereto, appellant filed a detailed and comprehensive reply but it was

declared unsatisfactory and discarded for no reason at all.

(Copies of show cause notice and reply are annexed as annexure "E").

7. That, without hearing the appellant and against the due process, respondent No.2 removed the services of the appellant vide impugned order dated 16.01.2018.

(Copy of the impugned order dated 16.01.2018 is annexed as annexure "F").

8. That, against the impugned order dated 16.01.2018, appellant filed a departmental appeal with respondent No.1 but it has not been responded in the stipulated period of time.

(Copy of the departmental appeal is annexed as annexure "G").

9. That, feeling aggrieved from the impugned order, appellant having no other remedy moves this Worthy Tribunal for setting aside the impugned order dated 16.01.2018 and re-instatement into service with all back benefits, inter alia, on the following amongst the other grounds: -

GROUNDS

- a. That, admittedly appellant remained behind the bar in the aforesaid criminal case with effect from 22.09.2014 to 14.06.2016 and no notice/show cause notice was ever got served upon the appellant through Superintendent Jail concerned so, reference to the previous show cause notices in the impugned order is of no legal use.
- b. That, admittedly, absence from duty had not been willful rather beyond the control of the appellant and this absence period cannot be termed as willful absence.
- c. That, as per law/rules, the conviction of a man released under the Good Conduct Prisoners Probational Release Act is not regarded as a disqualification for government service, vide letter No.20592-H-J dated 20th June, 1930 from the Home Secretary.

(Copy of Rule is annexed as annexure "H").

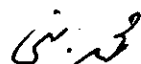
- d. That, references to the previous show cause notices mentioned in the impugned order were also not got served through any relative of the appellant.
- e. That, no sooner appellant was released, he filed an application with respondent No.2 seeking permission to resume his duties because till then no adverse order was passed against the appellant rather the impugned order has been passed after the release of the appellant.
- f. That, no inquiry mentioned in the impugned order has ever been conducted rather no effort was made to associate the appellant with the said inquiry.
- g. That, respondents were under legal obligation to permit the appellant to resume his duties but to the utter surprise and dismay he was removed from the service which is totally illegal, unlawful and against the due process.
- h. That, the grounds mentioned in the impugned order leading to the removal of the appellant from service are also not supported by any law on the

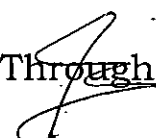
subject rather if the impugned order is analyzed in the light of the law on subject, it is in negation.

.....PRAYER.....

It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned order/ notification dated 16.01.2018 issued by respondent No.2 may graciously be declared illegal, unlawful, without lawful authority and of having no legal effect and the appellant be ordered to be reinstated into service with all back benefits admissible under the relevant law/rules.

Dated 12.05.2018


Muhammad Nabi
.....Appellant

Through 

ABDUL SABOOR KHAN,
Advocate High Court,
Mansehra.

AFFIDAVIT.

I, Muhammad Nabi son of Gul Namir, Ex-Naib Qasid BPS-03 at the office of District Population Welfare Officer, Mansehra, appellant, do hereby solemnly affirm and declare on oath that the contents of the foregoing appeal are true and correct and nothing has been concealed from this Honourable Court.

Dated 12.05.2018


Muhammad Nabi
(DEPONENT)



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

Service appeal No. _____ of 2018

Muhammad NabiAppellant

VERSUS

**Government of Khyber Pakhtunkhwa through
Director General Population Welfare
Department, Peshawar etc.....Respondents**

SERVICE APPEAL

CORRECT ADDRESSES OF THE PARTIES


APPELLANT

Muhammad Nabi son of Gul Namir, Ex-Naib
Qasid BPS-03 at the office of District
Population Welfare Officer, Mansehra.

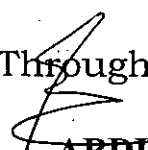
RESPONDENTS

1. Government of Khyber Pakhtunkhwa through
Director General Population Welfare
Department, Peshawar.
2. District Population Welfare Officer, Kohistan at
Dassu.

Dated 12.05.2018


Muhammad Nabi
.....Appellant

Through


ABDUL SABOOR KHAN,
Advocate High Court,
Mansehra.

Approved
12/05/2001

P (10)
Annex (A)

POPULATION WELFARE DEPARTMENT
OFFICE OF THE DISTRICT POPULATION WELFARE OFFICER
ABBOTTABAD

F.No. 1 (9) / 2000-2001/Admn:

Abbottabad the 2.5.2001
/March 2001.

Subject: OFFER OF APPOINTMENT AS NAIB QASID (BPS-1)
IN THE POPULATION WELFARE DEPARTMENT NWFP

With reference to his/her application date _____

Mr./Mrs. MUHAMMAD NABI S/o GUL NAMIR is informed that
he/she has been selected for appointment as NAIB QASID on purely temporary
basis in this Department on the term and conditions given below:-

- i) His/her appointment in this Department will be on purely temporary basis and will be governed by the provision of the Civil, Servant Act, 1973, and Civil Servants (Appointments, Promotion & Transfer) Rules, 1973.
- ii) His/her appointment will not confer upon him/her any claim for or title to permanent retention in this Department.
- iii) He/She will be entitled to draw his/her pay in (BPS 1) (Rs. 1245-35-1770) plus usual allowances as admissible under the rules.
- iv) His/Her appointment will be provisional subject to production of Medical Fitness Certificate from the Civil Surgeon/Medical Superintendent (Concerned) DISTRICT HEADQUARTER HOSPITAL Kohistan and verification of his/her character and antecedents. He/She will have to produce two character certificates from two different BPS-17 or above officers.
- v) His/Her appointment is purely temporary and his/her services are liable to be terminated at 14 days notice (without assigning any reason or pay in lieu thereof).
- vi) He/She will not be allowed to leave the job unless his/her resignation is accepted and the Government dues, if any are realised.
- vii) He/She will not be entitled to any TA/DA to join duty.
- viii) He/She will be on probation for a period of one year.
- ix) He/She will be governed by the appropriate rules and regulation relating to disciplinary matters as enforced.

P.T.O

2. If the offer of appointment in the terms and conditions given above is acceptable to him/her, he/she should submit his/her acceptance in writing and report for duty to the District Population Welfare Officer Kohistan within seven days after the receipt of this Memorandum

(Noor Badshah Khattak)
District Population Welfare Officer
Abbottabad.

Muhammad Nabi

S/o Gul Nami: Vill: & P.O.

Sec Teh: Dassu Distt: Kohistan

Copy forwarded to:-

1. P.S to Secretary Population Welfare & Women Dev: Deptt: Government of N.W.F P Peshawar.
2. Director General Population Welfare Directorate N.W.F.P, Peshawar: for information please
3. Accountant General Government of N.W.F.P, Peshawar.
4. Divisional Director Population Welfare Department Hazara Division ABBOTTABAD. For information please.
5. District Account Officer, Kohistan.
6. Section Officer (Admn-V) Ministry of Population Welfare Government of Pakistan, Islamabad for information please.
7. Personal File of the Concerned.

(Noor Badshah Khattak)
District Population Welfare Officer
Abbottabad.

page -1

(Flag. III)

13

OFFICE OF THE DISTRICT
PAROLE & PROBATION OFFICER
DISTRICT COURTS MANSEHRA.

No. 18 / p-4 Dated. 02-02-2017.

Annex C

Admitted
12/05/2018



TO WHOM IT MAY CONCERN

It is certified that Muhammad Nabi s/o Gull Namir caste Ghakhail resident of SEO, Kohistan District Kohistan was released on parole under the good conduct prisoners probational release Act, 1926/Rules, 1927/Amended Rules, 2011 by the order of Parole Release Committee, Home and Tribal Affairs Department on 14-06-2016. He remained under employment till 10-01-2017.

His conduct remained satisfactory, therefore, he is released from the liabilities/conditions of license.

~~NBW~~
PAROLE/PROBATION OFFICER
DISTRICT COURTS MANSEHRA.

احتمالی

یہ کہ نتیجتاً سائل نے مورخہ 12/7/2016 تک ماسٹر صاحبہ کی طبیعت تیزی
 میں سبب گزارا جبکہ اسی دوران انجمنے سردار وسلوٹ کی وصیت
 پر عمل پیرا ہوا۔ Probationary ماسٹر صاحبہ کے حوالے کیا گیا۔
 جو مورخہ 2/2/2017 تک ماسٹر صاحبہ کی طبیعت میں بہتری
 آئی۔ ماسٹر صاحبہ نے ان کے ساتھ اور اسی طرح انجمنے سبب و شرک
 وجہ سے تمام ماسٹر صاحبہ کو ڈسٹریکٹ دارپور سے ماسٹر کر دیا گیا۔
 (فقول احکامات بابت پیرول و رٹائف کف قابل ملاحظہ ہیں)

(5)

Good Conduct prisoners ایسے تیز تیز جو کہ
 Probationary release Act
 کے تحت رہا ہونے والے تیز تیز کی ملازمت سے پیشے نامی
 بنیاد دیا جاسکتا ہے۔ لیکن اس کے لئے ان کے لئے ایک نامہ
 عملہ بنانا سبب قیامات ہے۔ چونکہ ماسٹر صاحبہ کی ملازمت جو کہ
 ماسٹر صاحبہ کے لئے ہی قانونی طور پر سبب نامی والی ہے
 لیکن اس نامہ قاصد میں کوئی ماسٹر صاحبہ نہیں ہے

(6)

لہذا اس سبب سے کہ سائل نے ماسٹر صاحبہ کی طبیعت
 نامہ قاصد حکم بنانا سبب نامی اور سائل کو
 طلبہ واجبات جو سائل نے درخواست کی ہے بابت میں
 وصول نہ کیے ہیں۔ ماسٹر صاحبہ کے لئے ماسٹر صاحبہ
 سے جاری ہے تاکہ سائل موجودہ ماسٹر صاحبہ کے
 سے سبب نامی اور سائل کے اور سائل کے سبب نامی اور سائل کے
 سے سبب نامی اور سائل کے اور سائل کے

7/2/2017

المسٹر صاحبہ

MB

محمد نجف ولد علی غفیر ساکنہ سیو ڈی اے ٹی کوئٹہ تحصیل داسو ضلع کوئٹہ
 0345-9471143
 موبائل نمبر

P. (16)

Annex (E)

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

F.No 1 (2)/ 2917-18/Admn /242/KH

Dated, the : 17/08/2017

TO

Mr. Mohammad Nabi
Naib Qasid, District Population Welfare Office Kohistan.

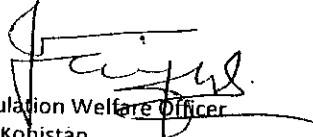
Subject: **SHOW CAUSE NOTICE**

Reference to Deputy Director (Admn) letter F.NO.4(21)/2017/Admn/3748-50 dated Peshawar ,the19/06/2017 regarding inquiry report against Mr. Mohammad Nabi Naib Qasid BPS-2 of District Kohistan . The inquiry conducted by DPWO Battagram found that you are convicted and sentenced by Honourable Court of Anti corruption Abbottabad.

- 1 Under section 420/ppc and to go under (3) years R.I and a fine of Rs: 100000/- one lac or in default there of shall undergo six months S.I
- 2 Convicted and sentenced under section 5(2)pc Act to pay a fine of Rs:100000/- (one lac) or in default there of shall undergo six months S.I each.

The inquiry also found you wilful absent from duty w.e.f 15-10 2014 to 07-02-2017 in spite of issuance of notices from time to time to join duty. Due to your prolong absence a notice under section 9 of Khyber Pakhtunkhwa E&D Rules, 2011 was sent to you through post office on your home address dated 03-07-2015 but no reply was received from you. Therefore another final notice was issued in the newspapers daily Mushriq and daily Hazara News dated 11-09-2015 directing you to attend the official duty within 15 days, but you did not attend the office .

Now being the competent authority after having considered the report of inquiry officer and keeping in view your prolong absence, you are hereby served with the show cause notice that why a major penalty removal from service under section 4(b)(iii) of rules ibid above may not be imposed on you. Therefore you are directed to submit reply positively with in 15 days.


District Population Welfare Officer
Kohistan

Copy to:

1. PS to Advisor to CM for PWD, KP Peshawar.
2. PS to Secretary PWD, KP, for information please.
3. PS to Director General PWD,kp for information please.
4. PS to Deputy Commissioner Kohistan.

District Population Welfare Officer
Kohistan

To,
The District Population,
Welfare Officer Kohistan.

Subject: **SHOW CAUSE NOTICE**

Kindly refer to you letter F.No. 1(2) / 2917-18/Ad/242/KH dated 17-08-2017 titled show cause notice, regarding my absence from duty W.e.f 15-10-2014 to 7-2-2017.

In this connection, it is submitted that my absence from duty for the above mentioned period was neither deliberately nor at my own accord, but beyond my means and control as I was behind the bar w.e.f 22/9/2014 to 14/06/2016 as a result of decision of Peshawar high court on maligned tempering case of my education documents. (Flag -1, Peshawar High Court Abbottabad Bench Jail Warrant Page 1)

Later on considering my good conduct, I was released on parole under probational released act 1926/rule 1927/amended rule 2011 act. (Flag II-1926/ Rule pages 2 and Flag -III as parole upto 02-02-2017 pages 1).

As is evident from the contents of show cause notice, that the reported absence on my part was not willful, deliberates or at my own accord, rather an incident to which my ill-wishers utilized as tool against me on maligned intention and as a result, I was awarded punishment for a period of 3 years, which later on relaxed and, I was released after remaining one year and nine months behind the bar.

I therefore request your good self to kindly consider my case sympathically and the absence period be regularized and my arrival on duty may be accepted W.e.f 07-02-2017 and I may also be allowed to be heard in person enabling me to appraise my case before your good self.

Enls: As above alongwith copy of my application dated 07-02-2017.

Your's Obediently,
Muhammad Nabi S/O Gul Namir
Naib Qasid DPW Office Upper
Kohistan.

Dated 31-08-2017
Received by A.A DPWO
Kohistan on 31/08/2017
Naveed

P
Arwa
(18)
(F)

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

F.No 1(2)/2017-18/Admn /415/KH

Dated, the 16/01/2018

Office Order/ Notification

Reference to Deputy Director (Admn) letter F.NO.4(21)2017/Admn/KC/7030-32 dated Peshawar the 14/12/2017 regarding inquiry report against Mr. Mohammad Nabi Naib Qasid BPS-3 of District Kohistan. The inquiry conducted by DPWO Batagram proved that Mr. Mohammad Nabi found convicted and sentenced by Honourable Court of Anti corruption Abbottabad.

- 1 Under section 420/ppc and to go under (3) years R.I and a fine of Rs: 100000/- one lac or in default there of shall undergo six months S.I
- 2 Convicted and sentenced under section 5(2)pc Act to pay a fine of Rs:100000/- (one lac) or in default there of shall undergo six months S.I each.

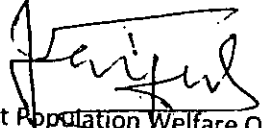
The inquiry also found him wilful absent from duty w.e.f 15/10/2014 to 07/02/2017 despite issuance of notices from time to time to join duty. A show cause notice was issued to him vide F.No : 1(2) 2917-18/Admn/242/KH dated 17/08/2017 and his reply was found unsatisfactory.

Now being the competent authority after having considered the report of the inquiry officer and after Deputy Director (Admn) letter F.No : 4(21)/2017/Admn /KC/7030-32 dated Peshawar the 14/12/2017 to this office, Mr. Muhammad Nabi S/O Gul Namir resident of Seo, Naib Qasid BPS-3 is liable for major penalty removal from service under section 4(b)(iii) of Government of Khyber pakhtunkhwa E&D rules, 2011. Therefore keeping in view the above he is hereby removed from Government service w.e.f 15/10/2014.

District Population Welfare Officer
Kohistan

Copy to:

1. PS to Advisor to CM for PWD, KP Peshawar for information please.
2. PS to Secretary PWD, KP, for information please.
3. PS to Director General PWD, KP for information please.
4. PS to Deputy Commissioner Kohistan for information please.
5. District Account officer Kohistan for information please.
6. Official concerned.
7. Master file.


District Population Welfare Officer
Kohistan

12/5/2018
Assessed

F P 19
Amir G

**BEFORE THE DIRECTOR GENERAL
POPULATION WELFARE DEPARTMENT, KPK
PESHAWAR**

Subject: REPRESENTATION/DEPARTMENTAL APPEAL
AGAINST IMPUGNED OFFICE ORDER/
NOTIFICATION F.NO.1(2)2017-18/ADMN/415/
KH DATED 16.01.2018 PASSED BY DISTRICT
POPULATION WELFARE OFFICER, KOHISTAN
WHEREBY APPELLANT WAS REMOVED
FROM SERVICE UNDER SECTION 4(B)(II) OF
GOVERNMENT OF KHYBER PAKHTUNKHWA
E&D RULES, 2011 W.E.F. 15.10.2014.

Respected Sir,

1. That, the petitioner was duly appointed against the post of Naib Qasid (BPS-03) at the office of District Population Welfare Officer, Kohistan.
2. That, District Population Welfare Officer, Kohistan vide order dated 16.01.2018 imposed major penalty of removal from service w.e.f. 15.10.2014.

(Copy of order is annexed herewith).
3. That, no show cause notice was ever served upon the appellant nor he was afforded an opportunity of personal hearing. So, the cardinal

principle of Administration of Justice "Audi Alterm Parterm" was violated hence, the impugned order is liable to be set aside on this very sole ground.

4. That, the appellant was never associated with any inquiry and whatever was done by the department was at the back of the appellant so, the appellant has been condemned unheard.
5. That, the appellant was released on probation which as per rules on the subject cannot be made basis for imposition of major penalty of removal from service.
6. That, no public notice in the newspapers as required under rule 9 of KPK E&D Rules, 2011 was ever published/issued so, the impugned order cannot be sustained in the eye of law.
7. That, the impugned order is illegal, discriminatory and against the principles of natural justice.
8. That, appellant never remained absent as alleged in the impugned

12/5/2018

P 20

P 21

Added
12/5/2018

order. No documentary proof was brought on the record by the department in respect of the willful absence of the appellant from duty.

It is, therefore, very humbly prayed that on acceptance of the instant Representation/ departmental appeal, the impugned order dated 16.01.2018 passed by District Population Welfare Officer, Kohistan may kindly be set aside and the appellant be reinstated into service with all back benefits.

Dated 12.02.2018

(Signature)

MUHAMMAD NABI
Ex-Naib Qasid,
BPS-03 at the office of
District Population Welfare Officer
Kohistan.

12/2/18

(Page-2) (Flag II)

22

THE GOOD CONDUCT PRISONERS' PROBATIONAL RELEASE ACT,
1926

(Punjab Act No. X of 1926)

ANNEX

4

[27th August, 1926].

An Act to provide for the release of good conduct prisoners on conditions imposed by the [2][Provincial Government].

WHEREAS it is expedient to provide for the conditional release from prison of good conduct prisoners in certain cases before the completion of the term of imprisonment to which they have been sentenced, and whereas the previous sanction of the Governor-General under sub-section (3) of section 80-A of the Government of India Act has been obtained ;

Preamble.

It is hereby enacted as follows:—

1. (1) This Act may be called the Good Conduct Prisoner's Probational Release Act, 1926.

Short title, extent and commencement.

~~[3](2). It extends to the whole of the Province of the [4][Khyber Pakhtunkhwa] except [5][Tribal Areas].~~

(3) It shall come into force [6] on such date as the [7][Provincial Government] may by notification appoint in this behalf.

2. Notwithstanding anything contained in section 401 of the Code of Criminal Procedure, 1898, where a person is confined in prison under a sentence of imprisonment, and it appears to the [8][Provincial Government] from his antecedents or his conduct in the prison that he is likely to abstain from crime and lead useful and industrious life, if he is released from prison, the [9][Provincial Government] may by license permit him to be released on condition that he be placed under the supervision or authority of a [10][servant of the state] or a secular institution or of a person or society professing the same religion as the prisoner, named in the license and willing to take charge of him.

Power of Government to release by licence on conditions imposed by it.

2. It will be observed from the rules under the Act that only the cases of those convicted under certain specified provisions of law can come under consideration under section- 2 of the Act. While the rules do not exclude from consideration the cases of habitual offenders, it is not proposed to take them up until considerable experience has been gained of the working of the Act, and the number of this class, who will be dealt under this Act, will, in any case, be strictly limited. The cases of persons, however, who have been convicted of crimes of violence are not excluded from consideration where the nature of crime, though violent, was, generally speaking, unpremeditated and the result of provocative circumstances. Careful enquiries would be made prior to taking action towards conditionally released in cases of this nature.

3. There is no intention of abbreviating sentencing in working the Act. Convicts conditionally released under licence will serve out their full sentence with labour, though in a different environment and under conditions within certain stipulated limits of greater freedom than a jail. The only remissions they will earn towards abbreviations of sentence will be those to which they are eligible under the existing provisions of Jail Manual.

Note- The conviction of a man released under the Good Conduct Prisoners' Probationary Release Act, is not regarded as a disqualification for Government service, vide letter No. 20592-H-1, dated 28th June, 1930 from the Home Secretary to Government of Punjab, to:-

- (1) The Chief Engineer, Public Works Department, Buildings and Roads and Hydro-electric Branches.
- (2) The Chief Engineer, Public Works Department, Irrigation Branch.
- (3) The Director of Industry, Punjab.
- (4) The Director of Agriculture, Punjab.
- (5) The Director of Civil Veterinary Department, Punjab.
- (6) The Chief Conservator of Forest, Punjab.

Note-1- The object of this Act is given in Circular Letter No. 14242, H-Jails, dated 7th May, 1927, from the Home Secretary to Government of Punjab, to all Commissioners and Deputy Commissioners in the Punjab which is re-produced below:-

I am directed by the Governor-in-Council to forward a copy of the first annual report on the Reclamation Department and to draw your particular attention to chapter 2 of the report and paragraphs 1-3 and 5 of the review thereon. The experience of another year's work of the Reclamation Department has further demonstrated that the provision of the Good Conduct Prisoners' Probationary Release Act, afford a most effective agency for the reclamation of criminals.

2- The Governor-in-Council and the Governor acting with his Minister is anxious to enlist the sympathy of Heads of Departments in this social experiment as far as is legitimately possible. To assist in securing this end, he is pleased to declare that the previous conviction of a man, who is conditionally released under the Good Conduct Prisoners' Probationary Release Act shall not in future be regarded as a disqualification for Government service.

3- I am to request that the Department under your control should be directed to assist in providing employment for prisoners trained in technical trades who have been released conditionally under the act.

4- The Inspector General of Prisons, Punjab has been directed to supply you from time to time with list showing the number and qualification of such conditionally released prisoners as are available for employment.

3. A licence granted under the provisions of section 2 shall be enforced until the date on which the person released would in the execution of the order or warrant authorising his imprisonment, have discharged from prison had not been released on licence, or until the licence is revoked whichever is sooner.

AMSTERDAM
 PROBATION OFFICER
 DISTRICT COURTS
 Manselra, 10 May, B.

P-24

وکالت نامہ

خیبر پختونخواہ سروس ٹریبونل پشاور

بعدالت جناب

محمد نبی بنام حکومت خیبر پختونخواہ بذریعہ ڈائریکٹر جنرل پاپولیشن ویلفیئر ڈیپارٹمنٹ وغیرہ

دعویٰ یا جرم سروس اپیل منجانب اپیلانٹ

باعث تحریر آنکہ

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی بمقام پشاور ایبٹ آباد کے لئے

عبد الصبور خان ایڈووکیٹ ہائی کورٹ

بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو بروعدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہو اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ سماعت ہونے پر یا بروز پکھری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پروا ختہ صاحب مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے، نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کارروپیہ وصول کرنے اور رسید دینے اور داخل کرانے کا ہر قسم بیان دینے اور سپردتالی و راضی نامہ و فیصلہ برخلاف کرنے و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کیٹرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ پیروی مختیار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل اور اپیل کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختیار نامہ لکھ دیا ہے کہ سندر ہے۔

مضمون مختیار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

المرقوم 12 مئی 2018ء

العبد العبد العبد العبد

محمد نبی ولد گل نمبر، سابقہ نائب قاصد BPS-03 دفتر ڈسٹرکٹ پاپولیشن ویلفیئر آفیسر کوہستان..... اپیلانٹ

محمد نبی

ACCEPTED

ABDUL SABOOR KHAN,

Advocate High Court.

sehra

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
Appeal No:707 of 2018.

Muhammad Nabi

Appellant

Versus

Government of Khyber Pakhtunkhwa through Director General Population Welfare Department, Peshawar etc.....Respondents

Joint para wise comments / Reply on behalf of Respondents.

Respectfully sheweth,

Comments on behalf of respondents Nos: 1 & 2 are submitted as under:

PRELIMINARY OBJECTION

- 1.That the appellant has no cause of action to file the instant service appeal.
- 2.That the instant appeal is time barred. Hence, liable to be dismissed.
- 3.That the instant appeal is not maintainable in its present form as there is no final order.
- 4.That the appellant has no locus standi to file instant service appeal.
- 5.That the appellant has filed the present service appeal just to pressurize the respondents.
- 6.That the appellant has not come to this Honorable Tribunal with clean hands hence, not entitled for any relief and appeal is liable to be dismissed.
- 7.That the appellant is estopped to sue due to his own conduct.
- 8.That the instant service appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
- 9.That the appellant has suppressed the original facts from this Honorable Tribunal hence, not entitled for any relief and instant service appeal is liable to dismissed without any further proceeding.
- 10.That the instant service appeal is against the prevailing rules and policy of the Provincial Government.
- 11.That the respondents seek leave of this Honorable Tribunal to raise additional points at the time of hearing of Service appeal.
- 12.That all the proceedings have been done by the respondents as per law and rule hence, appeal is liable to dismissed.

FACTUAL OBJECTIONS

1. That the para no 1 of the instant service appeal relates to service record of appellant that Muhammad Nabi S/O Gul Namir was appointed as Naib Qasid BPS-01 in DPW Office Kohistan vide order F.No: 1(9)/2000-2001/Admn dated Abbottabad :02/05/2001.

2. In reply to para no 2 of the instant appeal it is submitted that In the Year 2008, a criminal case was registered against him vide FIR No: 19 dated: 22/03/2008 under sections 419/420/468/471/477-A PPC r/w 5(2)PC Act P.S ACE Kohistan.

The honorable court of anti-corruption Abbottabad convicted and sentenced him under.

i). He is convicted under section 420/PPC and sentenced to go under (3) years R.I and fine of Rs: 100,000/-(One Lac) or in default thereof shall undergo six months S.I.

ii). He also convicted and sentenced under section 5(2) PC Act to pay a fine of Rs: 100,000/-(One Lac) or in default thereof shall undergo six months S.I. each.

3. That the para no 3 of the service appeal is subject to proof. He claimed that he was released on payroll under probational release act, 1926 / rules 1927 / amended rules 2011 Act.

4. That the para no 4 of the appeal pertains to record.

5. In reply to para no 5 of the instant appeal it is submitted that he was found wilful absent from duty w.e.f 15/10/2014 to 07/02/2017 in spite of issuance of notices from time to time to join duty. Due to his prolong absence a notice under section 9 of Khyber pakhtunkhwa E&D rules, 2011 was sent to him through post office on his home address dated : 03/07/2015 (copy enclosed Annex-A) but no reply was received from him. Therefore another final notice was issued in the newspapers daily Mushriq and daily Hazara News dated 11/09/2015 (copy enclosed Annex-B) directing him to attend the official duty within 15 days, but he did not attend the office.

6. That the para no 6 is incorrect hence denied that DPWO Kohistan served him showcase notice (copy enclosed Annex-C) under KP Government Servant (E&D) rules 2011, sub rule 14(4).

7. That the para no 7 is incorrect hence denied that after amply hearing the appellant and following due process, he was removed from service under KP Government Servant (E&D) rules 2011.

8. That the para no 8 of the instant appeal relates to records.

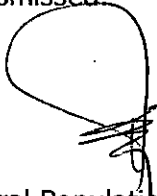
9. That the para no 9 of the instant appeal relates to records.

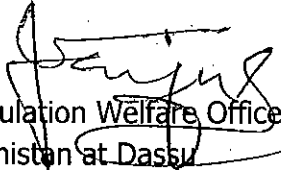
3

GROUNDS

- a). In reply to ground of pera no (a) of instat service appeal it is submitted that the appellat did not inform DPW-Office Kohistan about his imprisonment. The remaining pera is incorrect hence denied.
- b). The ground of pera no (b) is incorrect hence denied that he was found wilful absent from duty w.e.f 15/10/2014 to 07/02/2017 in spite of issuance of notices from time to time to join duty. Due to his prolong absence a notice under section 9 of Khyber Pakhtunkhwa E&D rules,2011 was sent to him through post office on his home address dated : 03/07/2015 but no reply was received from him. Therefore another final notice was issued in the newspapers daily Mushriq and daily Hazara News dated 11/09/2015 directing him to attend the official duty within 15 days, but he did not attend the office.
- c). That the ground of pera (c) the appeal is incorrect hence denied.
- d). That the ground of pera (d) is incorrect hence denied that all notices were served to him on his home address and through newspapers.
- e). That the ground of pera (e) is incorrect hence denied that a convicted person cannot be retained in Govt. Service under KP Govt, servant under (E&D) rules 2011.
- f). That the ground of pera (f) is incorrect hence denied that DPW-Office Kohistan received inquiry report against (copy enclosed Annex-D) Mr. Muhammad Nabi Naib Qasid vide Deputy Director Admn PWD, Government of Khyber Pakhtunkhwa Peshawar letter F.No: 4(21)2015-16/Admn/5326-88 dated Peshawar: 25/11/2016 conducted by DPWO Batagram.
- g). That the ground of pera (g) is incorrect hence denied that the competent authority fulfilled all the codal formalities.
- h). That the ground of pera (h) is incorrect hence denied that the competent authority fulfilled all the codal formalities.

Under the circumstances it is humbly requested that in the light of above referred facts appeal in hand may please be dismissed


Director General Population Welfare Department
Government of Khyber Pakhtunkhwa
Peshawar
(Respondent No: 1)


District Population Welfare Officer
Kohistan at Dassu
(Respondent No: 2)

4
A

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

F.No.1 (2)/2014-15/Admn

Dated Kohistan the 15/10/2014

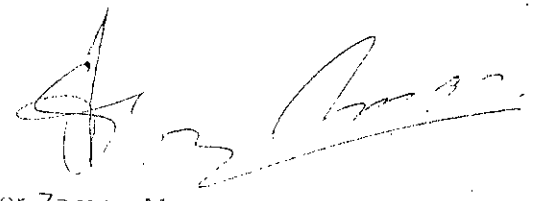
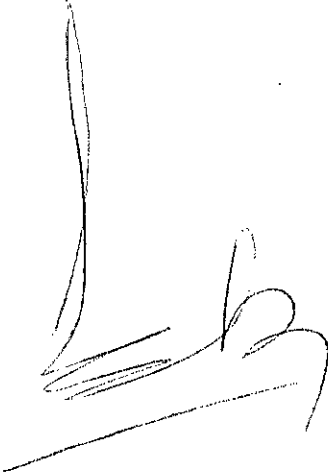
To

The Mr. Muhammad Nabi,
Naib Qasid office of the District population Welfare
Office Kohistan.

Subject: **Explanation**

It is state that you are found absent from duty since week and your mobile phone found off.

You are therefore directed to attend the office receipt of explanation latter. If not present to the undersigned strict disciplinary action well be taken against you under the rule.



(Akhter Zaman Marwat)
District Population Welfare Officer
Kohistan

5

(A)

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

F.No.1 (2)/2014-15/Admn

Dated Kohistan the 06/11/2014

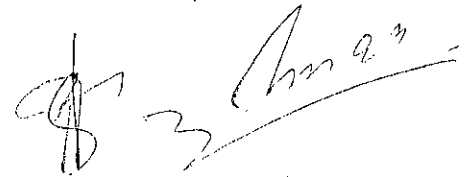
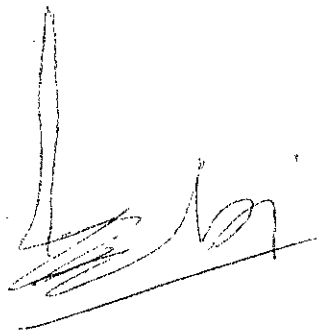
To

The Mr. Muhammad Nabi,
Naib Qasid office of the District population Welfare
Office Kohistan.

Subject: **2nd Explanation**

Reference to this office explanation No;1(2)/2014-15/Admn dated; 15/10/2014 subject cited above. you are strictly directed to report the office but you failed and no reply received to this office from your ends. It means you deliberately not to attend the office.

Once again you are directed to attend the office otherwise disciplinary action well be taken against you under the E & D rule 2001.



(Akhter Zaman Marwat)
District Population Welfare Officer
Kohistan

6

A,

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

F.No.1 (2)/2014-15/Admn

Dated Kohistan the 05/12/2014

To

The Mr. Muhammad Nabi,
Naib Qasid office of the District population Welfare
Office Kohistan.

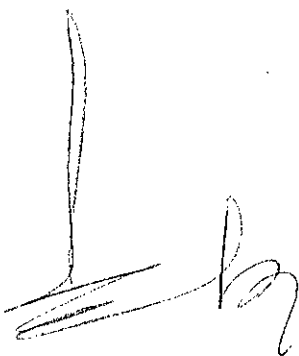
Subject: **3rd Explanation**

Reference to this office even Nos dated; 06/11/2014 subject cited above.
In this connection two numbers of explanations have been called from you but no reply
has been received to this office from yours ends. You are directed to report for duty
otherwise show cause well be called from you.

(Akhter Zaman Marwat)
District Population Welfare Officer
Kohistan

Copy to

1. Account Assistant local of this office requested to stop the salary for the month
of December 2014 till further order.



(Akhter Zaman Marwat)
District Population Welfare Officer
Kohistan



7
"A"

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

F.No.1(2)/2014-15/Admn:-

Dated Kohistan the 29 7 2015

To,

The Mr. Muhammad Nabi,
Naib Qasid Office of the District Population Welfare
Office Kohistan.

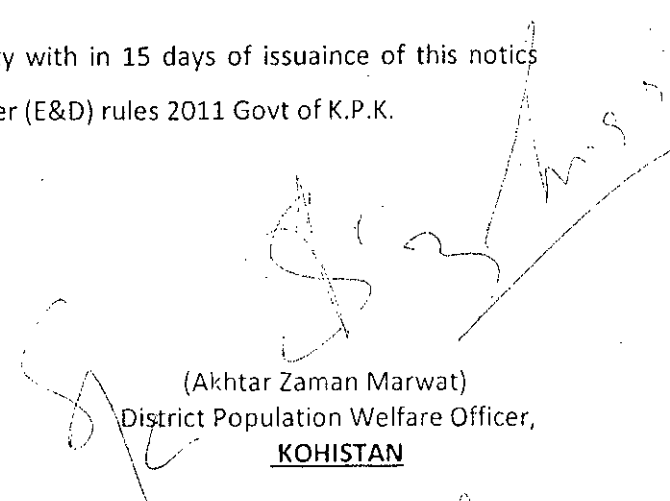
Subject:- **ABSENCE NOTICES.**

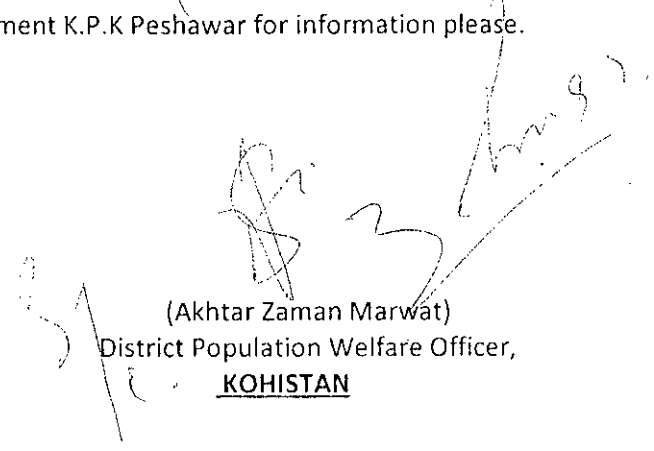
Refer to this office letter of even number F.No.1(2)/2014-15/Admn:- dated 06-11-2014, 15-10-2014 and 05-12-2014 where in you were called upon to explain reason of your willfull absence from duty no reply has been received from your end till date.

You are hereby directed to report for duty with in 15 days of issuance of this notices otherwise disciplinary action will be taken against you under (E&D) rules 2011 Govt of K.P.K.

Copy to the:-

- 1- P.S Director General Population Welfare Department K.P.K Peshawar for information please.


(Akhtar Zaman Marwat)
District Population Welfare Officer,
KOHISTAN


(Akhtar Zaman Marwat)
District Population Welfare Officer,
KOHISTAN

8
19
B

بہت کم قیمتوں کا اہتمام کرتے ہوئے ان معاملات کو درست کرنے کی ضرورت ہے اور وہ اس موقع پر کئی کے اشتہار پر اہل کاروں کو مطلع کیا جا رہا ہے۔

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آپ کی محکمہ کی نائب قاصد ضلعی دفتر بہبود آبادی ضلع کوہستان اپنی ڈیوٹی سے غیر حاضر ہیں۔ آپ کو بذریعہ چھٹی نمبر 1 F.No: 1/2014-15/Admn (2) مورخہ 2015-7-3 کو اطلاع دیدی گئی کہ آپ پندرہ 15 دن کے اندر دفتر ہذا میں حاضر ہونا چاہئیں لیکن آپ غیر حاضر رہے لہذا بذریعہ اشتہار آپ کو مطلع کیا جاتا ہے کہ اس اشتہار کے 15 دن کے اندر اپنی ڈیوٹی پر حاضر ہو جائیں ورنہ آپ کے خلاف ایکٹیف ٹیکسٹ کے کارروائی ای اینڈ ڈی رولز 2011 گورنمنٹ آف خیبر پختونخوا کے تحت کی جائے گی جس میں آپ کی نوکری اٹارز مت ختم ہو سکتی ہے۔

Say No to Corruption
0998-407223

TENDER NOTICE FOR MEDICINES AND MEDICAL SUPPLIES

International Rescue Committee (IRC) inviting sealed bids for medicines and medical supplies as per following details.

S.No.	Qty	Unit	Description	Vendor
1	50	Kits	FP Medicines for Health Facilities as per List	Only approved vendors from Ministry of Health can apply for Medicines.
2	12	Kits	PAC Medicines for Health Facilities as per List	General order Supplier or Medical supplier can apply
3	50	Kits	FP Medical Supplies for Health Facilities as per List	General order Supplier or Medical supplier can apply
4	12	Kits	PAC Medical Supplies for Health Facilities as per List	General order Supplier or Medical supplier can apply

- Terms & Conditions:**
- Only registered medical suppliers are encouraged to participate for medicines and general order suppliers can apply for medical supplies and equipments. All potential suppliers shall submit a proof of their registration with Ministry of Health who are interested for supply of Medicines.
 - Specification/tender documents can be collected from House No. 80-E, Old, Bara Road University Town Peshawar & House No. 11, street No. 4, F-6/3 Islamabad till 4:00 pm from September 11, 2015 to September 17, 2015.
 - Sealed Bids along with company profile, reference documents, and proof of registrations, NFN and 5% Bid Security in shape of Pay Order in the name of (IRC) shall be submitted at House # 11, Street # 4, Sector F-6/3 Islamabad till 1:00pm on September 13, 2015.
 - Quotes should clearly mentioned per unit price in Pak Rupees including all type of taxes, packing, loading/unloading, transportation charges @ Peshawar warehouse and delivery time.
 - An Affidavit on legal stamp paper that the company is not blacklisted or in litigation with any organization/NGO or Government Department in the past.
 - The Company reserves the right to award contract to a single company or split the order. In case the selected supplier is unable to accept the offer the Organization reserves the right to withhold the 5% Bid Security Deposit.
 - The Company reserves the rights to accept or reject any or all bids with or without assigning any reason. For further information contact the undersigned:

Supply Chain Unit
House # 11, Street # 4, F-6/3,
Islamabad Ph: 051- 2822214 & 16.

OFFICE OF THE EXECUTIVE ENGINEER PUBLIC HEALTH ENGINEERING DEPARTMENT NOTICE INVITING TENDERS

Sealed tenders for the following works based on MKS-2015, are hereby invited from Public Health Engineering approved contractors who have paid their registration/renewal fee for the year (2015-2016) on the

بہت کم قیمتوں کا اہتمام کرتے ہوئے ان معاملات کو درست کرنے کی ضرورت ہے اور وہ اس موقع پر کئی کے اشتہار پر اہل کاروں کو مطلع کیا جا رہا ہے۔

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0300-589
1601-
0925-6504

9.

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

F.No 1 (2)/ 2917-18/Admn

Dated, the : 17/08/2017

TO

Mr. Mohammad Nabi
Naib Qasid, District Population Welfare Office Kohistan.

Subject: **SHOW CAUSE NOTICE**

Reference to Deputy Director (Admn) letter F.NO.4(21)/2017/Admn/3748-50 dated Peshawar ,the 19/06/2017 regarding inquiry report against Mr. Mohammad Nabi Naib Qasid BPS-2 of District Kohistan, . The inquiry conducted by DPWO Battagram found that you are convicted and sentenced by Honourable Court of Anti corruption Abbottabad.

- 1 Under section 420/ppc and to go under (3) years R.I and a fine of Rs: 100000/- one lac or in default there of shall undergo six months S.I
- 2 Convicted and sentenced under section 5(2)pc Act to pay a fine of Rs:100000/- (one lac) or in default there of shall undergo six months S.I each.

The inquiry also found you wilful absent from duty w.e.f 15-10 2014 to 07-02-2017 in spite of issuance of notices from time to time to join duty. Due to your prolong absence a notice under section 9 of Khyber Pakhtunkhwa E&D Rules, 2011 was sent to you through post office on your home address dated 03-07-2015 but no reply was received from you. Therefore another final notice was issued in the newspapers daily Mushriq and daily Hazara News dated 11-09-2015 directing you to attend the official duty within 15 days, but you did not attend the office .

Now being the competent authority after having considered the report of inquiry officer and keeping in view your prolong absence, you are hereby served with the show cause notice that why a major penalty removal from service under section 4(b)(iii) of rules ibid above may not be imposed on you. Therefore you are directed to submit reply positively with in 15 days.

District Population Welfare Officer
Kohistan

Copy to:

1. PS to Advisor to CM for PWD, KP Peshawar.
2. PS to Secretary PWD, KP, for information please.
3. PS to Director General PWD,kp for information please.
4. PS to Deputy Commissioner Kohistan.

O/C 17/8/2017
District Population Welfare Officer
Kohistan

10
D 107

**DISTRICT POPULATION WELFARE OFFICE
BATTAGRAM**

F No.1 (02)/2015-16/Admn/

D-701
31/10/16

Dated the 7th Oct 2016

To

The Deputy Director, (Admn)
Population Welfare Department
Khyber Pakhtunkhwa

P=100
P=104

Subject: - INQUIRY REPORT AGAINST MR. MUHAMMAD NABI NAIB QASID
DISTRICT KOHISTAN

Memo:

I have the honor to refer to the above cited subject and to submit herewith the inquiry report regarding the FIR lodged against Mr. Muhammad Nabi Naib Qasid BPS-1 in Anti Corruption police Station Dassu Kohistan for further process please

(SAFDAR MURAD)

DISTT. POPULATION WELFARE OFFICER
BATTAGRAM

Page. 1 to 88.

Copy to: -

1. PS to Advisor to CM for Population Welfare Department.
2. PS to Secretary PWD, Khyber Pakhtunkhwa for information please.
3. PS to Director General PWD, Khyber Pakhtunkhwa for information please

(SAFDAR MURAD)
DISTT. POPULATION WELFARE OFFICER
BATTAGRAM


File up
28/10

Singh
28/10

File 4(2) Antt
28/10

11

D



INQUIRY REPORT IN RESPECT OF MR. MOHAMMAD NABI S/O GUL NAMIR R/O OF SEO DISTRICT
KOHISTAN UNDER FIR LOADED IN ANTI-CORRUPTION POLICE STATION DASSU

RECORD ANNEXED WITH REPORT.

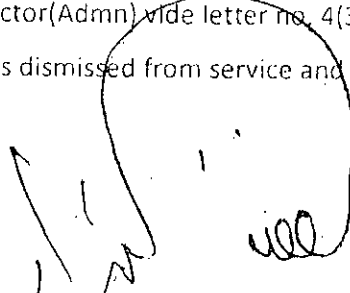
1. Available Personal File of Mr. Mohammad Nabi Naib Qasid BPS-1 at DPW-OFFICE KOHISTAN FROM PAGES 01 to 34.
2. Available Service book of Mr. Mohammad Nabi Naib Qasid BPS-1 at DPW-OFFICE KOHISTAN FROM PAGES 35 to 47.
3. Judgment of Mr. Azhar Khan Special Judge ,Anti -Corruption under FIR no.2 dated 22.03.2008 U/S 420/PPC FROM PAGES 48-50.
4. Investigation Record File given to undersigned by Anti-Corruption Police Station Dassu against Mr. Mohammad Nabi FROM PAGES 51-86.
5. Personal File and Service book of Mr. Mohammad Nabi Family Welfare Assistant (Male) BPS-5 is not available in record in DPW-Office Kohistan.

REPORT

Mr. Mohammad Nabi Naib Qasid BPS-1 District Population Welfare Officer Kohistan was recruited on the post of Naib Qasid BPS-1 in District Population Welfare Office Kohistan dated 06/05/2001(Arrival Report is annexed at page 14 and academic credentials are annexed at pages 13,15,16,17) and served in DPW-Office Kohistan on this post of Naib Qasid till 28/04/2006.

The official applied for the post of Family Welfare Assistant (Male)BPS-5 vide application at page 67 on advertisement vide pages 65-66 and was recruited to the post of Family Welfare Assistant Male BPS-5 dated 29/04/2006 copy of offer of appointment is annexed at page 57 on academic credentials vide pages 67-74 and got his salary on the post of FWA-Male vide salary roll at page 79-80. The official under reference also availed TA/DA privilege vide page 81 to 83.

Later on the verification of the academic credentials it was found that FA- DMC was declared bogus and fake by the controller of examination Allama Iqbal Open University Islamabad attached vide page 55-56 in this situation on the instructions of Deputy Director(Admn) vide letter no. 4(35)/97-05/Admn-Vol-XI dated 08/02/2007 at page 84, the official was dismissed from service and was directed


7 Oct. 2016

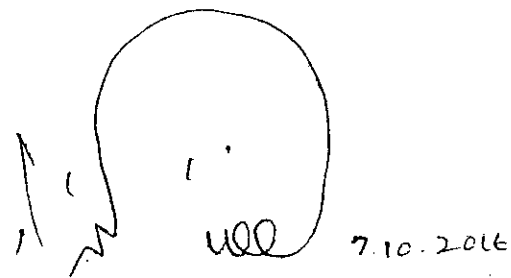
12-6 D 11

and allowances etc vide DPW-Office Kohistan letter no.(2)/Admn/2006-2207/35-38
2007. The official then deposited back an amount of Rs.5284/- in Government Treasury on
receipt annexed at page 86 and requested the DPW-Officer vide application on 23/12/06 at
page 85 to post him against the post of Naib Qasid BPS-1 from FWA-Male BPS-5.

Then official approached the service tribunal and filed appeal against his dismissal from the post
of FWA (Male) and the departmental reply to his appeal is annexed vide pages 59-64. The point which is
beyond the comprehension of undersigned, Population Welfare Department vide letter no 4(35)/97-
DS/Admn/Vol-XI dated 10.06.2008 annexed at 22-23 issued the directions of reinstatement of the
official not in his own cadre i.e. Family Welfare Assistant (Male) BPS-5 and he was actually reinstated in
his previous cadre i.e. Naib Qasid BPS-1 and posted against the vacant post of Naib Qasid BPS-1 District
Population Welfare Office Battagram. By examining the service book of the official it is clear that the
official was not dismissed from the post of Naib Qasid so how come he is reinstated in the same
annexed at page 41. Undersigned proposes an inquiry to ascertain the factual position of this
reinstatement process of Mr. Muhammad Nabi Family Welfare Assistant (Male) BPS-5 to Naib Qasid
BPS-1.

While on the other side Anti -Corruption Kohistan was pursuing complaint 568 against the
official and Anti-Corruption Police Dassu initiated inquiry against the official for production of
fake/bogus transcript of FA -DMC of Allama Iqbal Open University Islamabad for recruitment to the post
of Family Welfare Assistant (Male) and ultimately got recruited to the post minutes of the selection
committee and list of interview is annexed at pages 75-78.

The Circle Officer Anti-Corruption Dassu requested the then DPW-Office Kohistan for provision
of documents in respect of Mr. Mohammad Nabi S/O Gul Namir for inquiry proceedings in Anti-
Corruption Kohistan Dassu vide complaint no 568 dated 20/07/2016. District Population Welfare Officer
Kohistan vide letter no. 1(2)/Admn/2006-07 annexed at page 53 provided all the documents to the
concerned quarter for necessary action and then Anti -Corruption police Kohistan Lodged FIR against
Mr. Muhammad Nabi for forgery and losses incurred by Government Treasury in shape of his
recruitment to the post of Family Welfare Assistant (Male) BPS-5 through his salary and other benefits.

A handwritten signature in black ink, consisting of a large loop and some smaller strokes, followed by the date "7.10.2016".

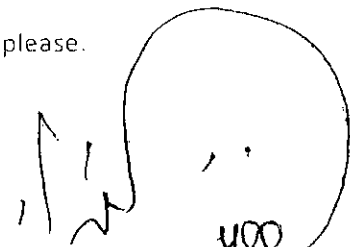
After the submission of complete challan the accused was summoned by the Anti-Corruption Commission and the official denied the charge and claimed trial. The honorable Court of Anti-Corruption Abbottabad found the official convicted and sentenced him under,

- 1) He is convicted under section 420/PPC and sentenced to undergo (3) years R.I with a fine of Rs.100,000/- (one Lac) or in default thereof shall undergo six months S.I.
- 2) He is also convicted and sentenced under section 5(2) PC Act to Pay a fine of Rs.100,000/- (one Lac) or in default thereof shall undergo six months S.I each.

The detailed judgment of the court of Azhar Khan, Special Judge, Anti-Corruption, Khyber Pakhtunkhwa Abbottabad came on 28.07.2011 is annexed vide page 48-50. The official has served his due in the Government Penitentiary for the above sentence.

The whereabouts of the Official is still unknown and is absent from duty as clearly reflected by various DPW-Officers from time to time vide letters annexed at pages 6,7,8,9,10,11,12. Further more it is also stated that the Personal file and Service book of the official of Family Welfare Assistant (Male) BPS-5 is not available in DPW-Office Kohistan neither any entry of his recruitment to the post of Family Welfare Assistant (Male) from Naib Qasid BPS-1 was recorded in his existing service book of BPS-1 by any DPW-Officer.

Report and the attached facts are submitted for perusal please.


(SAFDAR MURAD) 400 7/10/11
District Population Welfare Officer
Battagram

SERVICE APPEAL No 707 of 2018

Muhammad Nabi

.....(applicant)

VS

Government of Khyber Pakhtunkhwa through Director General Population Welfare Department
Peshawar etc

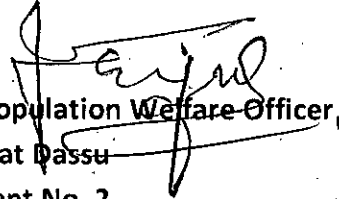
.....(Respondents)

COUNTER AFFIDAVIT

We the following respondent do hereby solemnly affirm and declare that all the contents of reply/ comments are true and correct to the best of our knowledge and belief and nothing has been concealed from the Hon'able Tribunal.



**Director General Population Welfare Department
Government of Khyber Pakhtunkhwa Peshawar
Respondent No.1**



**District Population Welfare Officer,
Kohistan at Dassu
Respondent No. 2**

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1757 /ST

Dated 14 / 10 / 2019

To

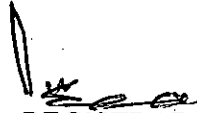
The District Population Welfare Officer,
Government of Khyber Pakhtunkhwa,
Kohistan at Dasso.

Subject: -

ORDER IN APPEAL NO. 707/2018, MR. MUHAMMAD NABI.

I am directed to forward herewith a certified copy of order dated 19.09.2019
passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

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

F.No.1 (2)/2017-18/Admn/255/KH
To

Dated Kohistan the, 26/09/2017

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

Subject: - **INQUIRY REPORT AGAINST MUHAMMAD NABI, NAIB OASID**
DPW, OFFICE KOHISTAN/REQUEST FOR RE-INSTATMENT ON
PAYROLL.

Please refer to the Deputy Director (Admn), Population Welfare Department letter F.No.4 (21)/2017/Admn/3748-50 dated Peshawar the 19/06//20117 on the subject cited above. In this connection it is stated that undersigned initiated disciplinary action against the accused official under KP Government servant (E&D) rules 2011 and served upon him a showcase notice (copy enclosed page A).

The accused official submitted his reply (copy enclosed page B), with the request to consider his case sympathetically and his absence period be regularized.


The accused official also pleaded that he was released on parole under the good conduct prisoners probational release Act, 1926/ Rules 1927/Amended Rules 2011(copy enclosed) at page 1, Flag III. The accused is pleading that his release on parole as mentioned above enables him to be not disqualified from Government service (copy enclosed page -1 flag ii referring highlighted portion).

The undersigned may please be guided with a legal opinion / view from the relevant quarter i.e. law department on the matter that whether this convicted employee as mentioned in the Showcase notice could be retained in government service under the Good Conduct prisoners probational release act 1926.


District Population Welfare Officer
Kohistan

Copy to:-

1. Deputy Director (Adman) with reference to his letter cited above for information please.


District Population Welfare Officer
Kohistan