

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

18-1-23

Service Appeal No. 1526 of 2022

Zia Ullah Khan

Appellant

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Case No. 3042

Dated 18-1-2023

Govt. of Khyber Pakhtunkhwa through Chief Secretary and others ...

Respondents

Respectfully Sheweth:

PRELIMINARY OBJECTIONS

- (I) The appellant has got no cause of action and locus standi to file the instant appeal.
- (II) The appeal is not maintainable in its present form.
- (III) The appellant has not come to this Hon'ble Tribunal with clean hands.
- (IV) The appellant has concealed the material facts from this Hon'ble Tribunal, hence needs to be dismissed.
- (V) That the appeal is barred by law and limitation.
- (VI) That the appeal is bad for mis-joinder and non-joinder of necessary parties.

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1, 2 & 3

FACTS:-

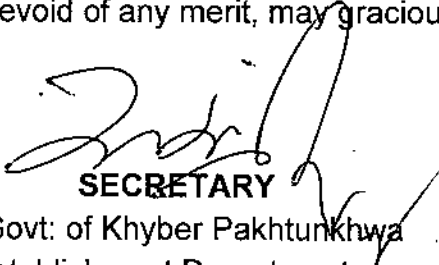
1. Pertains to record.
2. Pertains to record.
3. Incorrect, the appellant is highly problematic and his service history reveals various ups and down in shape of explanations, enquiries etc (**Annex-I**).
4. Correct to the extent that the post of Planning Officer was created in the Directorate of Social Welfare Khyber Pakhtunkhwa for the purpose of planning ADP Schemes and other welfare projects, however, the appellant always created problem for the department due to lodging complaints at different forum.

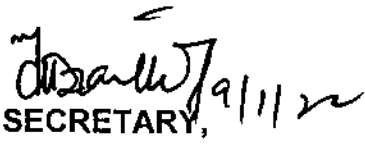
5. Incorrect. As explained at para-3 above.
6. Incorrect, hence denied. The appellant is an employee of the Directorate of Social Welfare and the Khyber Pakhtunkhwa Provincial Planning Service Rules, 2018 relate to Planning Cadre of the Secretariat Level. So, the same is not applicable on the appellant. The appellant just tried to mislead/misguide the Hon'ble Tribunal.
7. Incorrect, hence denied. The Factual Position has already been explained in para-6 above.
8. Incorrect, hence denied. The appellant is an employee of Directorate of Social Welfare Khyber Pakhtunkhwa, which is an attached department of the Social Welfare Department and the rules ibid do not apply on the appellant.
9. Correct to the extent of Establishing of Provincial Planning Cadre under P&D Department; but the appellant cannot be considered at par with planning officers of Provincial Planning & Dev. Department being an employee of Attached Department.
10. Incorrect hence denied. The Administrative Secretary, under Establishment Department's Circular letter No. SO(O&M)E&AD/3-15/2007 dated 26-07-2013, is fully competent to make transfer of any officer up to BPS-18 in consultation with the Minister incharge to anywhere for utilizing his services in the best public interest **(Annex-II)**.
11. Pertains to the record. Because the Appellant is a habitual complainant who writes to different forums against the officer of the department on baseless allegations. However, a complaint on harassment was filed against the appellant and a notice was issued to him by Provincial Ombudsperson for Protection against Harassment of Women at the work place **(Annex-III)**.
12. Incorrect. In light of facts and figures as explained in preceding paras, services of the Appellant cannot be retained as Planning Officer and has been transferred as Social Welfare Officer in the best public interest.
13. The appeal of the appellant being no merit consideration has been filed.
14. Incorrect.


GROUND.

- A. Incorrect, hence denied. As explained in the preceding paras the order dated 27-06-2022 is in accordance with the rules and no malafide intension whatsoever involved.
- B. Incorrect, hence denied. The impugned order has been issued in accordance with Law.
- C. Incorrect, hence denied. The factual position has been explained in detail in the preceding paras.
- D. Incorrect, hence denied. Position has already been explained in detail at para-10 of the fact.
- E. Pertains to record.
- F. Incorrect. The posting order was issued in the best interest and also in the interest of Department.
- G. Needs no comments as the matter has been departmentally been taken.
- H. Incorrect, hence denied. The factual position has already been explained at para-10 above.
- I. Incorrect. As explained at para-3 of the facts.
- J. Incorrect. The factual position has been explained in preceding paras.
- K. That the respondent also seek permission to raise further points at the time of arguments.

In view of the above mentioned factual position, it is prayed, that the appeal, being devoid of any merit, may graciously be dismissed with cost.


SECRETARY
Govt: of Khyber Pakhtunkhwa
Establishment Department
(Respondent No: 02)


SECRETARY,
Social Welfare, Special Education &
Women Empowerment Department
(Respondent No.3)


CHIEF SECRETARY
Govt: of Khyber Pakhtunkhwa
(Respondent No: 01)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
& WOMEN EMPOWERMENT DEPARTMENT

NOTE FOR CHIEF SECRETARY, KHYBER PAKHTUNKHWA

Subject: - DISCIPLINARY ACTION AGAINST MR. ZIA ULLAH KHAN (BPS-17) PLANNING OFFICER, DIRECTORATE OF SOCIAL WELFARE, SPECIAL EDUCATION AN WOMEN EMPOWERMENT, KHYBER PAKHTUNKHWA.

Mr. Zia Ullah Khan, Planning Officer (BPS-17), Directorate of Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa was proceeded against under E&A Rules 2011. The Charge Sheet & Statement of Allegations were signed by the Competent Authority (Annex-I & II) and Mr. Mushtaq Hussain (PMS BS-18), OSD, Establishment Department, Khyber Pakhtunkhwa was appointed as inquiry officer to hold formal inquiry against the accused (Annex-III).

2. The Inquiry Officer has conducted the inquiry and submitted report, wherein as per findings of the inquiry report most of the allegations leveled against the accused officer have been proved (Annex-IV). The Inquiry Officer has mentioned in the conclusion that all charges against the accused officers reflected in the Charge Sheet have been proved/ partially proved against the accused.

3. The Hon'ble Chief Minister, Khyber Pakhtunkhwa, being competent authority, in terms of Rule-4 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) rules, 1989, is requested to kindly sign the Show Cause Notice, placed at (Annex-V) as required under the rule 14 of E&D Rules 2011, tentatively imposing a penalty from the list of penalties at (Annexure-VI) and incorporating the same in the space left blank in the show Cause Notice. The Social Welfare Department recommends imposition of major penalty on the accused officer.



ZUWD-1446

S. W. E. Dept

Diary No. 54

Dated 28.02.2020

112

Dated 13.07.2020



GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
& WOMEN EMPOWERMENT DEPARTMENT

NOTE FOR CHIEF SECRETARY, KHYBER PAKHTUNKHWA

4. Proposal contained in Para-3 above is submitted for approval of the Chief Secretary, Khyber Pakhtunkhwa.

M. I. Khan
28.2.20

(MUHAMMAD IDREES KHAN)
Secretary to Government of Khyber Pakhtunkhwa,
Zakat, Ushr, Social Welfare, Special Education &
Women Empowerment Department

CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

Date: 28.2.2020

5. pl examine

Senz/Estab

M. I. Khan
29/2
CHIEF SECRETARY
Govt. of Khyber Pakhtunkhwa

PTS No. 2/3/2020
Date: 2/3/2020

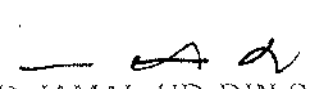
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290 Chief Secretary
Govt. of Khyber Pakhtunkhwa

Department

6. Note for Chief Secretary, Khyber Pakhtunkhwa regarding disciplinary proceedings against Mr. Zia Ullah Khan (BS-17), Planning Officer, Directorate of Social Welfare, Special Education and Women Empowerment Department has been examined. The Inquiry officer has submitted the Inquiry Report **(Annex-IV)**. Perusal of the report reveals that the charges have been fully/partially proved against the accused. The Administrative Department has recommended major penalty. However, the decision with regard to the nature of the penalty to be imposed upon the accused is the discretion of the competent authority as provided in Rule 14(4)(a) of (Efficiency & Discipline) Rules, 2011 **(Annex-VII)**. Moreover, the Administrative Department's proposal at Para-3 of the Note is incorrect as the accused is in BS-17 for which the Chief Secretary, Khyber Pakhtunkhwa is competent authority.


7. The Chief Secretary Khyber Pakhtunkhwa being competent authority in the instant case may like to sign the Show Cause Notice at **(Annex-V)** and insert penalty (ics) therein from the list of penalties at **(Annex-VI)** to be imposed upon the accused officer tentatively.



(SYED JAMAL-UD-DIN SHAH)
Secretary Establishment
March 17, 2020

Chief Secretary, Khyber Pakhtunkhwa



Syed zakat, Ushw, social welfare


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CHIEF SECRETARY
Govt. of Khyber Pakhtunkhwa


SECRETARY ESTABLISHMENT
Establishment & Administration
Department.

NS (A)

2.
5.4.20

FTS NO. 17/3/2020
Date

GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
& WOMEN EMPOWERMENT DEPARTMENT

Subject: - DISCIPLINARY ACTION AGAINST MR. ZIA ULLAH KHAN (BPS-17)
PLANNING OFFICER, DIRECTORATE OF SOCIAL WELFARE, SPECIAL
EDUCATION AN WOMEN EMPOWERMENT, KHYBER PAKHTUNKHWA.

Para-8 of the Note refers.

09. In pursuant of Para-8/ of the Note, a tentative penalty of Compulsory Retirement" was imposed on Mr. Zia Ullah Khan, Planning Officer (BPS-17) (Annexure-V).

10. In response, the accused officer has responded to the Show Cause Notice having nothing substantial on his part to put forth. The arguments given by the accused officer in his reply have already been taken into account vide Para-2 of the Note. However, the accused officer has requested that the charges leveled against him may be dropped and he maybe exonerated. He has also requested for an opportunity of Personal hearing (Annexure-VII).

11. Reply of the officer has been examined and found un-satisfactory, therefore, in view of the reply of the accused officer to the Show Cause Notice, final orders of the Chief Secretary, Khyber Pakhtunkhwa, being Competent Authority are solicited for confirmation of the penalty of "Compulsory Retirement" already conveyed to the accused officer after affording him an opportunity of personal hearing.

12. Proposal contained at Para-11 above is submitted for approval of the Chief Secretary, Khyber Pakhtunkhwa.

(Muhammad Idrees Khan)

Secretary to Government of Khyber Pakhtunkhwa,
Zakat, Ushr, Social Welfare, Special Education &
Women Empowerment Department.

Secy: *ESB*
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

N.S.P.
27/8
Chief Secretary
Govt of Khyber Pakhtunkhwa

Administration
Department.

13. Note has been examined. In pursuance of Para-7 of the Note, Show Cause Notice was issued to the accused and penalty of "Compulsory Retirement" was tentatively imposed upon him. The accused officer in his reply to the Show Cause Notice, has requested for providing of an opportunity of Personal Hearing (**Annex-VII**). However, the Administrative Department after examining the reply of the accused has proposed that penalty of "Compulsory Retirement" already imposed upon the accused officer may be confirmed after affording an opportunity of Personal Hearing.

14. The Chief Secretary Khyber Pakhtunkhwa being competent authority may provide an opportunity of personal hearing to the accused before confirmation of the penalty imposed upon the accused tentatively in light of Rule-15 of the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline (E&D) Rules, 2011 (**Annex-VIII**),.

(SYED JAMAL-UD-DIN SHAH)
Secretary Establishment
3.8, 2020

Chief Secretary, Khyber Pakhtunkhwa

15. Mr Shiraz (PMS P818) DS Estab.

Syaz Estab

u/s

DS (E)

4/8

PS/Secy ADKP
Diary No. 643
FTS No.
Date: 3-8-20

2356
Date: 4.8.2020

Chief Secretary
Govt of K.P.

Department & Administration
Department.

Reference Para 15 of the Note

16. In pursuance of Para 15 of the Note, the accused officer, Mr. Zia Ullah Khan, Planning Officer, Directorate of Social Welfare was afforded opportunity of personal hearing on 11-08-2020. The accused officer appeared in person. Mr. Javaid Akhtar, Section Officer-II, Social Welfare Department and Mr. Usman Jilani, Section Officer R-III, Establishment Department also attended the personal hearing.

17. The accused officer was provided an opportunity to clarify his stance during the personal hearing on the charges leveled against him in the statement of allegations one by one; in view of the arguments put forwarded by the accused officer in his defense, the undersigned reached to the following conclusion.

S.No	Charges (Abridged)	Findings of Inquiry Officer	Remarks
1.	False & baseless allegations leveled in a complaint lodged directly to Chief Secretary and bypassing the chain of command.	The officer is totally unaware about the filling of complaints through proper channel i.e the accused officer has by-passed chain of command	<ul style="list-style-type: none"> The officer is unaware of the modus operandi to be adopted in official communication and stated that by merely writing "through proper channel" on the header of letter, he has fulfilled all requisite formalities. Furthermore, when inquired, whether the next higher authority was intimated of the anomalies in the functioning of Working Women Hostel, Peshawar? To this, the accused officer replied in negative. The accused officer accepted that he had been directly writing / appealing to various government functionaries and departments without the approval of administrative department. Charge No.1 is proved.
2.	Habitual complainant and attended Ehtesab court without the	The accused officer is a habitual complainant and needs proper counseling and attended Ehtesab Commission as a	<ul style="list-style-type: none"> The accused officer agreed that he had been writing to various office holders to lodge complaints against the alleged corrupt practices in

Social Welfare Department
 Date: 12.9.20
 25.8.20

<p>knowledge of department and used complaint readdressal forum to blackmail co-workers.</p>	<p>witness.</p>	<p>the department and had been appealing against his posting/transfer.</p> <ul style="list-style-type: none"> • Charge No. 2 is partially proved to the extent that the accused officer is a habitual complainant.
<p>3. Suggested an unfeasible site for construction of proposed school in Timergara, Dir Lower. The admn department constituted a fact finding inquiry into the matter but the accused officer refused to cooperate with the Inquiry Officer.</p>	<p>The accused officer instead of replying or appearing before the inquiry officer sent a reply to the Secretary of the department as well as investigation agencies. Since minutes of the meeting of the feasibility of site selection are signed by four members but cannot be absolved of the charge.</p>	<ul style="list-style-type: none"> • A committee of four members was constituted by the Administrative department with a task to select a feasible site for construction of proposed school for handicapped children in Timergara Dir Lower. The committee suggested two sites and the competent authority approved one for the purpose. Resultantly it cannot be concluded that only accused officer is the sole responsible for suggesting unfeasible site, therefore, a single person among the committee of four members cannot be held responsible. However, charge No.3 is correct to the extent that the accused officer has not responded to the Inquiry Officer and submitted his reply to Administrative Secretary directly.
<p>4. Harassment of co-workers and interruption (disruption) of smooth running of office.</p>	<p>This charge is under investigation with Provincial Ombuds person therefore no finding can be made.</p>	<ul style="list-style-type: none"> • Since investigation matters related to Harassment cases is not the mandate of this forum and is under investigation before the Provincial Ombudsman and findings of the same forum are awaited. • Therefore, findings of Inquiry Officer are endorsed.
<p>5. Illegal retention of official vehicle</p>	<p>The vehicle was in use of the accused officer. The accused was using it on a verbal direction and handed over the same to</p>	<ul style="list-style-type: none"> • It is established that the official vehicle was in retention of the accused officer. The said vehicle was in his use even when he had

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 Chief Secretary
 Govt of Kh...

Administrative
 Department.

Secretary, Directorate of Social Welfare, Khyber Pakhtunkhwa Peshawar.

been posted out as Social Welfare Officer Charsadda.

- No written order is available to second the stance of the accused officer.
- However, it is concluded that any officer/official if use any vehicle of the department cannot do so without the consent of his department. The accused officer is of the same opinion too that he had been using official vehicle but with verbal order/consent of his department.
- Charge No. 5 is partially proved.

PS/SS (E) E&AD
Diary No. 1854
Date 28/08/2020

18. In view of the above facts, perusal of the record, clarification of the departmental representative, explanation and personal hearing of the accused officer, out of five charges leveled against the accused officer; only one charge proved fully and three partially proved, hence to impose a major penalty will be too harsh. It is, therefore, proposed that the major penalty tentatively imposed upon the accused officer may be reduced to minor penalty of withholding of three annual increments with cumulative effect.

19. Para 18 is submitted for approval of the competent authority.

Deputy Secretary (E)
Establishment Department
24th August, 2020

Secretary Establishment

Ref Para 15/N.

For perusal and order please

CA/S Khyber Pakhtunkhwa
Diary No. 2356
Date 27.8.2020

D/SA

Chief Secretary

Para 18/N approved

Secy SWD

Chief Secretary
Govt of Khyber Pakhtunkhwa

SECRETARY ESTABLISHMENT
Establishment & Administration
Department.

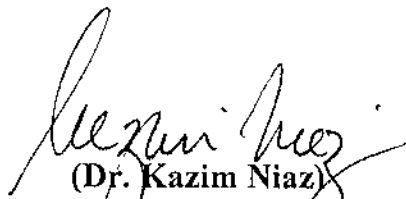
24/8

CHARGE SHEET

I, **Dr. Kazim Niaz**, Chief Secretary, Khyber Pakhtunkhwa as competent authority, hereby charge you, **Mr. Ziaullah Khan**, Planning Officer (BS-17) of the office of Director Social Welfare Peshawar with the following allegations:

- a) That an inquiry was initiated on your complaint dated 19/07/2019, addressed directly to the Chief Secretary. As per findings of the inquiry committee the allegations were found to be false, self-installed, concocted and fabricated, whereupon the inquiry committee recommended disciplinary action against you. As per record of Social Welfare Department, you have involved yourself in lodging baseless complaints, bypassed the proper channel for redressal of your grievances and sending references to the outside forums instead of approaching the immediate supervisors, thus affecting the reputation/credibility of the department adversely.
- b) That your service profile reveals that you are a habitual complainant. You started your career in 2012 and submitted first complaint in 2013. Since then you have submitted about 20 complaints to various authorities except your own chain of command. As per office record you attended the disbanded Ihtesab Commission more than 40 times without any knowledge and direction of the department. Reportedly, you have been misusing the complaints' redressal forums in order to blackmail your co-workers for settling your personal grudges and disputes. The array of your baseless complaints have seriously hindered the functioning of the department over the past many years. You have earned a bad name for yourself and for the department.
- c) That you were deputed to survey a site at Timergara District Dir Lower for construction of school for handicapped children. However, you suggested an unfeasible and inaccessible site for construction of the proposed school apparently due to illegal gratification by the land owners. The Administrative Department when constituted a fact finding inquiry into the matter, you refused to cooperate with the inquiry officer. Ironically instead of responding to a letter from the Inquiry Officer you addressed your reply to numerous irrelevant offices apparently to discredit the administrative Department. The Inquiry officer has proved allegations against you.
- d) That your attitude towards your colleagues, particularly female workers, has been indecent and exploitative. By threatening, harassing and intimidating your co-workers, you have created an unfavourable and hostile environment for them and by doing so, interrupting the smooth running of official business. One of the co-workers has already charge you under the Harassment at the Work Place Act 2016.

- e) That you have illegally retained official vehicle and did not respond to the notices and reminders sent to you by the Administrative Department and that the said vehicle is still in your unauthorized and illegal possession.
 - f) That by doing so, you have proved yourself liable to disciplinary action against you.
2. By reasons mentioned above, you appear to be guilty of misconduct under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 and have rendered yourself liable to all or one of the penalties specified in Rule 4 of the rules ibid.
 3. You are, therefore, directed to submit your written defense within seven days of the receipt of this Charge Sheet to the Inquiry Officer / Committee as the case may be.
 4. Your written defence, if any, should reach the inquiry Officer / Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
 5. Intimate whether you desire to be heard in person.
 6. A statement of allegations is enclosed.


 (Dr. Kazim Niaz)
CHIEF SECRETARY
KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY



GOVERNMENT OF KHYBER PAKHTUNKHWA
SOCIAL WELFARE, SPECIAL EDUCATION
& WOMEN EMPOWERMENT DEPARTMENT

Dated Peshawar the 15th September, 2020

NOTIFICATION:

No: SOII(SWD)1-112/PF/Ziaullah /PO/ : WHEREAS Mr. Zia Ullah Khan, Planning Officer, (BS-17), Directorate of Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in an enquiry i.e. "in lodging baseless complaints bypassed the proper channel for redressing of his grievances and sending reference to the improper channels instead of approaching the immediate supervisors" on account of his involvement in charges levelled against him as per charge sheets and statement of allegations.

2. **AND WHEREAS** Mr. Mushtaq Hussain (PMS BS-18), OSD, Establishment Department was appointed as Enquiry Officer to conduct enquiry against the accused officer.

3. **AND WHEREAS** the Enquiry Officer after having examined the charges evidences on record and explanations of the accused officer, submitted his report.

4. **AND WHEREAS** Major penalty of "Compulsory Retirement" was tentatively imposed upon Mr. Zia Ullah Khan, Planning Officer, Directorate of Social Welfare, Khyber Pakhtunkhwa vide show cause notice served upon him by the Competent Authority (Chief Secretary Khyber Pakhtunkhwa).

5. **AND WHEREAS** the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, explanation of the accused officer in response to the Show Cause Notice and personal hearing granted to him by the Deputy Secretary Establishment on behalf of Chief Secretary Khyber Pakhtunkhwa on 11.08.2020 is of the view that the Charges against the accused officer have proved/ partially proved.

6. **NOW THEREFORE**, in exercise of the powers conferred under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) is pleased to reduce the major penalty i.e "Compulsory Retirement" and impose the major penalty for withholding of **three (03) increments** for three years upon Mr. Zia Ullah Khan, Planning Officer, (BS-17) Directorate of Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa with immediate effect.

Sd/-xxxxx

Secretary to Govt: of Khyber Pakhtunkhwa
Social Welfare, Special Education &
Women Empowerment Department

Ends of even No. & Date

Copy forwarded for information to the: -

1. Secretary Finance Department.
2. Accountant General, Khyber Pakhtunkhwa.
3. PSO to Chief Minister Khyber Pakhtunkhwa.
4. Director, Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa.
5. PS to Chief Secretary, Khyber Pakhtunkhwa.
6. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department.
7. Officer concerned.
8. Personal file.

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Section Officer-II

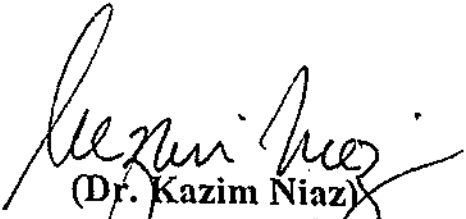
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CHARGE SHEET

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- a) That an inquiry was initiated on your complaint dated 19/07/2019, addressed directly to the Chief Secretary. As per findings of the inquiry committee the allegations were found to be false, self-installed, concocted and fabricated, whereupon the inquiry committee recommended disciplinary action against you. As per record of Social Welfare Department, you have involved yourself in lodging baseless complaints, bypassed the proper channel for redressal of your grievances and sending references to the outside forums instead of approaching the immediate supervisors, thus affecting the reputation/credibility of the department adversely.
- b) That your service profile reveals that you are a habitual complainant. You started your career in 2012 and submitted first complaint in 2013. Since then you have submitted about 20 complaints to various authorities except your own chain of command. As per office record you attended the disbanded Ihtesab Commission more than 40 times without any knowledge and direction of the department. Reportedly, you have been misusing the complaints' redressal forums in order to blackmail your co-workers for settling your personal grudges and disputes. The array of your baseless complaints have seriously hindered the functioning of the department over the past many years. You have earned a bad name for yourself and for the department.
- c) That you were deputed to survey a site at Timergara District Dir Lower for construction of school for handicapped children. However, you suggested an unfeasible and inaccessible site for construction of the proposed school apparently due to illegal gratification by the land owners. The Administrative Department when constituted a fact finding inquiry into the matter, you refused to cooperate with the inquiry officer. Ironically instead of responding to a letter from the Inquiry Officer you addressed your reply to numerous irrelevant offices apparently to discredit the administrative Department. The Inquiry officer has proved allegations against you.
- d) That your attitude towards your colleagues, particularly female workers, has been indecent and exploitative. By threatening, harassing and intimidating your co-workers, you have created an unfavourable and hostile environment for them and by doing so, interrupting the smooth running of official business. One of the co-workers has already charge you under the Harassment at the Work Place Act 2016.

- 17
- e) That you have illegally retained official vehicle and did not respond to the notices and reminders sent to you by the Administrative Department and that the said vehicle is still in your unauthorized and illegal possession.
- f) That by doing so, you have proved yourself liable to disciplinary action against you.
2. By reasons mentioned above, you appear to be guilty of misconduct under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 and have rendered yourself liable to all or one of the penalties specified in Rule 4 of the rules *ibid*.
3. You are, therefore, directed to submit your written defense within seven days of the receipt of this Charge Sheet to the Inquiry Officer / Committee as the case may be.
4. Your written defense, if any, should reach the inquiry Officer / Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case *ex-parte* action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.


(Dr. Kazim Niaz)
CHIEF SECRETARY
KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

18



Subject DISCIPLINARY ACTION AGAINST MR. ZIA ULLAH KHAN (BPS-17) PLANNING OFFICER, DIRECTORATE OF SOCIAL WELFARE, SPECIAL EDUCATION AND WOMEN EMPOWERMENT, KHYBER PAKHTUNKHWA

A. AUTHORITY:

The Govt. of Khyber Pakhtunkhwa Social Welfare Department vide letter No.SD-II(SWD)1-12/PP/2016/1247-51 dated 30.12.2019 (Flag-A) conveyed that competent authority has appointed the undersigned as Inquiry Officer to conduct inquiry against Mr. Zia Ullah Khan (BS-17), Planning Officer, Directorate of Social Welfare Special Education and Women Empowerment, Khyber Pakhtunkhwa and investigate the charges levelled against him in the Charge Sheet and Statement of Allegations (Flag-B).

B. BACKGROUND OF THE CASE:

2. Mr. Zia Ullah Khan (BS-17) Planning Officer, Directorate of Social Welfare Special Education and Women Empowerment, Khyber Pakhtunkhwa since 2012 made several complaints to various authorities except his own chain of command. On a complaint addressed directly to the Chief Secretary Khyber Pakhtunkhwa, a fact finding inquiry was ordered and conducted. The inquiry committee found the allegations baseless and recommended formal action against the complaining Officer i.e. Mr. Zia Ullah (Flag-C).

C. ENQUIRY PROCEEDINGS:

3. After approval of the competent authority under E&D Rules, 2011, the formal Charge Sheet & Statement of Allegations were served by the Social Welfare Department upon the accused Mr. Zia Ullah Khan (BS-17), Planning Officer, Directorate of Social Welfare Special Education and Women Empowerment (Flag-A).

4. On receipt of order of appointment as an Inquiry Officer, a notice was issued to the accused Officer to submit written defence and appear before Inquiry officer on 15.01.2019 at 11:00 am in the office of Deputy Secretary Establishment Department for personal hearing if so desired (Flag-D). The departmental representative was also requested to be present during the proceedings. On the fix day, the accused Mr. Zia Ullah Khan (BS-17), Planning Officer, and Mr. Baitullah, Planning Officer, Social Welfare Department as departmental representative attended the inquiry proceedings. The accused submitted Para wise written

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DISCIPLINARY ACTION

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa as competent authority, hereby charge you, Mr. Ziaullah Khan, Planning Officer (BS-17) of the office of Director Social Welfare Peshawar with the following allegations:

STATEMENT OF ALLEGATIONS

- a) That an inquiry was initiated on your complaint dated 19/07/2019, addressed directly to the Chief Secretary. As per findings of the inquiry committee the allegations were found to be false, self-installed, concocted and fabricated, whereupon the inquiry committee recommended disciplinary action against you. As per record of Social Welfare Department, you have involved yourself in lodging baseless complaints, bypassed the proper channel for redressal of your grievances and sending references to the outside forums instead of approaching the immediate supervisors, thus affecting the reputation/credibility of the department adversely.
- b) That your service profile reveals that you are a habitual complainant. You started your career in 2012 and submitted first complaint in 2013. Since then you have submitted about 20 complaints to various authorities except your own chain of command. You also attended the disbanded Ihtesab Commission more than 40 times without any knowledge and direction of the department. Reportedly, you have been misusing the complaints' redressal forums in order to blackmail your co-workers for settling your personal grudges and disputes. The array of your baseless complaints have seriously hindered the functioning of the department over the past many years. You have earned a bad name for yourself and for the department.
- c) That you were deputed to survey a site at Timergara District Dir Lower for construction of school for handicapped children. However, you suggested an unfeasible and inaccessible site for construction of the proposed school apparently due to illegal gratification by the land owners. The Administrative Department when constituted a fact finding inquiry into the matter, you refused to cooperate with the inquiry officer. Ironically instead of responding to a letter from Inquiry Officer you addressed your reply to numerous irrelevant offices apparently to discredit the administrative Department. The Inquiry officer has proved allegations against you.
- d) That your attitude towards your colleagues, particularly female workers, has been indecent and exploitative. By threatening, harassing and intimidating your co-workers, you have created an unfavourable and hostile environment for them and by doing so, interrupting the smooth running of official business. One of the co-workers has already charge you under the Harassment at the Work Place Act 2016.

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e) That you have illegally retained official vehicle and did not respond to the notices and reminders sent to you by the Administrative Department and that the said vehicle is still in your unauthorized and illegal possession.

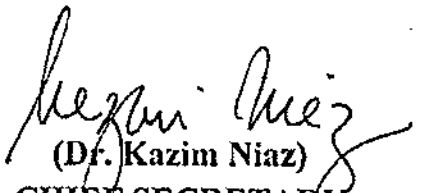
f) That by doing so, you have proved yourself liable to disciplinary action against you.

2. For the purpose of inquiry against the said accused with reference to the above allegations an inquiry officer/ inquiry committee consisting of the following is constituted under rule 10 (i)(a) of the ibid rules.

- i. Mr. Mushtaq Hussain
- ii. _____ (PMS BS-18)

3. The inquiry officer / inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, regard its findings and make, within 30 days of the receipt of this order, recommendation is to the punishment or other appropriate actions against the accused.

4. The accused and a well conversant representative of the department shall join the proceeding of the date time and place fixed by the inquiry officer/ inquiry committee.


(Dr. Kazim Niaz)
CHIEF SECRETARY
KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

2/1



IV

Confidential

By Name

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15


GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. Enquiry/SW/01/02
Dated Peshawar the 29/01/2020

To

The Section Officer-II,
Government of Khyber Pakhtunkhwa,
Social Welfare, SE & Women Empowerment Department,
Peshawar.

**Subject: DISCIPLINARY ACTION AGAINST MR. ZIA ULLAH KHAN
(BPS-17) PLANNING OFFICER, DIRECTORATE OF SOCIAL
WELFARE, SPECIAL EDUCATION AND WOMEN
EMPOWERMENT, KHYBER PAKHTUNKHWA**

Please refer to ^{12-13/20} your office letter No. SO-II(SWD)1-
112/PF/2016/1247-51 dated 31.12.2019 and find enclosed herewith inquiry
report (containing 5 pages alongwith 12 Flags). The written statement and fact
finding inquiry containing a total of 286 pages are also attached.


(MUSHTAQ HUSSAIN) 29/01/2020
PMS BS-18/OSD
Establishment Department
(Inquiry Officer)

	<p>reveals that you are a habitual complainant. You started your career in 2012 and submitted first complaint in 2013. Since then you have submitted about 20 complaints to various authorities except your own chain of command. You also attended the disbanded lhtesab Commission more than 40 times without any knowledge and direction of the department. Reportedly, you have been misusing the complaints' redressal forums in order to blackmail your co-workers for settling your personal grudges and disputes. The array of your baseless complaints have seriously hindered the functioning of the department over the past many years. You have earned a bad name for yourself and for the department.</p>	<p>I. Being a habitual complainant II. Attending the Ehtesab Commission / Court without permission</p> <p>As far as being a habitual complainant, the bulk of material in Flag-A & Flag-B established beyond doubt that the Officer is habitual of making complaints for which he need proper counseling. As far as attending Ehtesab Commission/Court without authority, the department vide its letter No. Admn/2-8/DSW/3610-12 dated 20.09.2017 (Flag-I) directed the officer to attend the Ehtesab Commission. Similarly Ehtesab Commission summon (Flag-J) is by name to the accused as a witness in the complaint against Mrs. Tahira Ali.</p>
<p>3</p>	<p>That you were deputed to survey a site at Timergara District Dir Lower for construction of school for handicapped children. However, you suggested an unfeasible and inaccessible site for construction of the proposed school apparently due to illegal gratification by the land owners. The Administrative Department when constituted a fact finding inquiry into the matter, you refused to cooperate with the inquiry officer. Ironically instead of responding to a letter from Inquiry Officer you addressed your reply to numerous irrelevant offices apparently to discredit the Administrative Department.</p>	<p>A proper inquiry into the selection of unfeasible site at Timergara District Dir Lower for construction of school for Handicapped children was ordered vide No. SPO(SWD)/1-2/ADP/2019-20/KC/2244-49 dated 01.08.2019 (Flag-K). However the officer instead of replying or appearing before the Inquiry Officer again sent a reply to Secretary as well as investigation agencies instead of replying and cooperating with the, or appearing before the Inquiry Officer. Ultimately the Inquiry Officer had to rely on available record. In instant formal enquiry, the stance of the accused is the same; however he produced a copy of Minutes of the meeting of feasibility of site selection for "Upgradation of Government School for deaf and dumb Timergara" (Flag-L). Although minutes were signed by 4 members and two sites were recommended yet the Officer being part of the committee cannot be absolved of the charge.</p>

	The Inquiry Officer has proved allegations against you.	
4	That your attitude towards your colleagues, particularly female works, has been indecent and exploitative. By threatening, harassing and intimidating your coworkers, you have created an unfavorable and hostile environment for them and by doing so, interrupting the smooth running of official business. One of the co-worker has already charge you under the Harassment at the Work Place Act 2016.	An Harassment case been launched by Mrs Fahira Ali before the Honourable Provincial Ombudsperson, against the Harassment of Women at Work Place, Khyber Pakhtunkhwa, Peshawar (Flag-M). The undersigned met with Honourable Provincial Ombudsperson, who confirmed that the said complaint is under investigation therefore, no finding can be made against a pending inquiry before a proper forum.
5	That you have illegally retained official vehicle and did not respond to the notices and reminders sent to you by the Administrative Department and that the said vehicle is still in your unauthorized and illegal possession.	It has been established that the said vehicles was in the use of the accused officer. When asked about the written order to use the vehicle, the accused officer said that it was given on verbal order. The accused officer has produced a copy of certificate of returning the vehicle to one Mr. Saqib Habib, Assistant Director (Admn), Directorate of Social Welfare, Khyber Pakhtunkhwa, Peshawar (Flag-N) however this has been returned after drafting of charge against him although before final enquiry order.
6	That by doing so, you have proved yourself liable to disciplinary action against you.	---

E. CONCLUSION:

From the above, it is concluded that:

- a) ~~Charge No. 1 has been proved.~~
- b) ~~Charge No. 2 has been proved only to the extent that he is habitual complainant whereas attending of Ehtesab Commission was on the authority of department which was never cancelled. Similarly, the notice was also by name to the accused officer as a witness.~~
- c) ~~Charge No. 3 has been partially proved as other persons were also members of the committee.~~
- d) ~~Charge No. 4: This Charge is being investigated by the Honourable Provincial Ombudsperson, against the Harassment of Women at Work Place, Khyber~~

Pakhtunkhwa, Peshawar, therefore it cannot be taken under E&D Rules 2011 until and unless findings/directions of the Honourable Provincial Ombudsperson, Khyber Pakhtunkhwa, Peshawar are received.

- e) Charge No. 5 stand proved as vehicle has been returned on 06.12.2019, after hectic pursuance of the department. Furthermore, authorized use (permission/authorization of using the vehicle by the accused official) has not been established.

(MUSHAQ HUSSAIN) 29/1/20
PMS BS-18/OSD
ESTABLISHMENT DEPARTMENT
(INQUIRY OFFICER)

25-

SHOW CAUSE NOTICE

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, under the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Zia Ullah Khan, Planning Officer (BPS-17) Directorate of Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa, as follows:-

- I) That consequent upon the completion of inquiry conducted against you by Inquiry Officer, Mr. Mushtaq Hussain, (PMS BPS-18) OSD, Establishment Department, for which you were given opportunity of hearing.
- II) On going through the findings of the Inquiry Officer, the material on record and other connected papers including your defense before the Inquiry Committee

I am satisfied that you have committed the following acts/omissions specified in rule-3 of the said rules:

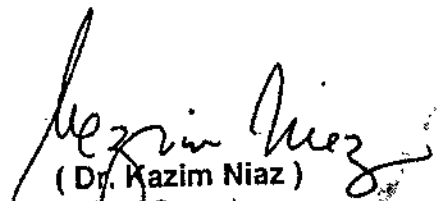
- (b) guilty of misconduct

5. As a result thereof, I as competent authority, have tentatively decided to impose upon you the penalty of Compulsory Retirement under rule 4 of the said rules.

6. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

7. If no reply to this notice is received within 15 days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

8. A copy of the findings of the inquiry officer is enclosed.


(Dr. Kazim Niaz)
Chief Secretary,
Khyber Pakhtunkhwa

Mr. Zia Ullah Khan,
Planning Officer (BPS-17),
Directorate of Social Welfare,
Khyber Pakhtunkhwa

VI

3. Grounds for proceedings.---A Government servant shall be liable to be proceeded against under these rules, if he is-

- (a) inefficient or has ceased to be efficient for any reason; or
- (b) guilty of misconduct; or
- (c) guilty of corruption; or
- (d) guilty of habitually absenting himself from duty without prior approval of leave; or
- (e) engaged or is reasonably believed to be engaged in subversive activities, or is reasonably believed to be associated with others engaged in subversive activities, or is guilty of disclosure of official secrets to any un-authorized person, and his retention in service is prejudicial to national security; or
- (f) entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

4. Penalties.---(1) The following are the minor and the major penalties, namely:

(a) Minor penalties:

- (i) censure;
- (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

- (iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b) Major penalties:

- (i) reduction to a lower post or pay scale or to a lower stage in a time scale.

- (ii) compulsory retirement;
- (iii) removal from service; and
- (iv) dismissal from service.

(2) Dismissal from service under these rules shall disqualify a Government servant from future employment under Government.

(3) Any penalty under these rules shall not absolve a Government servant from liability to any other punishment to which he may be liable for an offence, under any other law, committed by him while in service.

5. **Initiation of proceedings.**—(1) If on the basis of its own knowledge or information placed before it, the competent authority is of the opinion that there are sufficient grounds for initiating proceedings against a Government servant under these rules it shall either:-

- (a) proceed itself against the accused by issuing a show cause notice under rule 7 and, for reasons to be recorded in writing, dispense with inquiry;

Provided that no opportunity of showing cause or personal hearing shall be given where-

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or
 - (ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or
 - (iii) a Government servant is involved in subversive activities; or
 - (iv) it is not reasonably practicable to give such an opportunity to the accused; or
- (b) get an inquiry conducted into the charge or charges against the accused, by appointing an inquiry officer or an inquiry committee, as the case may be, under rule 11:

Provided that the competent authority shall dispense with the inquiry where-

14. Order to be passed on receipt of report from the inquiry officer or inquiry committee. (1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rules.

(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall :

- (a) inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him.
- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule-4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him; provided that the accused shall, in his reply to show cause notice, indicate as to whether he wants to be heard in person or not.
- (c) provide a copy of the inquiry report to the accused; and
- (d) direct the departmental representative to appear, with all the relevant record, on the date of hearing.

(5) After affording personal hearing to the accused the competent authority shall, keeping in view the findings and recommendations of the inquiry

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VIII

15 Personal hearing. -- The competent authority may, by an order-in-writing, call the accused and the departmental representative, along with relevant record of the case, to appear before him, for personal hearing on the fixed date and time.

16 Procedure of inquiry against Government servant lent to other governments or organizations etc. --- (1) Where the services of Government servant to whom these rules apply are transferred or lent to any other government department, corporation, corporate body, autonomous body, authority, statutory body or any other organization or institution, hereinafter referred to as the borrowing organization, the competent authority for the post against which such Government servant is posted in the borrowing organization may -

- (a) suspend him under rule 6; and
- (b) initiate proceedings against him/her under these rules;

Provided that the borrowing organization shall forthwith inform the authority which has lent his services, (hereinafter referred to as the lending organization) of the circumstances leading to the order of his suspension or the initiation of the proceedings, as the case may be:

Provided further that the borrowing organization shall obtain prior approval of the competent authority in the lending organization before taking any action under these rules against a Government servant holding a post in basic pay scale 17 or above.



GOVT. OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No. SO(O&M)E&AD/3-15/2007
Dated Peshawar, the 26th July, 2013

To
All Administrative Secretaries,
to Govt. of Khyber Pakhtunkhwa.

Subject: POSTING/TRANSFER

Dear Sir,

I am directed to refer to the subject noted above and to state that the Competent Authority has been pleased to direct that the posting/transfer of the officers upto BPS-18 may be made at the level of the Department concerned in consultation with Minister Incharge. However, the posting/transfer of the officers of BPS-19 and above may be made after seeking prior approval of the Chief Minister, Khyber Pakhtunkhwa.

2. I am, further, directed to request that the above directions of the competent authority should be strictly complied with.

Yours faithfully,


(KHUDA BAKSH)
DEPUTY SECRETARY (Reg-III)

Copy for information:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
3. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
4. PS to Additional Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
5. PS to Additional Chief Secretary (FATA), Peshawar.

Copy to:

1. All Additional Secretaries in E&A Department.
2. All Deputy Secretaries in E&A Department.
3. All Section Officers in E&A Department.


DEPUTY SECRETARY (Reg-III)


SECTION OFFICER (O&M)



GOVERNMENT OF KHYBER PAKHTUNKHWA
 PROVINCIAL OMBUDSMAN SECRETARIAT PESHAWAR
 FOR PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE
 BENEVOLENT FUND BUILDING, PESHAWAR CANTT
 PHONE NO. 091 9213093

Complaint No. 1-16/Ombudsperson/Ms. Tahira Ali/2019/461
 Dated Peshawar the 17th September 2019,


To,

Mr. Ziaullah,
 Planning Officer
 District Social Welfare Office, Charsadda,
 Contact No: 0344-0763292
 0300-5763292

Subject:

COMPLAINT FILED BY MS. TAHIRA ALI MANAGER, UNDER
 PROTECTION AGAINST HARASSMENT OF WOMEN AT WORK
 PLACE ACT 2010:

1. Please refer to the subject complaint filed by Ms. Tahira Ali Manager Artificial Limbs Workshop, Khyber Teaching Hospital Peshawar before the Ombudsperson Khyber Pakhtunkhwa (copy enclosed).
2. You are required to file your defense in person/your representative within seven days.


 (OMBUDSPERSON)
 (PROTECTION AGAINST HARASSMENT
 OF WOMEN AT THE WORK PLACE KHYBER PAKHTUNKHWA)

Cc:
 Concerned file.