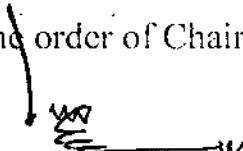


FORM OF ORDER SHEET

Court of _____

Case No.- _____ 2023/2022

S.No	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/12/2022	<p>The appeal of Mr. Dilawar Khan presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan ^{Peshawar} on <u>10.1.23</u> Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman  REGISTRAR.</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

APPEAL No. 2023 /2022

DILAWAR KHAN

VS

LG & RDD

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APPELLANT

THROUGH:

[Signature]
NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 2023/2022

Mr. Dilawar Khan, Assistant Director (BPS-17);
Local Government, Election & Rural Development Department, D.I Khan.

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2- The Secretary, (LG&RD) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Director General Local Government & Rural Development Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 14.07.2022 WHEREBY PENALTY OF REDUCTION TO A LOWER STAGE FOR ONE YEAR WAS IMPOSED UPON THE APPELLANT AND AGAINST THE IMPUGNED APPELLATE ORDER DATED 02.11.2022 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned notification dated 14.07.2022 and appellate order dated 02.11.2022 may very kindly be set aside and the appellant may kindly be restored on his original pay scale/ stage with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant with all back benefits.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1. That the appellant is the employee of the respondent department and was performing his duties as Assistant Director LG&RDD Bannu quite efficiently up to the entire satisfaction of his superiors.
- 2. That astonishingly a show cause notice dated 16.02.2022 was served upon the appellant whereby baseless allegations were levelled against him. that in response the appellant submitted his reply of the ibid show cause notice and denied the allegations levelled against him. Copies of the show cause and reply are attached as annexure **A & B.**
- 3. That astonishingly penalty of reduction to a lower stage for one year was imposed upon the appellant vide impugned Notification dated 14.07.2022. Copy of the impugned order dated 14.07.2022 is attached as Annexure

- 4. That appellant feeling aggrieved from the impugned Notification dated 14.07.2022 preferred departmental appeal dated 02.08.2022 before the respondent No.1 which has been rejected through appellate order 02.11.2022 on no good grounds. Copies of the departmental appeal dated 02.08.2022 and appellate order 02.11.2022 are attached as annexure **D & E.**
- 5. That appellant having no other efficacious remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned notification dated 14.07.2022 and impugned appellate order dated 02.11.2022 issued by the respondents are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That neither charge sheet nor statement of allegations has been served on the appellant before issuance of the impugned order 14.07.2022.
- D- That no regular inquiry has been conducted in to the matter which is necessary to dig out the real facts.
- E- That no chance of personal hearing and defense has been provided to the appellant before imposing the penalty.
- F- That the appellant was falsely alleged of misconduct and inefficiency because the charges levelled against the appellant relate to the tenure before his charge assumption.
- G- That the impugned notification dated 14.07.2022 and impugned appellate order dated 02.11.2022 has been issued by the respondents in arbitrary and mala fide manner, therefore, the same is not tenable in the eye of law and liable to be struck down.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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


APPELLANT

DILAWAR KHAN

Through:


**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

66
Waleed Adnan - 3-
WALEED ADNAN

Umar Farooq Momand

Muhammad Ayub

Khanzad Gul &
Advocates

AFFIDAVIT

I Dilawar Khan, Assistant Director, Local Government, Election & Rural Development Department, D.I Khan, do hereby solemnly affirm that the contents of this Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


Deponent

-4-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

CM NO. _____/2022

IN

APPEAL NO. _____/2022

DILAWAR KHAN

VS

LG & RDD:

APPLICATION FOR CONDONATION OF DELAY IN FILING THE
ABOVE NOTED APPEAL.

R.SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so far.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal on the following grounds inter alia:

GROUND OF APPLICATION:

- A- That valuable rights of the appellant are involved in this case hence the appeal deserves to be decided on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather than technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.


APPELLANT
DILAWAR KHAN

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT



"A" -5-

1716
WE

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

No.SOE (LG)/3-5/Gandari Dallan Hangu/2021
Dated the Peshawar 16th Feb, 2022

To

1. Mr. Dilawar Khan,
Assistant Director, LG&RDD
D.I.Khan.
2. Mr. Abid Zaman,
Assistant Director, LG&RDD
Hangu.
3. Mr. Irfan Ullah,
Assistant Engineer
Office of Assistant Director, LG&RDD
Hangu.

Subject: **SHOW CAUSE NOTICE.**

I am directed to refer to the subject noted above and to enclose herewith Show Cause notice duly signed by the competent authority with the direction to submit reply to the show cause notice within the stipulated time period of seven (07) days on receipt of this communication for perusal of the competent authority. In case of failure, ex-parte action will be taken against you.

Encls: as stated.

Endst: No & Date eve.

Copy to:

1. Director General, LG&RD, Khyber Pakhtunkhwa.
2. PS to Secretary LG,E&RDD

10/2/2022
SECTION OFFICER (ESTAB)

SECTION OFFICER (ESTAB)

I, Dr. Shahzad Khan Bangash, Chief Secretary, Khyber Pakhtunkhwa, Peshawar in exercise of the powers under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve upon you, Mr. Dilawar Khan, the then Assistant Director (BS-17), Local Govt. & Rural Dev: Hangu, as follows:-

6-

- (i) That consequent upon the completion of enquiry conducted against you by the Enquiry Officer Mr. Smai Ullah, Additional Deputy Commissioner (F&P) Kohat on the basis of fact finding inquiry of Deputy Commissioner, Hangu and Provincial Inspection Team on account of charges of not properly processing files for payment, misuse of government cheques, submitting of works and misplacement of works files in the Developmental Schemes namely "WSS Ganderi Dallar" and WSS Karbogha Sharif" under 10% Oil and Gas Royalty Fund 2014-15, for which you were given opportunity of hearing and
- (ii) On going through the findings and recommendations of the Enquiry Officer, the material on record and other connected papers including your defense before the said Enquiry Officer;

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

- a. Mis-conduct
- b. In-efficiency.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Reduction to a lower stage for one year under Rule-4 of the said rules.

3. You are, thereof, 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.

4. If no reply to this notice is received within seven days of its delivery in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case exparte action shall be taken against you.

5. A copy of findings of the Enquiry Officer is enclosed.


(Dr. Shahzad Khan Bangash)
Chief Secretary

Mr. Dilawar Khan
the then Assistant Director(BS-17),
Local Govt. & Rural Dev: Hangu now
Assistant Director, LG&RD D.I.Khan.

"B"

7-



**OFFICE OF THE ASSISTANT DIRECTOR
LOCAL GOVERNMENT & RURAL DEVELOPMENT DEPARTMENT
DERA ISMAIL KHAN**

Email: adlkdikhan@gmail.com

Office Tel # 0966-9280214

No: 154 /AD/LG & RDD

Dated: 24/02 /2022

To

The Section Officer (Establishment)
LG & RDD, Khyber Pakhtunkhwa
Peshawar

Subject: - SHOW CAUSE NOTICE.

Memo:

Please refer to your office letter No. SOE(LG)3-5/General Dallah Hangu/2021 dated
16-02-2022.

Reply to the Show Cause Notice along with enclosure is sent herewith for further
necessary action please.

(Dilawar Khan Barki)
Assistant Director (Sr)
Local Govt. & RDD D.I.Khan

To,

The Chief Secretary
Khyber Pakhtunkhwa,
Civil Secretariat Peshawar.

8-

Subject: REPLY TO SHOW CAUSE NOTICE

Respected Sir,

It is submitted that I have received show cause notice under Local Government Elections & Rural Development Letter No. SO(E)/LE/3-5/Gandri Dallan Hangu/2021 dated 16.02.2022 (**Annex-I**), wherein a penalty of "Reduction to a lower stage for one year has tentatively been imposed upon me on account of the following.

"not properly processing files for payment, misuses of government cheques (**Annex-II**) - submitting of works and misplacement of works files in the developmental schemes namely "WSS Gandri Dallan" and WSS Karbogha Sharif" under 10% Oil and Gas Royalty Fund 2014-15" (**Annex-III**).

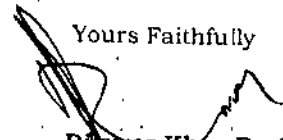
Further Stated that:-

1. The appellant has neither handed over the developmental files of WSS Gandari Dallan to the representative of the contractor nor process the subject files for approval of Deputy Commissioner for payment. While, the case of producing forged signature and fraudulent payment was reported to DPO and DC Hangu (**Annex-IV**) for necessary action under the law and the cheque was timely dishonored to save the Government Ex Chequer from financial loss.
2. The representative of contractor has submitted written statement on Government stamp paper before DC Hangu recording therein that the file in question was handed over to him by the Assistant Engineer, LG & RDD Hangu while recording statement before ADC Kohat (Inquiry Officer) states that the file was in the custody of Mr. Karim Saif, SE and was handed over to the undersigned (appellant) for processing the case/file for approval/payment to Deputy Commissioner, Hangu. Both the statements by the same individual/rep; of contractor are contradictory and clearly show malafide intentions of individual against officers/officials of LG & RDD, Hangu.
3. The undersigned had deputed the team, on the directions of district administration after receiving report of forged signature from this office, to physically verify the work to submit the actual position/ physical progress of work done/ ground reality of scheme before the district administration Hangu for necessary under the rules/law. (**Annex-V**)
4. As far as maintenance of record is concerned, the same are maintained in different branches of this office by subordinate staff under the supervision of branch incharge. If any dispute raises in a branch, is to be reported to Assistant Director for action under the rules. Job description of Assistant Director is attached (**Annex-IV**) for perusal wherein maintenance of record/files on part of Assistant Director is silent.

In view of above facts, the undersigned is not responsible for happening/occurring but has attempted to save the Government Money/ Ex chequer from financial loss/ disclosed the fraud case before the high ups. It is therefore prayed that I may please be exonerated/ absolved from charges leveled in charge sheet & Show Cause Notice.

It is also requested that an opportunity of personal hearing may kindly be granted to explain my position in person, please.

Yours Faithfully


Derawar Khan Burki
Assistant Director, LG & RDD (BS-17)
Dera Ismail Khan



Government Of Khyber Pakhtunkhwa
Local Government, Elections & Rural
Development Department

Dated Peshawar the 14-07-2022

4813

NOTIFICATION

No. SOE/LG/3-5/Hangu/Ganderi Dallan /2020. WHEREAS, the following Assistant Directors (BPS-17) and Assistant Engineer (BPS-17) were proceeded against under the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 on account of inefficiency and misconduct due to misuse of official cheques and loss of work files in the Development Schemes of WSS Ganderi Dallan and WSS Karbogha Sharif under 10% Oil & Gas royalty fund 2014-15:

1. Mr. Dilawar Khan, Assistant Director (BPS-17), LG&RDD
2. Mr. Abid Zaman, Assistant Director (BPS-17), LG&RDD
3. Mr. Irfan Ullah, Assistant Engineer (BPS-17), LG&RDD

2. AND WHEREAS, the Competent Authority conducted proper inquiry under Rule 5(b) of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.

3. AND WHEREAS, the Inquiry Officer after having examined the charges, evidence on record and explanation of the accused officers, submitted the report wherein the charges mentioned in the Charge Sheet against Mr. Dilawar Khan, Assistant Director (BPS-17), Mr. Abid Zaman, Assistant Director (BPS-17) and Mr. Irfan Ullah, Assistant Engineer (BPS-17), Local Government & Rural Development Department have been proved.

4. NOW THEREFORE, the Competent Authority after having considered the charges, evidence, finding of the Inquiry Report and explanation of the accused officers during personal hearing held on 16-06-2022 and exercising his powers under the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 hereby imposed penalty of "Reduction to a lower stage for One Year" upon Mr. Dilawar Khan, Assistant Director (BPS-17), Mr. Abid Zaman, Assistant Director (BPS-17) and Mr. Irfan Ullah, Assistant Engineer (BPS-17), Local Government & Rural Development Department.

CHIEF SECRETARY

KHYBER PAKHTUNKHWA / COMPETENT AUTHORITY

Endst. No. & Date Even

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa.
2. Director General, Local Government & Rural Development Department, Peshawar.
3. Deputy Commissioner, Hangu.
4. District Accounts Officers Hangu and D.I Khan
5. Director (IT), LG&RDD.
6. Officers concerned.
7. PS to Secretary, LG,E&RD Department.

[Signature]
SECTION OFFICER (E. I.)

Subject: DEPARTMENTAL APPEAL /REPRESENTATION AGAINST THE ORDER NO.SO (LG)/3-5/Hangu/Ganderi Dallan/2020/4813 DATED PESHAWAR THE 14TH JULY, 2022.

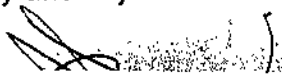
Respected Sir,

The appellant approaches your good self through the instant Departmental appeal as per follows:-

1. That the appellant was performing his duties as Assistant Director LG&RDD Hangu.
2. That during all is service career, the performance of the appellant remained excellent and on many occasions, the performance of the appellant was duly acknowledged.
3. That a Show Cause Notice was served upon the appellant dated 16th February 2022 which was properly replied explaining all the facts and circumstances of the cases. (copy of the letter, Show Cause Notice and reply thereto are attached as **Annexure A & B**, respectively)
4. That the appellant was shocked to know that the appellant has been awarded major penalty of "Reduction to a lower stage for one year" vide Notification bearing No. SOE/LG/3-5/Hangu/Ganderi Dallan/2020/4813 dated 14th July 2022 (Copy attached as **Annexure C**).
5. That being aggrieved by the impugned order dated 14th July, 2022 the appellant have the honour to approach your good self through the appeal/representation in hand on the following grounds amongst others:-

GROUND:

- A. That the penalty awarded through the impugned order dated 14th July 2022 is harsh, arbitrary and unjustified void ab-initio.



-11-

In view of the position explained above, it is humbly requested that the impugned order dated 14th July regarding imposition of major penalty of "Reduction to a lower stage for one year" may kindly be set aside, please.

Yours faithfully,



(Dilawar Khan)

Ex-Assistant Director LG&RDD, Hangu

Now Assistant Director LG&RDD

Dera Ismail Khan.

2nd August, 2022

NE -12-
GOVERNMENT OF KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT

No.SO(E-II)LG/3-5/Hangu/Ganderi Dallah/2020
Dated Peshawar the 02-11-2022

1. Mr. Abid Zaman, Assistant Director (BPS-17),
Local Government & RD Department.
2. Mr. Dilawar Khan, Assistant Director (BPS-17),
Local Government & RD Department.
3. Mr. Irfan Ullah, Assistant Engineer (BPS-17),
Local Government & RD Department.

Subject:- DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE
ORDER NO. SO(LG)/3-5/HANGU/GANDERI DALLAN/2020/4813
DATED 14TH JULY, 2022

I am directed to refer to your departmental representations on the above
subject have been considered and rejected.


SECTION OFFICER
(ESTABLISHMENT-II)

Endst. Even No. & Date

Copy is forwarded to the:

1. Director General, Local Government & RDD.
2. PS to Secretary LG, E&RDD Department Peshawar.


SECTION OFFICER
(ESTABLISHMENT-II)

-13-

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO: _____ OF 2022

Dilawar Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

L.G & RDP

(RESPONDENT)
(DEFENDANT)


I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022


CLIENT 

ACCEPTED


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT
(BC-10-0853)
(15401-0705985-5)


UMAR FAROOQ MOHMAND


WALEED ADNAN

&


MUHAMMAD AYUB
ADVOCATES

OFFICE:

Flat No. (TF) 291*-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)