

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.281/2012

Date of Institution ... 27.02.2012

Date of Decision ... 13.10.2020

Mr. Mualim Jan, Director Reclamation & Probation, Khyber Pakhtunkhwa Peshawar.

... (Appellant)

VERSUS

Govt of Khyber Pakhtunkhwa, through Chief Secretary Peshawar and Two others.

... (Respondents)

M. Asif Yousafzai
Advocate

... For Appellant

Mr. Riaz PindaKhel,
Assistant Advocate General

... For Respondents

Mr. MUHAMMAD JAMAL KHAN
Mr. ATIQ UR REHMAN WAZIR... **MEMBER (J)**
... **MEMBER (E)**

JUDGEMENT: -.

Mr. ATIQ-UR-REHMAN WAZIR: - Appellant Mr. Mualim Jan, Director Reclamation & Probation Khyber Pakhtunkhwa have assailed the impugned notification dated, 23-11-2011, whereby the penalty of stoppage of three annual increments imposed upon the appellant.

2. Brief facts of the case are that an anonymous complaint lodged against the appellant before Justice Dost Muhammad Khan of Peshawar High Court, based on which a fact finding inquiry was conducted. The Chief Minister

being the competent authority served the appellant with Charge sheet and statement of allegations as well as appointed an inquiry officer to conduct formal inquiry against the appellant under section 3 of NWFP Removal from service (special powers) Ordinance, 2000 and Harassment against women at workplace Act 2010. The inquiry officer conducted inquiry and submitted report with recommendations of major penalty of reduction of appellant current time scale of pay by one year. Show-Cause notice issued to the appellant and the competent authority tentatively decided to impose penalty of withholding of five annual increments upon the appellant. The appellant responded to the show cause notice and finally penalty of withholding three annual increments without accumulative effect was imposed upon the appellant vide impugned order dated 23-11-2011. The appellant preferred departmental appeal against the impugned order on 03-12-2011, which was not, responded to, hence the instant service appeal with prayers that the impugned order dated 23-11-2011 may be set aside.

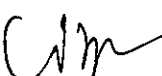
3. ~~Written reply/comments~~ were submitted by respondents.

4. Arguments heard and record perused.

5. Learned counsel for the appellant in his detailed arguments contended that the appellant was implicated in a baseless case instituted upon an anonymous complaint. The inquiry officer in his report has admitted that as per instructions contained in S&GAD Letter No SORII(S&GAD)5(29)/97-II Dated 22-07-1998 anonymous communications must invariably be filed on their receipt. No action of any kind is to be taken on their contents, but in presence of such clear rules, proceedings were initiated on an anonymous complaint in violation of these rules. That the so-called complaint allegedly lodged by the women probation officers working under the appellant, but during the course of

investigation all the six women probation officers in their written statements denied lodging such a complaint. That as per stance of respondents, a fact-finding inquiry was conducted and upon its recommendations, charge sheet and statement of allegations were served upon the appellant. That the appellant requested in writing for provision of copy of the said inquiry report, but no such report was provided, as no such inquiry was conducted and proceedings were initiated merely on an anonymous complaint. That respondents in their written comment in response to the Para wise replies have commented, that the accused have no right to have a copy of it, which means that no copy of the inquiry report was provided to the appellant along with the charge sheet and statement of allegations, which is clear violation of the rules and negation of opportunity of defense to the appellant. The learned counsel further contended that if any copy of the fact-finding inquiry is available with the respondents, they might present it now before the court. The learned counsel referred to the charge sheet served upon the appellant, where the appellant charged with inefficiency/misconduct under section 3 of the NWFP Removal from service (Special Powers) Ordinance, 2000 (RSO 2000) as well as Harassment against women at workplace Act, 2010 simultaneously. The learned counsel argued that it was not a case of misconduct/inefficiency in the first place as nothing proved against him to this effect, whereas the inquiry officer himself admitted to the fact that harassment against women can only be inquired by specific authorities and not by inquiry officer appointed under RSO 2000, but in spite of his admission to the fact, he continued to proceed him under RSO 2000, thus the very findings of the inquiry officer is without lawful authority. That the appellant was not provided opportunity to cross-examine witnesses in his presence as is evident from the proceedings of inquiry report, which states that some of the witnesses were interviewed on phone. Moreover,

the appellant also requested for summoning some witnesses in defense, which however was ignored by the inquiry officer and which is violation of Section 5(1) (C) of RSO 2000. The learned counsel pointed out that it is very strange to note that the inquiry officer recommended major penalty of reduction of appellant current time scale of pay by one year, whereas in the show cause notice withholding of five annual increment and finally penalty of withholding of three increments was imposed upon the appellant and that too without mentioning a specific period, thus the basic penalty order is in violation of law and rules. That the proceedings were undertaken in a haphazard manner without observing the codal formalities and without providing opportunity of defense to the appellant. The learned counsel argued that in view of his valid contentions, the impugned order dated 23-11-2011 may be set aside by restoring the annual increments of the appellant with all consequential benefits.

6.  Conversely, the learned Assistant Advocate General appeared on behalf of official respondents contended that every opportunity was provided to the appellant including cross examination as is evident from the inquiry report. The learned Assistant Advocate General admitted that though the women probation officers disowned the complaint, but the appellant himself admitted that he has touched the shoulder of women officer with finger during computer test. The learned Assistant Advocate General also referred to the statement of one women probation officer, which mentions that the appellant should also improve his behavior with women staff, indicating that his behavior was not good towards women staff. That copy of the fact finding report was not provided, as was not necessary, but duly served the appellant with charge sheet and statement of allegations under RSO 2000 as well as Harassment against women at workplace Act, 2010, but proceeded against under Section 3 of RSO 2000 as harassment does fall under the category of misconduct. The

learned Assistant Advocate General prayed that in view of the above discussion and material on record, the instant appeal may be dismissed.

7. For what has been discussed above, this Tribunal is of the opinion that action against appellant on an anonymous complaint was not warranted in the first place, particularly when it was established that nobody amongst the women probation officers claimed to be mover of such complaint. Secondly, the appellant was required to be proceeded against under Harassment of women at workplace Act, 2010, instead he was proceeded against under RSO 2000, where too, appropriate opportunity of defense was not provided to the appellant, hence the impugned order dated 23-11-2011 is set aside and annual increments of the appellant restored with all consequential benefits with no orders as to costs. File be consigned to record room.

ANNOUNCED
13.10.2020

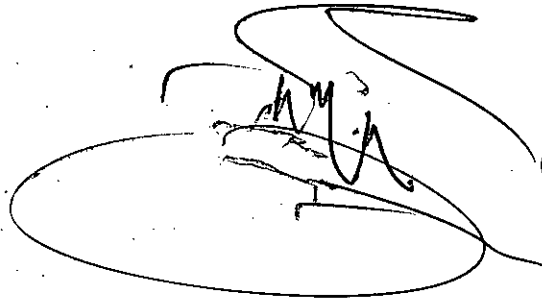

(MUHAMMAD JAMAL KHAN)
MEMBER(J)


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

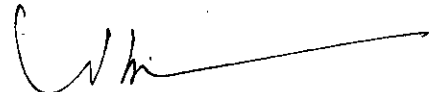
13.10.2020 Learned counsel for appellant present. Mr. Riaz Paindakhel
learned Assistant Advocate General for respondents present.

Vide detailed judgment of today of this Tribunal placed on file,
the impugned order dated 23-11-2011 is set aside and annual
increments of the appellant restored with all consequential
benefits with no orders as to costs. File be consigned to record
room.

ANNOUNCED
13.10.2020



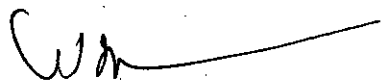
(MUHAMMAD JAMAL KHAN)
MEMBER (J)



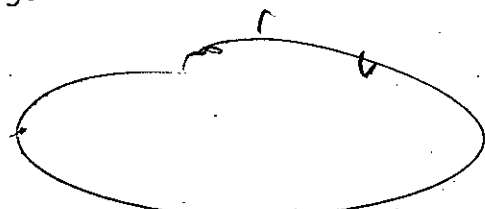
(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

01.10.2020

Appellant himself alongwith Mr. Muhammad Asif Yousafzai, Advocate are present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith representative of the department Mr. Alamzeb Khan, Superintendent are also present. Arguments heard. File to come up for order on 13.10.2020 before D.B.



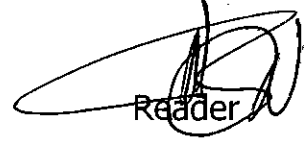
(Atiq-ur-Rehman Wazir)
Member (Executive)



(Muhammad Jamal Khan)
Member (Judicial)

21.08.2020

Due to summer vacation case to come up for the same on 23.09.2020 before D.B.

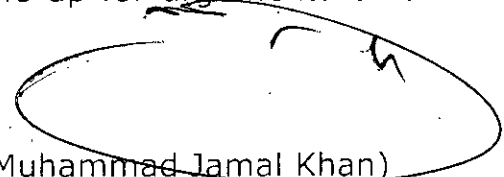

Reader

23.09.2020

Appellant is present in person. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith representative of the department Mr. Samad Ali, Assistant are also present.

Appellant requested for adjournment on the ground that his counsel is busy in the Hon'ble Supreme Court of Pakistan. He was reminded that appeal is pending adjudication since 27.02.2012 and so far arguments have not been addressed. Adjournment is granted with the direction to ensure the availability of his counsel on 29.09.2020 for addressing the arguments. File to come up for arguments before D.B.


(Mian Muhammad)
Member (Executive)

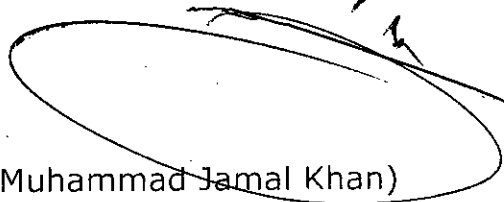

(Muhammad Jamal Khan)
Member (Judicial)

29.09.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of the department Mr. Alamzeb Khan, Superintendent are also present.

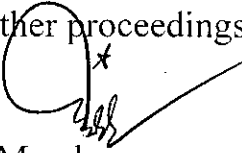
Appellant submitted that his counsel is busy in the Hon'ble Peshawar High Court, Peshawar, therefore, requested for adjournment. He was reminded that the appeal is pending since 27.02.2012 and has not been adjudicated so far. He is directed to submit cause list of the Hon'ble Bench where his respective counsel is engaged vis-à-vis application for adjournment. Last chance is given for arguments. Adjourned to 01.10.2020 on which to come up for arguments before D.B.


(Atiq-ur-Rehman Wazir)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

10.03.2020

Appellant in person present. Mr. Zia Ullah learned Deputy District Attorney alongwith Alamzeb Superintendent present. Some points need further consideration. To come up for further proceedings/order on 02.04.2020 before D.B.



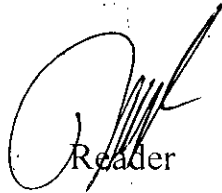
Member



Member

02.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 29.06.2020 before D.B.



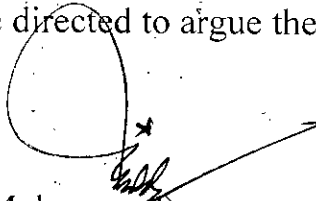
Reader

29.06.2020


Appellant present in person.

Mr. Muhammad Jan learned Deputy District Attorney alongwith representative Mr. Alamzeb Superintendent for the respondents present.

As per record, this case^{was} fixed for orders but the learned Member (Judicial) has been transferred. Therefore, both the parties are directed to argue the case on 21.08.2020 before D.B.



(Mian Muhammad)
Member(E)



(Rozina Rehman)
Member (J)

16.01.2020

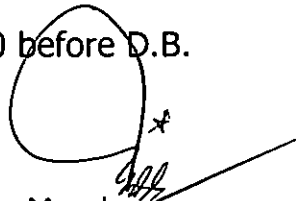
Appellant in person present. Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Alamzeb Superintendent for the respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 17.02.2020 before D.B.


Member


Member

17.02.2020

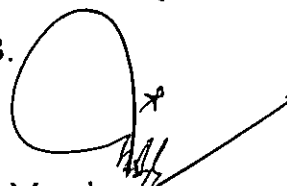
Appellant with counsel present. Mr. Ziaullah, DDA alongwith Mr. Alamzeb, Supdt for respondents present. Learned Deputy District Attorney seeks time to furnish copy of statements of witnesses recorded by the enquiry officer during the course of regular enquiry. To come up for additional documents/arguments on 21.02.2020 before D.B.


Member


Member

21.02.2020

Appellant with counsel present. Mr. Ziaullah, DDA alongwith Mr. Alamzeb, Supdt for respondents present. Arguments heard. To come up for order on 10.03.2020 before D.B.


Member


Member

01.10.2019

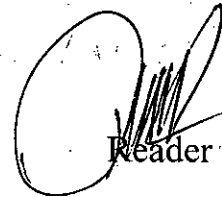
Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Being an old case of the year 2012, adjourned by way of last chance. To come up for arguments on 29.10.2019 before D.B.


Member


Member

29.10.2019

Due to incomplete bench the case is adjourned. To come up for the same on 12.12.2019 before D.B.


Reader

12.12.2019

Appellant in person present and seeks adjournment. Samad Ali Superintendent representative of the respondent department present. Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourned. To come up for further proceedings/arguments on 16.01.2020 before D.B.


Member


Member

28.06.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Alamzeb Superintendent present. Representative of the respondent department seeks adjournment to furnish Fact Findings inquiry report earlier referred to in order sheet dated 10.09.2018 and mentioned in order sheet dated 20.04.2017. Adjourn. To come up for Fact Finding inquiry report and arguments on 08.08.2019 before D.B.


Member


Member

08.08.2019

Appellant in person present. Mr. Muhammad Jan, DDA alongwith Mr. Alamzeb, Supdt for respondents present. Appellant seeks adjournment due to general strike on the call of Pakistan Bar council. Adjourn. To come up for arguments on 13.09.2019 before D.B.



Member


Member

13.09.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Alamzeb Superintendent present and stated that fact finding report as mentioned in the preceding order sheet is not available and to this effect, he submitted office letter dated 05.08.2019. Learned counsel for the appellant seeks adjournment. Adjourned by way of last chance. To come up for arguments on 01.10.2019 before D.B.


Member


Member

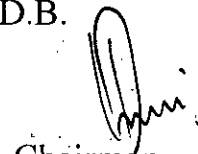
12.03.2019

Appellant in person and Mr. Ziaullah, DDA alongwith Alamzaib, Superintendent for the appellant present.

Appellant once again requests for adjournment due to engagement of his learned counsel before the Apex Court at Islamabad today.

Adjourned to 08.04.2019 before the D.B.


Member


Chairman

08.04.2019

Appellant in person and Mr. Muhammad Jan learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 09.05.2019 before D.B


Member


Member

09.05.2019

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Alamzaib, Superintendent for the respondents present.

Due to paucity of time instant matter is adjourned to 28.06.2019 for arguments before the D.B.


Member


Chairman

08.08.19

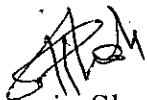
Learned counsel for the appellant and Mr. Casim Ullah Khattak Learned Additional Advocate General along with Zaki Ullah Senior Auditor and Shajeeb Ahmad Senior Auditor present. Learned counsel for the appellant stated that no annual increment for the year 1387 D. in BS-17 or in BS-17 was granted to the appellant. Similarly the appellant was not granted required increments on his promotion to BS-18. Requesting to the respondent department is directed to produce relevant records. Learned counsel for the appellant also asks time to time documents regarding the action given by the appellant as to the effectiveness of his promotion to BS-18. Requesting to come up for record/arguments on 08.08.2019 before D. J.


Members

Members

08.10.2018

Learned counsel for appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for appellant seeks adjournment. Adjourn. To come up for arguments on 15.11.2018 before D.B


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

15.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 04.01.2019.



READER

04.1.2019

Appellant in person and Mr. Ziaullah, DDA for the respondents present.

Former states that his learned counsel is busy today before the Apex Court, therefore, requests for adjournment. Adjourned to 12.3.2019 for arguments before the D.B.


Member

Chairman 

10.07.2018

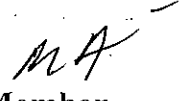
Appellant Mualim Jan in person alongwith his counsel Syed Noman, Advocate present. Mr. Samad Ali, Assistant alongwith Mr. Usman Ghani, District Attorney for the respondents present. At the very opening of the case, learned counsel for the appellant made a request for adjournment. Granted. Being an old case of 2012 adjourned for arguments tomorrow i.e 11.07.2018 before D.B.


Member


Chairman

11.07.2018


Appellant in person present. Usman Ghani, District Attorney on behalf of the respondents present. Arguments could not be heard due to killing of a lawyer, Barrister Haroon Bilour in a suicide attack during election campaign. To come up for arguments on 10.09.2018 before the D.B.

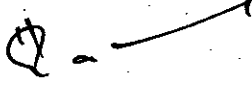

Member


Chairman

10.09.2018

Mr. Samad Ali Advocate junior to counsel for appellant present. Mr. Muhammad Jan learned Deputy District Attorney for respondents present and seeks adjournment to furnish fact finding inquiry report earlier requisitioned vide order sheet dated 20.04.2017. Adjourned by way of last chance. To come up for record and arguments on 08.10.2018 before D.B


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

19.01.2018


Clerk to counsel for the appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney, for respondents present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not available. Adjourned. To come up for arguments on 16.03.2018 Before D.B


(Gul Zeb Khan)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

16.03.2018

Appellant absent. Learned counsel for the appellant is also absent. However, junior to senior counsel for the appellant present and seeks adjournment. Mr. Riaz Ahmed Painsa Kheil, Assistant AG for the respondents present. Adjourned. To come up for arguments on 02.05.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

02.05.2018


Learned counsel for the appellant and and Mr. Muhammad Jan, Learned Deputy District Attorney present. The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore the case is adjourned. To come up for the same on 10.07.2018


READER

20.04.2017


Appellant alongwith his counsel present. Mr. Samad Ali, Assistant alongwith Mr. Ziaullah, Government Pleader for respondents also present. Facts finding inquiry report is not available on record. Respondents are directed to produce positively facts finding inquiry report on the next date of hearing. To come up for facts finding inquiry report and arguments on 17.07.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

17.07.2017

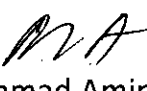
Appellant alongwith his counsel present. Mr. Samad Ali, Assistant alongwith Mr. Muhammad Jan, Deputy District Attorney for respondents also present. The Learned Executive Member Mr. Gul Zeb Khan is away for interviews in the office of Khyber Pakhtunkhwa Public Service Commission therefore, due to incomplete bench the case is adjourned for facts finding inquiry report and arguments to 10.11.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member

10.11.2017


Junior counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents also present. Record mentioned in order sheet dated 20.04.2017 not produced by the respondents. Respondents are once again directed to produce the same on the next date of hearing. Adjourned. To come up for record and arguments on 19.01.2018 before D.B.

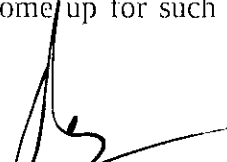

(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

30.5.2016

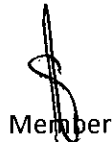
Counsel for the appellant and Saeedullah, Junior Clerk alongwith Ziaullah, GP for respondents present. Since the fact findings ^{Inquiry} ~~is not before the Tribunal~~ ^{is not before the Tribunal} on the basis of which the appellant was punished, therefore, representative of the respondent is directed to produce the ~~report~~ of fact findings inquiry on the date fixed. To come up for such record and arguments on 24.10.2016.


Member


Member

24.10.2016

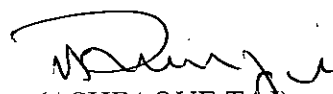
Appellant in person and Mr. Samad Ali, Assistant alongwith Assistant AG for respondents present. Requested for adjournment. To come up for arguments on 13.12.2016 before D.B.

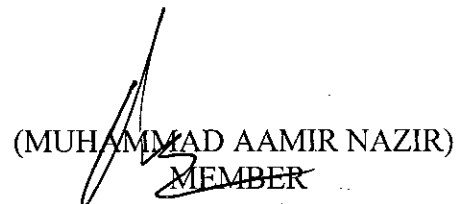

Member


Chairman

13.12.2016

Appellant alongwith his counsel and Mr. Samad Ali, Assistant with Mr. Usman Ghani, Sr.GP for the respondents present. Since the facts finding inquiry is not available on file therefore learned counsel for the appellant requested to summon the same in order to appraise about the factual position of the case. Request accepted. The respondents are directed to produce facts finding inquiry of the appellant before the court. To come up for record and arguments on 20.4.17 before D.B.


(ASHFAQUE TAJI)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

05.08.2015

Appellant with counsel and Mr. Saeedullah, Junior Clerk
alongwith Muhammad Jan, G.P for respondents present. Since the court
time is over therefore, case is adjourned to 21-10-2015.


Member


Member

21.10.2015

Appellant with counsel and Mr. Saeedullah, Junior Clerk
alongwith Mr. Ziaullah, GP for respondents present. Since the court time
is over therefore, case is adjourned to 15-2-16 for arguments.


MEMBER


MEMBER

15.02.2016

Counsel for the appellant and Mr. Saeedullah, Junior
Clerk alongwith Mr. Muhammad Jan, GP for ^{respondents} present. The
learned Member (Executive) is on official tour to Abbotabad.
Therefore, the case is adjourned to 30.5.16 for arguments.




MEMBER

01.10.2014

Appellant in person and Mr. Alam Zeb, Supdt. with Mr. Muhammad Adeel Butt, AAG for the respondents present. The requisite record has not been produced. Arguments also could not be heard due to incomplete bench. To come up for arguments, as before, on 1.4.2015.


Member

1.4.2015

Appellant with counsel and Mr. Ziaullah, GP with Samad Ali, Assistant for the respondents present. The learned Member (Judicial) is on official tour to D.I.Khan, therefore, case is adjourned to 22.5.2015 for arguments.


MEMBER

5.5.2015

Appellant with counsel and Mr. Ziaullah, GP with Saeedullah, Clerk for the respondents present. The learned Member (Judicial) is on leave, therefore, case to come up for arguments on 10.06.2015.


MEMBER

10.06.2015

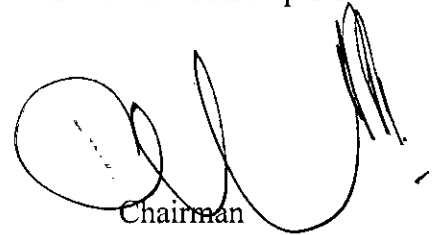
Appellant in person and Muhammad Jan, GP for the respondents present. Counsel for the appellant is stated busy before the Hon'able High Court Peshawar. Requested for adjournment. Adjourned to 05.08.2015 for arguments


MEMBER


MEMBER

29.7.2013

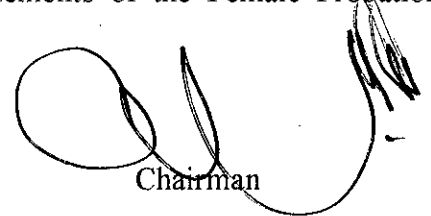
Appellant with counsel and Mr. Samad Ali, Supdt on behalf of the respondents with Mr. Usman Ghani, Sr. GP present. The learned counsel for the appellant requested for adjournment. To come up for arguments on 15.1.2014.



Chairman

15.01.2014

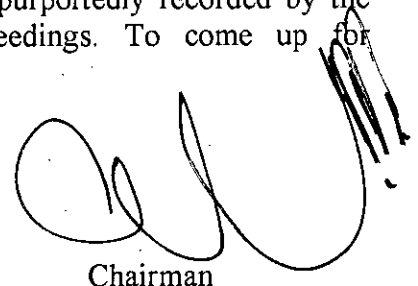
Appellant with counsel and Mr. Alam Zeb, Supdt. on behalf of respondents with AAG present . At the outset of arguments, the learned counsel for the appellant referred to statements of Female Probation Officers, provided by the appellant alongwith his rejoinder; but the record of the statements of the said Female Probation Officers is not available with representative of the respondents. The representative is directed to bring record of the statements of the Female Probation Officers for arguments on 8.5.2014.



Chairman

8.5.2014

Appellant with counsel and Mr. Alam Zeb, Supdt. on behalf of the respondents with Mr. Usman Ghani, Sr. GP present. Representative of the respondents produced copy of letter dated 16.5.2011 alongwith copies of statements of Female Probation Officers, which are placed on file. The learned Sr. GP requested for adjournment on the ground that file of the case has not been handed over to him by the learned AAG who prepared the case for arguments but is out of station today. The perusal of record reveals that the inquiry officer has reportedly recorded statements, as many as 10 witnesses but their statements are not available on record and have also not been provided by the respondent-department alongwith their written reply. The representative of the respondents is, therefore, directed to make available copies of statements of all the witnesses whose statements were purportedly recorded by the inquiry officer during inquiry proceedings. To come up for arguments on 1.10.2014.



Chairman

02.08.2012

Clerk of counsel for the appellant and AAG
for respondents presents. Respondents are absent. Fresh
notices be issued to the respondents for written reply/comments
on 19.10.2012.


MEMBER


CHAIRMAN

19.10.2012

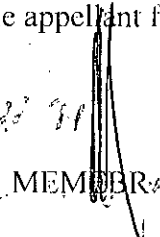
Appellant in person and Naimatullah, Deputy Director for
respondents with Mr. Shakirullah, AGP present. Written reply has
not been received and request for further time made in this
behalf. Another chance is given for written reply/comments on
21.12.2012..

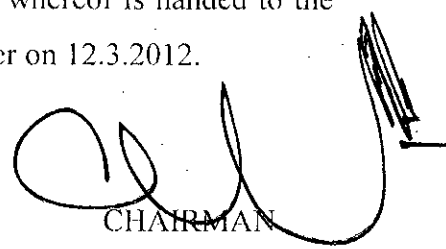

MEMBER

21.12.2012

Appellant with counsel and Mr. Niamatullah, Deputy Director
on behalf of the respondents with AAG present. Written reply
received on behalf of the respondents copy whereof is handed to the
learned counsel for the appellant for rejoinder on 12.3.2012.

Handwritten notes in Urdu script, partially obscured by a stamp.


MEMBER


CHAIRMAN

12.03.2013

Appellant in person and Mr. Niamatullah Khan, Deputy Director
on behalf of the respondents with AAG present. Rejoinder received on
behalf of the appellant, copy whereof is handed over to learned AAG for
arguments on 29.7.2013.


MEMBER

Appeal No. 281/2012

Muallim Jan

3. 19-6-2012.
Appellant deposited
process fee & security
As per RSO/3 Bench Report
attached with file.

The Counsel for the appellant present and heard. The Counsel for the appellant contended that the appellant has been punished on the basis of anonymous complaint. The penalty of stoppage of 3 annual increments has been imposed without specifying the period which is the violation of law and the appellant was not given chance of defense because the enquiry as per Section-5 of the RSO-2000 was not conducted. Point raised needs consideration. The appeal is admitted to full hearing. The appellant is directed to deposit the security and process fee within 10 days to come up for reply 19-6-2012.

Member

4. 19-6-2012.

The case is entrusted to the learned Bench for further proceedings.

Chairman

Appellant with counsel present.
No one present for respondent.
The worthy chairman is on tour
to Alibad. To come up for
written reply/comment on 2-8-2012.

Chairman

Form- A
FORM OF ORDER SHEET

Court of -----

Case No. 281/2012 -----

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27/02/2012	<p>The appeal of Mr. Mualam Jan Director submitted today by Mr. M. Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>M. Asif Yousafzai</i> REGISTRAR 27/2/12</p>
2	9-3-2012	<p>This case is entrusted to Primary Bench for Preliminary Hearing to be put up there on <u>19-9-2012</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 281 /2012

Mualim Jan

V/S

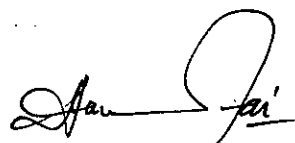
Government of KPK

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-04
2.	Copy of Complaint	- A -	05-06
3.	Copy of Charge sheet	- B -	07
4.	Copy of Statement of Allegations	- C -	08
5.	Copy of Application dt. 10.08.2011	- D -	09
6.	Copy of Reply	- E -	10-12
7.	Copy of Reply	- F -	13-25
8.	Copy of Inquiry Report	- G -	26-40
9.	Copy of Show Cause Notice	- H -	41
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12.	Copy of Appeal	- K -	48-50
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APPELLANT
MUALIM JAN

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 281 -/2012.

MUalim Jan,
Director Reclamation & Probation,
KPK Peshawar.....

298
27/2/12

Appellant

VERSUS

- 1- The Govt: of KPK Through Chief Secretary KPK Peshawar.
 - 2- The Chief Secretary KPK Peshawar.
 - 3- The Secretary Homes &TA Deptt: KPK Peshawar...
-Respondents.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 READ WITH SECTION 10 OF THE RSO-2000 AGAINST THE ORDER DATED. 23.11.2011, WHEREBY THE PENALTY OF STOPPAGE OF THREE ANNUAL INCREMENTS HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST NOT TAKING ANY ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD.

PRAYER:

That on acceptance of this appeal the impugned order dated. 23.11.2011 may be set-aside being illegal and unwarranted under the law and based on anonymous complaint with further directions to the respondents to restore the annual increments of the appellant with all consequential benefits. Any other remedy which this august tribunal deems fit that may also be awarded in favour of appellant.

R.SHEWETH.

- 1- That the appellant belongs to noble family with good back ground and remained as Director Reclamation & Probation KPK with good record and there were no adverse record of the appellant regarding his performance of duty for the last 16 years service and as Director Reclamation & Probation KPK.
- 2- That an anonymous complaint was moved before the Chief Justice Of KPK and on the basis of that a fact finding inquiry was conducted in which all the probation officers and other staff disowned the complaint. Copy of the complaint is attached as Annexure – A.
- 3- That then the Chief Minister being the competent authority served the appellant with a charge sheet and statement of allegation in which the appellant was charged for sexually harassment of female probation officers working under his authority. Copy of the charge sheet and statement of allegations are attached as Annexure – B & C.
- 4- That as the matter was based on the so called fact finding inquiry, therefore the appellant submitted an application for providing the copy of fact finding inquiry to enable himself for proper defense because the appellant was never associated with fact finding inquiry. Even the copy of the so called fact finding inquiry was not provided to the appellant for the reasons best known to them. This also means that actually no fact finding inquiry was conducted. Copy of application is attached as Annexure- D.
- 5- That then the appellant filed detail reply to the anonymous complaint as well as charge sheet and denied all the allegations categorically. Copies of replies are attached as Annexure – E & F.
- 6- That then an inquiry was conducted in violation of section 5(1) (C) of the RSO-2000 because neither the statements were recorded in presence of appellant nor the appellant was given a chance to cross examine them. It is also interesting to note that the inquiry officer himself has held that for such like complaint the proper forum is the committee created under the Harassment Act, but despite of that the inquiry officer held the appellant guilty. Copy of the report is attached as Annexure – G.

- 7- That the appellant was given final show cause notice wherein the punishment of the stoppage of 5 annual increments was proposed. However the appellant filed his detail reply to show cause notice and once again denied all the allegations. Copies of notice and reply are attached as Annexure – H & I.
- 8- That on 23.11.2011 the penalty of stoppage of three annual increments was imposed upon the appellant against which the appellant filed departmental appeal on 3.12.2011 and waited for 60 days but that appeal has not yet been responded so far. Hence the present appeal on the following grounds amongst the others. Copies of order and appeal are attached as Annexure – J & K.

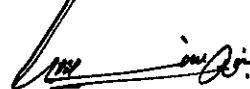
GROUND:

- A- That the impugned order dated. 23.11.2011 and not taking any action on the appeal of the appellant is against the law, rules, norms of justice and material on record, Therefore , not tenable.
- B- That the whole action was taken against the appellant on a baseless anonymous complaint and that too disowned by the probation officers, therefore the authority has not used his independent mind and passed order under the pressure of the complaint addressed to the Chief Justice of KPK.
- C- That even the inquiry officer himself declared as incompetent forum on one hand and on the other hand held the appellant guilty. Thus the very finding of the inquiry officer is without lawful authority.
- D- That the punishment of stoppage of 5 annual increments was proposed in the final show cause notice while the punishment was inflicted up to the stoppage of three annual increments only and there is no reasons or order are available for such decrease in the penalty which proves that the authority has not acted with independent mind.
- E- That other wise the impugned penalty was based on anonymous complaint which according to the Govt: Notifications should be thrown to dustbin. Thus the respondents themselves violated the instruction of the Govt: regarding anonymous complaints.

- F- That no period has been specified while imposing the penalty, therefore the basic penalty order is in violation of law and rules.
- G- That even the respondents have violated section 5-1(a) of the RSO-2000 because the competent authority has served the appellant with charge sheet and statement of allegations.
- H- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT



MUALIM JAN

THROUGH:



M.ASIF YOUSAFZAI
ADVOCATE.

خدمتِ عالیہ جسٹس دوست محمد خان صاحب سپتاور ہائی کورٹ
عنوان: زنانہ پروٹیشن آفیسرز

(15) 2

اب کی وجہ آپ نے ایک عدلیہ کی طرف مندرجہ ذیل کرنا چاہتی ہیں اور یہ طور و حال
آپ کے از خود نوٹس پر زنانہ پروٹیشن آفیسرز کے Appointment کے
اقتاعات صادر ہوئے جتنے نئے میں عرفیہ قوانین پر پروٹیشن آفیسرز کی
تعمیناتی ہوئی۔ ان چھ قوانین پر پروٹیشن آفیسرز کو طے مشکلات میں رکھا گیا ہے
وہ بیان سے باہر ہے۔ اس ڈیپارٹمنٹ کا ڈائریکٹر مسٹر معلوم جہاں جو کہ حرمال میں درج ہو کر
نے صفحہ (پہلی نمبر 16 سے 17 اور 17 سے 18) سے تعلقات رکھتے کوئی بھی شخص اس کا تعلق
نہیں کرتا اور اس ڈیپارٹمنٹ کا بے تاج بادشاہ بنا ہے۔

خواتین پر پروٹیشن آفیسرز کو مجبور کیا جاتا ہے جنہی میدان کی طرف اور بدلتی
ڈھکی گھسی بات نہیں آپ ہر وقت معلومات کر سکتے ہیں

پروٹیشن آفیسرز زانیہ کو باٹ کو سب سے پہلے بتا دیا کہ وہ علم جانا ڈائریکٹر سے
سنا کہ جو ڈالوں تیرے لئے 10 روپے ملتی ہیں اور ڈر دارا علی کے لئے اس کی بیوی کا
بیاری جنہی اولی ہے! کوئی بھی جان، بسن رکھنے والہ اس عدالت کو نہیں دیکھ سکتا
عورت ہے ایسا حال میں بیان نہیں کر سکتی

نظریہ سعید پر پروٹیشن آفیسرز کے پاس دو قوانین پر دستنرخ ہیں انکو جس قدر ہم لکھنا
تیا تھا وہ بیان سے باہر ہے مگر اس نے اسکی عزت بچائی اور کسی صورت اسے حرام نہ
دیکر قبیل پر پروٹیشن آفیسرز کے لئے دو روپے عرف اور عرف سٹیکس کی بنیاد پر
ڈیپارٹمنٹ کو ڈیفنیشن کے ہی نے ڈیفنیشن کی طرف سے کیا گیا ہے
میل پر پروٹیشن آفیسرز کو اتنا تنگ کیا سوا ہے کہ کوئی سپر نہیں اٹھا سکتا اور نہ ہی
کوئی اسے غلط بات کر سکتا ہے یہ وہ پروٹیشن آفیسرز کو کسی نہ کسی معاملے میں اٹھاتا

ایسا ایک دوست مسعود الہرمان جو کہ ڈائریکٹر کام میں مشورہ سے بیوم ڈیپارٹمنٹ
جو بھی غلط کام معلوم جہاں ڈائریکٹر کرتے ہیں یہ مندرجہ اوپر بیوم ڈیپارٹمنٹ میں سکون
صاف کرنا ہے انکو 50 روپے سے مسعود الہرمان عدلیہ سپرٹروٹ کے پاس لیا

(6)

یہ بہ صلوٰۃ وگ ایسے علموں کو پیر فائز حسین اللہ حسین ان ایسے بچانے کی کوئی چیز
ہے کہ اس سے استعارہ تعارف یہ بندہ کرتا ہے۔

عقلمند
حاصل ہوا
تاریخ

5

یہ وہی ہے جو کہ

CHARGE SHEET

B
② ③

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Mr. Mualim Jan, Director R&P as follows:

On a written complaint, a fact finding enquiry was conducted which revealed that you are involved in sexually harassing the female Probation Officers working under your control

2- By reasons of the above, you appear to be guilty of inefficiency/misconduct under Section-3 of the NWFP Removal from Service (Special Powers) Ordinance, 2000 and Harassment against Women at Workplace Act. 2010 and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance and Harassment against Women at Workplace Act. 2010.

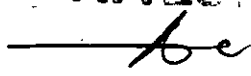
3- You are therefore directed to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer/Committee, as the case may be.

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 defence to offer and in that case an exparte action shall be taken against you.

5- Also intimate whether you desire to be heard in person.

6- A statement of allegations is enclosed.


26-7-11
(AMIR HAIDER KHAN HOTI)
(COMPETENT AUTHORITY)

sub 0123


STATEMENT OF ALLEGATIONS

C (8) (1)

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Mr. Mualim Jan, Director R&P as follows:

On a written complaint, a fact finding enquiry was conducted which revealed that you are involved in sexually harassing the female Probation Officers working under your control

2. For the purpose of scrutinizing the conduct of the said female accused with reference to the above allegations, an Inquiry Officer/Committee consisting of the following is constituted under section-5 of the Ordinance:-

i. Dr. Ihsan Director RMMU

ii. _____

3. The Inquiry Officer/Committee shall in accordance with the provisions of the Ordinance and Harassment against Women Workplace Act. 2010, provide reasonable opportunity of hearing to the accused, record their findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Inquiry Committee.

Amir Haider Khan Hoti
26-7-11
AMIR HAIDER KHAN HOTI
(Competent Authority)

ENDST; NO. Kc. 1/3050 (PMS) HD/1/11, Dated 26-07-2011
Copy of the above is forwarded to:

Dr. Ihsan-ul-Haq Director RMMU/

Inquiry Officer/~~Committee~~ for initiating proceedings against the accused under the provisions of the NWFP Removal from Service (Special Powers) Ordinance 2000 and Harassment against Women Workplace Act. 2010. A copy of the charge sheet/statement of allegations is enclosed herewith.

Acting Director R&P Khyber Pakhtunkhwa, Peshawar, with the direction to produce the relevant record before the Inquiry Committee and assist them during the Inquiry proceedings. Charge sheet in duplicate is sent herewith. One copy of the same duly signed and dated by above named official may be returned to this office in token of its receipt. Mr. Mualim Jan, Director R&P with the direction to appear before the Inquiry Committee, on the date, time and place fixed by the Inquiry Committee, for the purpose of inquiry proceedings. Charge sheet in duplicate is sent herewith. One copy of the same duly signed and dated by you may be returned to this office in token of receipt.

MJM/10-08-2011
SECTION OFFICER (PRISONS)

Amir Haider Khan Hoti

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department

Subject:- COPY OF FACT FINDING ENQUIRY REPORT

Dear Sir,

Kindly refer to your office letter No. KC.1/30-SO(PRISONS)HD/11-D.R&P,
dated 10th August 2011.

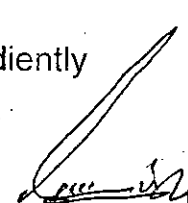
In the charge sheet it has been conveyed that a fact finding inquiry was
conducted against me, which revealed that I was involved in sexually harassing the
female Probation Officers working under my control.




It is submitted that I am not in the knowledge of any such inquiry having
been conducted against me. I have never been involved in sexually harassing the
female Probation Officers working under my control. Therefore it is shocking to know
that I have been found involved in the so-called Inquiry Report.

It is requested that a copy of the Inquiry Report, if any, conducted without
my knowledge and association may be provided to me within three days enabling me to
submit proper reply to the charge which otherwise, false, vague and insulting.

Yours obediently

Dated: 10th August 2011


6/c (Mualim Jan) 10/8/11
Director (Reclamation & Probation)
(under suspension)
Khyber Pakhtunkhwa




10/8/11

iv. It may be appropriate to bring on record that no order or notification
has been issued with regard to appointment of an Inquiry Officer or
appointment of Inquiry committee in this regard. So far I know, no



E (10)

Confidential / Immediate

**GOVERNMENT OF KHYBER PAKHTUNKHWA,
HOME & TRIBAL AFFAIRS DEPARTMENT.**

No. KC.1/30-SO(PRISONS)HD/11-D.R&P
Dated Peshawar, 10TH August, 2011.

(2)

To

Dr. Ihsan-ul-Haq,
Director RMMU,
Office of the Chief Secretary,
Khyber Pakhtunkhwa Peshawar

Subject:- APPLICATION/COMPLAINT (C # 11251)

Dear Sir,

I am directed to refer to the subject noted above and to say that on receipt of complaint from Member Inspection Team Peshawar High Court Peshawar the Competent Authority has been pleased to appoint you as Enquiry Officer to conduct disciplinary proceedings against Mr. Mualim Jan, Ex-Director Reclamation and Probation Khyber Pakhtunkhwa (under suspension) under RSO 2000 and submit report within 25 days. Charge sheet/statement of allegations against the officer is enclosed for further necessary action.

Yours faithfully,

ENCL: AS ABOVE

SECTION OFFICER (PRISONS)

Endrst: of even No/date

Copy forwarded to:-

1. Acting Director R&P Peshawar alongwith charge sheet/statement of allegations against the accused officer (in duplicate) for service upon the accused officer and one copy thereof may be returned to this Department in token of receipt. He is further requested to provide necessary record as and when required by the Enquiry Officer and depute representative well conversant with the case.
2. Maulim Jan Director R&P (under suspension) with the direction to submit written reply to the Enquiry Officer and attend the proceedings when directed by the Enquiry Officer.
3. PS to Special Secretary Home for information

AMM/10-08-2011

SECTION OFFICER (PRISONS)

ATTESTED

[Signature]

Dr. Ihsan-ul-Haq,
Director RMMU,
Office of the Chief Secretary,
Khyber Pakhtunkhwa, Peshawar

11
S

Subject:- APPLICATION / COMPLAINT (C# 11251) / REPLY TO THE CHARGE SHEET.

Dear Sir,

Kindly refer to your letter No. MOI / RMMU/CS/4-4/2010 dated 13th August /2011 on the subject noted above.

My reply is as under:

- i. A so-called fact finding inquiry was conducted by the Home Department on an anonymous complaint. (Copy of the complaint enclosed). I want to submit before you that under the law, disposal of anonymous complaints have duly been explained. There are a number of instructions available on the subject but I just wanted to bring into your kind notice two very relevant authorities for ready reference:

S&GAD letter No. SOR-II(S&GAD)5(29)/97-2, (Annex-I)
dated 22.07.1998 and;

S&GAD letter No. SOR-II(S&GAD)5(29)/97-2, (Annex-II)
dated 15.11.1999

- ii. In light of the above two authorities and many others available on the subject, this complaint is not entertainable under the law.
- iii. In the first instrument, disposal of inquiry cases based on anonymous and pseudonymous complaints is duly explained in detail. I just want to bring in your kind notice, the instruction at S.No. 1 of **Annex-I** in which it has been clearly directed that anonymous complaints in any shape invariably be filed on their receipt. No action of any kind is to be taken on them and no notice of any kind is to be taken on their contents.

But contrary to these instructions, I have not only been falsely involved but an inquiry has been initiated, I have been placed under suspension and charge sheeted without any cogent reason giving me a lot of mental torture and agony. This act of the administrative department is in violation of law and against the instructions issued by the Government from time to time.

iv. It may be appropriate to bring on record that no order or notification has been issued with regard to appointment of an Inquiry Officer or appointment of Inquiry committee in this regard. So far I know, no

such fact finding inquiry as per law has been conducted by the Home Department.

- v. Anyhow if at all such inquiry has been conducted, the question arises that why the undersigned (the main accused) has been kept out of loop. Even till date I have not received anything in black and white from Home Department.
- vi. It may also be worth mentioning that without giving any chance of explanation, I had the constitutional right to be heard before this drastic action against me.
- vii. Secretary Home was requested vide my application dated 10th August /2011(copy enclosed) to provide copy of the fact finding enquiry report, but till date the same was not provided for the reasons best known to them. In the circumstances, I would request that Inquiry Officer may kindly ask the Home Department to submit the fact finding inquiry to Inquiry Officer/Inquiry Committee and a copy thereof may also be given to the undersigned.

In the circumstances and the facts given above, it is abundantly clear that some ulterior motives and mala-fide intension is involved to malign me and my family. I enjoy a very good reputation in the department and this fact can be verified by the worthy Inquiry Officer. I never compromised on rules and regulations and remained committed to my work which is of immense importance in the present day scenario. I have never been involved in any kind of harassment with female Probation Officers working under my control and I cannot even think of it. As I have never been involved in any kind of harassment, therefore, I may kindly be exonerated from the charge levelled against me. At present, six female Probation Officers are working under my command since February 2010 at different stations i.e. Peshawar, Kohat, D.I. Khan, Swat, Mardan and Abbottabad. One female junior clerk is working in the head office. None of them ever complained against me as is alleged in the charge sheet. None of them has been transferred or dislocated by me so far. I never indulged in sexual harassment of my subordinates nor even can I think of it. The allegation is frivolous, baseless, concocted and based on mala-fide intention to defame my integrity.

In the circumstances explained above, it is crystal clear that I am innocent and hence may be exonerated of the charge levelled against me.

At the end, I would request that I may kindly be given due chance to defend myself before the Inquiry Officer through personal hearing and I may also be given a chance to cross-question the so-called complainants.

Yours faithfully

(Signature)
(Mualim Jan) 15/8/11

Director (Reclamation & Probation) (under suspension)
Khyber Pakhtunkhwa

RECEIVED
(Signature)

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Replies to the allegations.

جناب عالی، سب سے پہلے تو یہ مذکورہ تمام لٹریچریشن افسران (Complainents) ہیں۔ یہ تو Hearsay اور Anonymous شکایت پر میرے خلاف لٹریچریشن شروع کی گئی تھی۔ جناب عالی جہاں تک مجھے معلوم ہے۔ ہجوم ڈیپارٹمنٹ یا یا 12 مئی 2011ء کو Deputy Secretary Law & Order جناب احمد خان صاحب کے ذریعے لٹریچریشن کر کے تمام زمانہ سرپریشن افسرز طبقہ منظم سپر سے اس (Anonymous complaint) کے بارے میں پوچھا اور تمام کے تمام افسران نے اس شکایت کو (Disown) کیا تھا۔ اس کے بعد ہجوم ڈیپارٹمنٹ نے (High Court) عائشہ کورٹ کو رپورٹ بھیجا تھا کہ تمام (So called complainents) نے اس کو (Disown) کیا ہے۔

میرے دوبارہ جناب احمد خان صاحب ڈیپٹی سیکریٹری نے بتا دیا کہ 31-5-2011 کو تمام زمانہ سپرپریشن افسران ہجوم ڈیپارٹمنٹ بلائے اور ہر ایک نے حلفیہ بیان دیا اور ایک بار پھر اس (Anonymous complaint) کو (Disown) کیا۔ جناب عالی عرض ہے کہ وہ Statements ہجوم ڈیپارٹمنٹ سے طلب کرتے ملاحظہ فرمائے۔ اس کے باوجود ہجوم ڈیپارٹمنٹ نے مجھے (Charge sheet) دے دی۔ کہ ہم نے (Fact Finding Enquiry) کرنی اور اب (Sexuality Harassing - the Female Protection Officers) میں ملوث ہیں۔

جناب عالی، یہ عجیب بات ہے کہ وہ کون سی (Fact Finding Enquiry) ہے۔ اور کیس نے کیا ہے۔ اور کہاں ہے۔ میرا مورخہ 2011-8-10 کو ہجوم

ڈیپارٹمنٹ کو درخواست دیا۔ کہ مجھے اس لٹریچریشن کی کاپی دے دیں۔

تاکہ میں چارج شیٹ کا جواب دے دوں۔ میری ایکسٹنشن مجھے اس

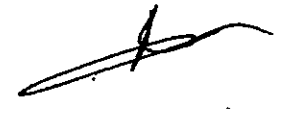
لٹریچریشن رپورٹ کی کاپی نہیں دے دی گئی۔ جو کہ میرا قانونی

حقوق ہے۔ اس سے ظاہر ہے۔ مگر انھوں نے کوئی (Fact Finding Enquiry)

نہیں تھی۔ بلکہ مجھے بے جا (Suspend) کیا اور میرے خلاف باقاعدہ انکوائری شروع کی گئی ہے۔ اور مجھے زہنی اذیت میں مبتلا کر دیا ہے۔
 13-8-2011 کو مجھے آپ صاحبان (انکوائری افسر) نے بلا دیا اور سائیکو
 زائنگ لپرویشن اینڈ کنسلٹنگ کمپنی، سرزائنگ سروسز، سینٹر صفحہ بی جی
 اور سٹریٹ سیر کو بھی انکوائری کے سلسلے میں بلائے گئے تھے۔

(1) محترمہ نجمہ اجمل لپرویشن اینڈ کنسلٹنگ کمپنی کے بیان کے بارے میں میرا جواب
 مندرجہ ذیل ہے۔

میں حلفیہ بیان دیتا ہوں کہ میں نے نجمہ اجمل کو فون نہیں کیا تھا۔
 کہ میرے سائیکو ڈی۔ آئی۔ خان دو راتوں کے نیچے چلی جاؤں۔ اور نہ میرا
 آسکو ڈی آئی خان لے جانے کا کوئی ارادہ تھا۔ حقیقت یہ ہے کہ ہمیں
 اس دن دفتر سے باہر تھا۔ میں نے اپنے (P.A) محترمہ صفحہ بی جی کو
 فون پر بتایا کہ لپرویشن اینڈ کنسلٹنگ کو فون کرو اور بتاؤ کہ ڈائریکٹر
 صاحب ڈی آئی خان کے دورے پر جا رہے ہیں۔ آپ اس کے ہمراہ جاؤ
 گے۔ جب صفحہ بی جی نے کوہاٹ دفتر فون کیا۔ تو فون محترمہ نجمہ
 اجمل نے اٹھایا تھا۔ اور آپس کو شاید بتایا ہوگا کہ صاحب کے سائیکو
 D.O. Khan جانا ہے۔ کئی مجھے سہرے P.A نے فون کیا اور کہا کہ میں نے کوہاٹ
 فون کیا اور نجمہ کو اطلاع دے دی۔ میں نے غصہ ہو کر صفحہ بی جی
 کو کہا کہ میں نے نجمہ اجمل کا نہیں کیا ہے۔ میں نے نیاز صاحب کا کہا ہے۔
 کچھ صفحہ بی جی نے کوہاٹ فون کیا تھا۔ اور نجمہ کو بتایا تھا کہ صاحب
 کہتا ہے کہ میرے سائیکو نیاز صاحب D.O.K جائے گا، آپ نہیں۔ تو وہ
 دونوں حواشی کے درمیان (Misunderstanding) ہوئی تھی۔ باقی اگر وہ
 دونوں نے آپس میں کچھ بات چیت کی ہو تو مجھے اسکا علم نہیں ہے۔

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مزید لہ آں میں نے آج تک کسی بھی زمانہ پرویشن، سنسر یا کوئی
 اور زمانہ ایٹکار سے لہ اخلاقی نہیں کی ہے۔ اور نہ میں نے اس ڈیڑھ
 سال کے عرصہ میں کسی خالوں لہ پرویشن، سنسر کو لہ سفر کرنے
 کی رہتی یا چارج شیٹ کیا ہے۔ لہذا میں اس الزام کی تردید

گہرا سور -

17/81

[Handwritten signature]

حسلی کا پی صفحہ نمبر 3 و (4) ملاحظہ کریں۔
 تو پھر میں نے سب کو کیا کہ لوگ اس طرح ثابت کرتے ہیں۔ تو جناب والا
 نمبر گزارش ہے۔ کہ اس میں میرے خیال میں میں نے اس کو ہر اسان نہیں
 کیا ہے اور یہ میرے ذہن میں ایسی کردار اور گندہ خیال تھا لیکن اگر
 انگلی سے اس کو جانے کا اشارہ کی سکتی گندہ سے نکالے تو یہ نمبر ارادی
 فعل تھا۔ اپنی صمد علی ارشاد علی اور حفصہ بی بی سے بھی اس بارے میں
 معلومات کر سکتے ہیں۔ علاوہ یہ محترمہ تو میرے دفتر میں روزانہ 2، 3
 مرتبہ آگئے محو سے ملتی ہے۔ تو اگر اس ڈیڑھ سال کے عرصہ میں اگر میں
 نے اس کی ساتھ کوئی نمبر اخلاقی حرکت کیا ہو جس سے اسکو دکھ
 پہنچا ہو تو وہ اللہ تعالیٰ کو حاضر و ناظر جان کر بتائیں۔

اسکے علاوہ جہاں تک زمانہ پیر و پشترز کے بلانے اور انٹرویو کرنے کا
 تعلق ہے۔ تو جناب والا یہ میرے فرائض میں شامل ہے۔ کہ میں پیر و پشترز
 اور پیر و لہیز کو انٹرویو کروں۔ ان کے مسائل سنوں اور انکو ضروری ہدایات
 دلوں اور دیکھوں کہ ان کی پیر و پشنز کیسی جا رہی ہے۔ جناب والا
 مجھے حفصہ اطلاع ملی تھی۔ کہ فرزانہ صاحبہ بھی پیر و پشترز کی لہرائے نام
 صاحبہ لگاتی ہے۔ اور اصل میں وہ نہیں آتے ہیں اور بعض پیر و پشترز
 کے ساتھ بیسوں کی بات بھی کی ہے۔ تو اس لئے میں نے فرزانہ سے کہا
 کہ میں دن الٹی پیر و پشترز کی حاضرگی کی تاریخ ہو اور میں دفتر میں
 موجود ہوں تو میرے سامنے بھی بیٹھ کر کہیں۔ اگر میں دن میں نہیں
 ہوں تو پھر ڈیپٹی ڈائریکٹر اسکو صحت کر رہے۔ میں نے چند پیر و پشترز
 کو انٹرویو کیئے۔ تو جناب والا اس میں میرے خیال میں کوئی غلط
 بات نہیں ہے۔ لیکن ویسے اصل میں مجھ پر کوئی خاص التزام نہیں ہے۔
 تاکہ یہ ثابت کر سکتی۔ تو اس لئے اسے نمبر ضروری باتیں بتاتے ہیں۔
 اصل میں محترمہ فرزانہ اپنے پیر و پشترز کی انٹرویو پیر خوش نہیں تھی۔

17/11

کہ انہوں نے ڈائریکٹریٹ صاحب میرے لیے ریڈیشنرز کو جڈک کر تاج۔

دوسری بات یہ ہے کہ اس قانون سے ہم نے اس ڈیپو

سال میں مختلف مواقع پر Explanations کا لیکے ہیں۔

اور بعض میں اس (Warning) بھی جاری لیکے ہیں۔ صحتی

کا بیان صفحہ نمبر 10 سے صفحہ نمبر 21 تک ملاحظہ کریں۔

تو اس لیکے اب وہ میرے خلاف اس موقع کو (Exploit)

کر رہی ہے۔

مگر یہ فرزانہ سرور (Attitudinal Problems) کا

شکار ہے۔ جیسا کہ اس کی NADA لاہور ٹریڈنگ رپورٹ

(ملحقہ) صفحہ نمبر 10 سے 13 تک سے صاف واضح ہے۔

لہذا فرزانہ سرور کا بیان ریڈیشنرز پر مبنی ہے۔


17/8/11

3) لیرویشن آفیسر ملاکنڈ کے بیان کے بارے میں میرا جواب یہ ہے۔

جناب والا مظفر سید لیرویشن آفیسر کے زیر نگرانی ایک خالون لیرویشن آفیسر تھے۔ اس وقت میں ملاکنڈ ڈویژن کا اسٹنٹ ڈائریکٹر تھا۔ اس عورت کے رشتہ دار اکبر خان، باور خان سکنہ پاتراک کوہستان ریر بالا کے میرے گھر آ کر شکایت کر گئے۔ کہ مظفر سید لیرویشن آفیسر اس عورت کو تنگ کر رہے تھے۔ کبھی اپنے گھر لے جاتا ہے۔ کبھی پٹا اور کے ہوٹلوں میں لے جاتا ہے۔ تو میری طرف سے اس کو مظفر سید کے (Supervision) سے کسی دوسرے لیرویشن آفیسر کے نگرانی میں رہیں۔ تو میں نے مظفر سید کو حکم دیا۔ کہ مذکورہ خالون میرے دفتر سوان میں حاضر کرو۔ مظفر سید خالون کو میرے دفتر لائی۔ اور میں نے اسے دفتر میں انٹرویو کیا۔ پورے واقعات مجھے یاد

ہیں۔ یہ کیونکہ میرے خیال میں یہ 1996 یا 1997 کا واقعہ ہے۔ لیکن میں نے خالون کو انٹرویو کیا۔ اور اس کا مسئلہ سن لیا۔ اور میرے خیال میں کچھ ہم نے اس خالون کو دوسرے لیرویشن آفیسر کو ٹرانسفر کیا تھا۔ جس پر اس وقت مظفر سید بیت (annoyed) تھا۔

جناب والا مظفر سید کا یہ بیان سراسر غلط اور جھوٹا ہے۔ کہ مذکورہ خالون میرے دفتر میں میرے سابق اکیلی کے۔ جہاں تک مجھے یاد ہے۔ میں نے اس کو ان کے سامنے انٹرویو کیا تھا۔ اگر میں نے اس کو اکیلی دفتر میں کچھ انٹرویو بھی کیا ہو لیکن مظفر سید کی یہ بات سراسر غلط اور جھوٹا الزام ہے۔ کہ پانچ منٹ بعد وہ میرے دفتر سے غصہ کی حالت میں نکل کر شور مچا رہے تھے۔ جناب والا ایسا کوئی واقعہ لیرویشن آفیسر کے پاس نہیں ہے۔ یہ صرف مجھے بدنام کرنے کے لیے من گھڑت الزام لگا رہا ہے۔ جناب والا میں نے مرزا بڑی لہو ہاتھ رکھ کر قسم اٹھا رہا ہے۔ کہ ایسی کوئی حرکت میں نے نہیں کی تھی۔ کہ اس خالون نے غصہ ہو کر شور مچا رہا ہو۔

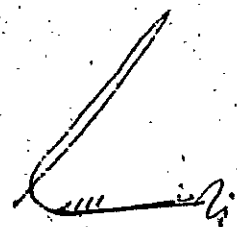

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اور اب بھی قسم کھاتا ہوں۔ کہ ایسا کوئی واقعہ پیش ہی نہیں آیا تھا۔
 اگر مرنے کے لیے۔ فوٹو کوالیٹی ایسا ہوتا تو میرے خلاف آج تک اس
 عورت یا اسکے رشتہ داروں نے میرے بلا اسٹریٹ، ڈی پی ڈاٹ کام، انسٹیگرام
 چینل، ویڈیو، جات، یوٹیوب چینل، ٹی وی، وغیرہ کو کوئی شکایت نہیں
 کی۔ لہذا مظفر سید کے اس غلط بیانی اور الزام تراشی کی جہاں تک
 سے انکار اور تردید کرتا ہوں۔ اگر حجاب والا ممکن ہو۔ تو اب حدیث
 اس عورت کو بلائیں۔ یا اس کے رشتہ دار انبیر خان، باور خان وغیرہ کو
 بلائیں اور جھوٹ کا پتہ دل جائے گا۔ اور میں نے تو صبراً ان پر ہاتھ
 رکھ کر قسم کھایا ہے۔ مظفر سید کو بھی قرآن پر قسم آگھانا چاہیے۔

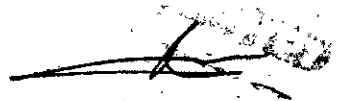
اجل میں مظفر سید کے خلاف ایک رو سہری فالوون پورویسٹنر مسماہ
 فریست بن بی سکینہ ماٹیری صوابی نے 2004-1-10 کو انسٹیگرام چینل جیلخانہ جان
 کو کٹری شہادت کیا تھا۔ اس وقت میں ڈی پی ڈاٹ کام تھا۔ سب سے
 ملک سے باہر تھا۔ کھج کی سعادت حاصل کر رہا تھا۔ انسٹیگرام چینل جیلخانہ جان
 نے ہدایت اللہ (Acting Deputy Director) کے ذریعے انکوائری کی تھی۔ اسکے
 تمام کاغذات صفحہ نمبر 22 سے صفحہ نمبر 32 ملا نظر کر رہا ہے۔ اس کے علاوہ
 مظفر سید کے خلاف مختلف اوقات میں مختلف انکوائریاں کی گئی ہیں۔
 سب سے اب مظفر سید میرے خلاف موقع سے فائدہ اٹھا کر جھوٹے اور
 من گھڑت الزامات لگا رہا ہے۔ میں مظفر سید کے بیان کو قسم اٹھا کر
 کہتا ہوں کہ یہ جھوٹ پر مبنی ہے۔ مظفر سید کے خلاف جو انکوائریاں
 کی گئی ہیں۔ ان کے کاغذات صفحہ نمبر 33 سے صفحہ نمبر 36 ملا نظر کر رہا ہے۔

اسکے علاوہ اصرار میں نے غلط بیانی کی ہے۔ اس کو قرآن پاک پر ہاتھ رکھ کر قسم اٹھانا چاہیے۔ جناب عالی اصرار الدین کے خلاف سزاوت کی قانونی پروسیسشن اسٹیمپڈ بلٹیم نے مورخہ 19/5/2010 کو سبکدوش کیا تھا۔ میں نے انکو لکھی تھی۔ اور انکو لکھی تھی کہ اسے رپورٹ میں اس کو (Major penalty) کی سفارش کی گئی۔ کفر اسکو (Minor Penalty) لکھی (Censure) کیا گیا۔ اور بیوم سنکر سٹری صاحب نے مجھے اسکا اصل (Receipt) کیا تھا۔ چونکہ اصرار الدین نے پروسیسشن اسٹیمپڈ اصرار مخالف ہے۔ اس کو سزا دی گئی ہے۔ اسلئے وہ موقع ہاتھ رکھ کر میرے خلاف جھوٹ اور من گھڑت بیان دیا ہے۔ جسکی میں نے پورے زور لگوا کر ثابت کیا ہے۔ اسکے علاوہ اصرار الدین نے میرے خلاف مورخہ 7/10/2010 کو بیوم سنکر سٹری کو یہ بنیادیں بنا کر دیا تھا۔ ان سب کاغذات کی کاپیاں جسٹس منبر 57 سے جسٹس منبر 86 تک ملاحظہ کی جائے۔ اسلئے اصرار الدین بھی میرے خلاف جھوٹ پر مبنی غلط بیانی کرتا ہے۔ اسلئے عرض ہے کہ جناب والا اصرار الدین کو قرآن پاک پر ہاتھ رکھ کر قسم اٹھانا چاہیے۔ مندرجہ بالا وجوہات سے پتہ چلتا ہے۔ کہ اصرار الدین صراحتاً مخالف ہے۔ اس لئے وہ میرے خلاف 12 سال پہلے والے واقعے کو غلط طور پر پیش کر رہا ہے۔

Dated,
17/8/11



MUALLIM JAVED
Director Reclamation
& Probation (under suspension)



محمد نیاز، لکھتے اللہ خان پیر و بیسٹن انٹرنیٹ کو باٹ، بیوں اور نور لاس میں
 جو سٹیٹ کلرک کے بارے میں میرا وضاحتی بیان ہے۔ جناب والا میں
 ایسا بار کبھی حلفیہ اقرار کرتا ہوں۔ کہ میں نے مجھہ اجمل کو فون نہیں
 کیا ہے۔ کہ میرے ساتھ Di.khan جلی جاؤں۔ اور نہ وہ کبھی میرے ساتھ
 Di.khan گئی ہے۔ اور نہ میں نے اس کو سفر کرنے کی دعوت کی دی
 ہے۔ یہ بات وہ خود بھی (admitt) کر چکی ہے۔ یہ حصہ جس جی اور
 مجھہ اجمل دونوں خواہیں کہ درمیان معاملہ ہے۔ اس سے میرا کوئی
 تعلق نہیں ہے۔ جہاں تک مجھے علم ہے۔ کہ یہ دونوں خواہیں کے درمیان
 (misunderstanding) ہوئی تھی۔ مجھے اس معاملے میں بے جا الجھانا ہے۔
 میں محمد نیاز کے اس بیان سے اتفاق نہیں کرتا ہوں کہ مجھہ اجمل اس
 کے دفتر میں روٹی کھتی۔ اگر غرض کر میں۔ نیاز صاحب کی بات بھگت
 ہو تو اس کو چاہیے تھا۔ کہ میں مجھے اس وقت فون کرنے کہ
 جناب یہ بات غلط ہے یا ٹھیک اور مجھہ اجمل کو بھی چاہیے تھا کہ
 جناب حصہ یہ کہہ لیں۔ تو اس وقت یہ غلط نہیں ہو سکتی
 تھی۔ بس مجھہ اجمل نے مجھے فون کرنے کی رحمت نہیں کی۔

دوسرے طرف مجھہ اجمل نے 24، 25 فروری 2011 سے
 لکیر مٹی 2011 لکیر مٹی اس (anonymous complaint) کے آئے
 تک کیوں مجھ سے اس بارے میں رابطہ نہیں کیا۔ تاکہ میں اسکو
 وضاحت کر کے مطمئن کر لیتا۔ یا آکھوں بے اختیار انار کو
 شکایت کیوں نہیں کی۔ اس سے پتہ چلتا ہے کہ یہ صرف اور

صرف مجھے بدنام کرنے کے لیے ایسا ڈرامہ رچایا گیا ہے۔

اور آپ میرے مخالفین اس سے فائدہ اٹھا کر مجھے بدنام کرنے کی کوشش کر رہے ہیں۔ عذابِ والد محمد نیاز بیگ سے مجھ سے (Annoyed) ہے۔ کیونکہ اس سے میں نے کئی مرتبہ (Explanations) مانگی ہیں۔ جسکی کاپیاں عہدہ نمبر 27 سے عہدہ نمبر 36 تک ملاحظہ فرمائی۔ اب وہ اس موقع سے فائدہ اٹھا کر انتقام لینے کی کوشش کرتا ہے۔ اس لیے میں محمد نیاز کی بیان کی تردید اور مذمت کرتا ہوں کہ یہ حقیقت کی مرہی نہیں ہے۔

اسی علاوہ نورا انیس جو نیٹر فلرٹ کو میں نے مورخہ 2011-4-12

کو (Suspend) کرتے خارج سٹیف کیا تھا۔ جسکی کاپیاں عہدہ نمبر 37

سے عہدہ نمبر 40 تک ملاحظہ فرما کہیں جسکی وجہ سے اب وہ

موقع پر آ کر میرے خلاف جھوٹ اور من گھڑت بیان دیتا ہے اور

سب میرے مخالف اگٹھے ہو کر اپنی خود ساختہ ڈرامہ رچا رہے ہیں

جیسا کہ نعمت اللہ کے بیان کا تعلق ہے۔ گو میرے پاس ہے۔

کہ اگر کچھ اجمل اس کو اپنے لیے لکھنا اور شہادت بیان کرتی

ہے۔ تو وہ مجھے (Direct) کہوں، نہیں کہتی۔ یہ ^{امسٹر انبارا کو کٹر لیری}

شہادت کیوں نہیں کرتی تھی کہ اب واقعی جو جیت لے رہا ہے اسکی

ہو کر مجھے بدنام کرنے کی سازش کر رہے ہیں۔ جب نعمت اللہ کو

کچھ اجمل نے بتایا تو پھر نعمت اللہ کو چاہیے تھا کہ وہ مجھے

بتا دیتے کہ حقیقت کیا ہے۔ کیونکہ نعمت اللہ کے خلاف کبھی ہم

نے انکو لکھی تھی کہی۔ اسلئے وہ میرے خلاف بیان دے رہے ہیں
 صلیبی کا بیان صفحہ نمبر 41 سے صفحہ نمبر 47 تک علاحدہ فرمائیں
 اب ختم ہوا کہ میرے خلاف کام کر رہے ہیں۔ اب تک مجھ اجمل
 نے اس بارے میں صحیح کچھ نہیں بتا رہا۔ بلکہ وہ تو ان بھی مانتی
 ہے۔ کہ صحیح ڈائریکٹر عدالتوں میں نہیں آتا ہے۔ تو اسلئے اسکو
 حراسان کرنے کا سوال ہی پیدا نہیں ہوتا ہے۔ یہ دونوں خواہشیں
 آ رہیں ہیں معاملہ ہے۔ اور اس میں مجھے بے جا الجھانا انصاف
 نہیں ہے۔ اب یہ (ISSUE) میرے خلاف استعمال ہو رہے ہیں۔
 جس کی میں پر زور صدمت کرتا ہوں۔ اور میں تو سب خواہشیں
 ایفادوں سے بہتوں جیسا سلوک کرتا ہوں۔ اور بڑے خدشہ ان
 کے مسائل حل کیے ہیں۔ اور انکو (accomodate) کیے ہیں۔

صائب والا اگر ایسے (Anonymos complaints) پر (Action) پتہ شروع
 ہو جائے تو پھر (administration) چلانا مشکل ہوگا۔ کوئی بھی
 اسٹریٹ مانتا ایفادوں سے ڈیوٹی آ رہے ہیں تو پتہ سیکے گا
 جس عوف سے کہ کل میرے خلاف (Anonymos) شکایت ہوگا
 اور صحیح رسوائی ہوگی۔

صائب والا میں نے اس ڈیوٹی سال کے عرصہ میں کسی
 قانون پروسیجر میں اسٹریٹ کو نہ خارج ٹیک کیا ہے۔ اور نہ
 ڈیوٹی کرنے کی ذمہ داری ہے۔ اور نہ ضرورتاً مجھ اجمل
 کے خلاف کوئی انتقامی کارروائی کی ہے۔ لہذا اس میں ان کو
 حراسان کرنے کا سوال ہی پیدا نہیں ہوتا۔

گروہ

4 # 4

لکھڑا میں ایک بار کچھ عرصے میں کرتا ہوں کہ جناب والا یہ دونوں
خواہشیں تھے درمیان (misunderstanding) کا نتیجہ ہے۔ لڑ جناب والا
محمد نیاز، نعمت اللہ اور نور الامین کی بیان خود ساختہ اور ستر
ستر چھوٹ لہے ہمیشہ ایک کہانی ہے۔ جو میرے مخالفین مجھے اور میرے
ظاندان کو بدنام کرنے کی کوششیں کر رہے ہیں۔

پہلے

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Huifin®

Inquiry Report

Application/ Complaint (C#11251)

QW-324A

Dr. IhsanulHaq
DMG BS-20
Director Reform Management and Monitoring Unit
Office of Chief Secretary

ATTACHED

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(Signature)

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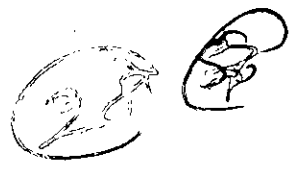
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Introduction

The subject inquiry was entrusted to me vide Home department letter dated 10 August 2011 (Annex-1)

An anonymous complaint was filed the Peshawar High Court (PHC) purporting to be from female probation officers of the Probation department that Mr. Moallim Jan (BS-18), Director Probation department, an attached department of the Home department, was sexually harassing them. The PHC sent the case to Chief Secretary for report (Annex-2).

The complaint was inquired twice by a Deputy Secretary of the Home department. In the former case, he reported that all probation officers have disowned the complaint (Annex-3). Since it was a one page report, the Court reportedly asked the department to properly conduct the inquiry. Accordingly female officers were called by the inquiry officer to give evidence. This time hereported (Annex-4) that while all disowned the complaint again, two officers mentioned about a specific incident and the director's bad behavior with the staff, thus *insinuating* wrongdoing. Hence the Home department moved a summary to the government for suspension of the accused officer and formal inquiry under Removal from Service Ordinance.

Hence the present case.

Methodology

Charge papers were sent to the accused officer for reply (Annex-5). Since the complaint referred to specific instances, the inquiry was restricted to witnesses referred to in the complaint and connected with the events. For this purpose, officers serving at Peshawar and nearby stations were called. However, some of the witnesses serving at far away stations were interviewed by phone.

The case record was obtained from Home department and the Probation directorate and the following witnesses were examined:

- 1. Mrs. Najma Ajmal, Female Probation Officer
- 2. Mr. Niaz Khattak, Probation Officer
- 3. Mr. Noorul Amin, J/Clerk
- 4. Mrs. Farzana Sarwar, Female Probation Officer
- 5. Mr. Ajmal Khan, J/Clerk, Probation directorate
- 6. Miss. Hafsa, J/Clerk, Personal Assistant, Director Probation
- 7. Mr. Riffat Hina, Female Probation Officer D.I.Khan (on phone)
- 8. Mr. Muzzafar Said, Probation Officer, Malakand

} Kohat

} Peshawar

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9. Mr. Ameeru Din, Probation Officer, Swat (on phone)

10. Mr. Niamatullah, Probation Officer Bannu

I provided the accused officer full opportunity to cross-examine witnesses and also discussed with Member Inspection Team, PHC some aspects of the case.

The report was delayed for a couple of weeks due to the fact that record of earlier inquiries could not be provided by Home department in time as the then Inquiry Officer, Mr. Ahmad Khan, deputy secretary, had proceeded to *Umrah* and reportedly the file was in his custody. On his arrival, the file was produced

I would like to acknowledge with thanks the extraordinary and expeditious support provided by the departmental representative, Mr. Hidanyatullah Khan, Deputy Director Probation, in providing the needed record and summoning departmental staff for evidence.

The harassment Act


The Home department summary had made a recommendation that accused officer should also be probed under Harassment Act. The same was approved by the Competent Authority and mentioned in my appointment notification.

The Act in question, actually named Protection against Harassment of Women at Workplace Act 2010 was passed by the parliament and received presidential assent on 9 March 2010. According to this Act, following actions are required to be taken by the federation and the provinces:

11. **Responsibility of employer.**—(1) It shall be the responsibility of the employer to ensure implementation of this Act, including but not limited to incorporate the Code of Conduct for protection *against harassment at the workplace* as a part of their management policy and to form Inquiry Committee referred to in section 3 and designate a competent authority referred to in section 4.

(2) The management shall display copies of the Code in English as well as in language understood by the majority of employees at conspicuous place in the organization and the work place within six months of the commencement of this Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file *a petition before the District Court* and on having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees.



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The harassment law has other provisions bearing on implementation in the provinces. These are detailed as under:

2 (l) "organization" means a Federal or Provincial Government Ministry, Division or department, a corporation or any autonomous or semi-autonomous body, Educational Institutes, Medical facilities, established or controlled by the Federal or Provincial Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution;

The functions of the Competent Authority and how it has to be designated have been dealt as follows:

✓ 2(d) "Competent Authority" means the authority as may be designated by the management for the purposes of this Act;

3 (4) In case where no competent authority is designated the organization shall within thirty days of the enactment of this Act designate a competent authority.

4 (4) The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties (minor and major. Sic):

Similarly the functions of Ombudsman have been dealt as follows:

2 (k) "Ombudsman" means the Ombudsman appointed under section 7

6. Appeal against minor and major penalties.- (1) Any party aggrieved by decision of the Competent Authority on whom minor or major penalty is imposed may within thirty days of written communication of decision prefer an appeal to an Ombudsman established under section 7 .

(2) A complainant aggrieved by the decision of the Competent Authority may also prefer appeal within thirty days of the decision to the Ombudsman.

(3) The Appellate Authority may, on consideration of the appeal and any other relevant material, confirm, set aside, vary or modify the decision within thirty days in respect of which such appeal is made. It shall communicate the decision to both the

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(32) (34)

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

Examples of sexual harassment are available at many support sites. For example Palo Alto Medical Foundation US (http://www.pamf.org/teen/sex/rape_assault/sexualharass.html) has given following examples of sexual harassment:

Behaviors like these can create a school environment that feels threatening or unsafe and can interfere with a student's ability to participate or learn. Hostile environment sexual harassment can come from a teacher or other school official, but most often it comes from fellow students:

Sexual comments about your body

Sexual advances/propositions/suggestions

Sexual touching

Sexual graffiti

Sexual gestures

Sexual "dirty" jokes

Spreading rumors about other students' sexual activity

Touching oneself in a sexual fashion in front of others

Talking about one's own sexual activities in front of others

Showing offensive/sexual pictures, stories, objects

Status of implementation in KPK

The lead agency for implementation in this province is the Social Welfare Department. I contacted Mr. Niaz, Gender Specialist of that department to know the situation in this province. While the law requires that concrete steps need to be taken at each organization as defined in the law, it transpired that only inquiry committees have been notified for various administrative departments so far. The home department has also notified such a committee (Annex-6). However no competent authorities have been notified for any department, nor the Ombudsman



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has been appointed. The department informed me that a case has been referred to Law department who have taken up the case with Finance department. However, the matter is still pending. Similarly no action has been taken regarding implementation of the Code of Conduct appended to the Act.

Implementing of the Code of Conduct is a ground breaking step and is conceived to usher a new era of social conduct which is free of all discriminations against working women. It may also be noted that while the law could operate without an Ombudsman, as a district court could assume his functions till establishment of his office, no proceedings can even go past the inquiry stage in the absence of designated competent authorities. These deficiencies are, therefore, tantamount to killing the purposes of this law.

In view of the above, one can see that no significant progress has been made to implement this law, even after passage of two years, thereby, exposing the government to the risk of legal challenge and fine by concerned employees.

Issues

Probe under Harassment Act

Under this Act, the nature of the inquiry committee has been defined as follows:

3. **Inquiry Committee.** – (1) Each organization shall constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints under this Act.
- ✓ (2) The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

In view of the above, one can see that under this law, harassment against women can only be inquired by specific authorities and not by inquiry officer appointed under the RSO 2000. However since harassment acts do fall under the category of misconduct, they can be dealt with under RSO.

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Probe of anonymous complaints

In his written statement, the accused officer raised the plea that anonymous complaint cannot be inquired. In my opinion this is not correct. While in general this is true, anonymous complaints can be looked into especially where specific instances have been mentioned having a ring of truth i.e. seem to be true. According to the KPK Establishment Code this matter has been explained as under:

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(33) (27)

Anonymous Complaints/Letters

**Disposal of Enquiry cases based on anonymous/
Pseudonymous complaints.**

The following instructions may be followed during disposal of anonymous communications:-

1. Anonymous communications must invariably be filed on their receipt. No action of any kind is to be taken on them and no notice of any kind is to be taken on their contents. If the communication is found to be pseudonymous it (and any previous notes etc. connected with it) must similarly be filed.
2. It is however recognized that there may be exceptional cases, when anonymous/ pseudonymous communication contain allegations of a specific nature having a ring of truth, then these may be inquired into only after obtaining the orders of Administrative Secretaries/Head of Attached Department/ Commissioners/ Deputy Commissioners, as the case may be.
3. Local heads of Police officers in the Districts can also exercise discretion to order enquiries into anonymous and pseudonymous petition on the analogy of Deputy Commissioners in their respective jurisdictions. Since the Deputy Commissioner is the General Administrative head of the District, his orders should be obtained by the concerned head of office under his administrative control if he wants to take action on any anonymous petition.
4. Anonymous petitions or letters should normally be filed except when definite allegations are made and concrete instances given.
5. In complaint against a civil servant, the petitioner should be asked to furnish an affidavit to the effect that all facts stated in his complaint are true and if his affidavit is proved false, he would be prepared to face legal action which could be taken against him.
6. Complaints received through anonymous/pseudonymous source should be ignored.
7. Antecedents and credentials of a complaint should be verified before an inquiry is instituted against the officials concerned.

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8. News papers publishing allegations, which are proved to be baseless, should be dealt with according to the law.

It is requested that strict observance of the above instructions may be ensured at all levels.

(Authority:-S&GAD's letter No.SORII(S&GAD)5(29)/97-II, dated 22.7.1998)

In the complaint, two specific incidents were mentioned; a message was passed to a female officer that she should accompany the director for two days to D.I. Khan and his conduct with two female probationers in Swat. Both the PHC and the department were, therefore, justified to probe such a complaint.

Analysis of charge

According to the charge sheet accused officer has been charged of sexually harassing female probation officers. Though the complaint mentioned some other allegations concerning female probationers, they were not mentioned in the charge sheet and are not probed in this inquiry. My findings regarding the charge are discussed as follows:

Message to Female Probation Officer Kohat

The complaint mentions that Mrs. Najma, Kohat female probation officer was given a message to accompany the director during his two day visit to D.I.K from 25-26 Feb. The incident was endorsed by the officer in her evidence (Annex-7) and admitted by the PA to director. The latter however, stated that she did not fully understand who was to accompany the director and could not get it clarified from the director. She added she was asked by the director subsequently, to clarify to the officer she was not the intended person as the male probation officer was intended and the message was passed due to misunderstanding. The PA even testified on Holy Quran, when demanded by Mrs. Najma that she had misunderstood the message as clarified later by the director. This misunderstanding was endorsed by the director in his cross examination of the witness and during his defence (Annex-8). He added that the male officer had requested him a number of times to take him to D.I.Khan during his next visit.

The plea raised by the PA and the director seems to be without force for a number of reasons as follows:

1. It was not conceivable that such an important message would be misunderstood by the PA, in view of its sensitivity in relation to a female officer.
2. There was no specific handicap why the PA could not get the message clarified from the director regarding who was to accompany him. There was sufficient time available for this purpose, before the director was to proceed on his journey.

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No message was passed to the 'correct' beneficiary, the male probation officer by the PA. The director proceeded on his visit without taking the male officer along, contrary to the plea.

If this was a case of genuine misunderstanding, the director would have personally clarified to the officer and apologized for the anguish caused.

In my opinion, the incident is a case of sexual advances as the visit required twonight stay at D.I.Khan as the director proceeded on his journey on 24th Feb and was to return on 26th, abuse of authority and creation of hostile environment as its refusal could invite a retaliatory action. I think the PA's plea of misunderstanding seems to be based on subordinate relationship and not on facts. However to the extent of conveying director's own clarification, the PA's statement is correct.

During examination of Mr. Khattak (Annex-9), he endorsed Mrs. Najma view point and added that a day before Mrs. Najma received the message, Mr. Noorul Amin clerk of his office also received the same message from PA to director. He also filed a statement of office staff (Annex-10).

Mr. Noorul Amin statement (Annex-10a) is difficult to believe due to the following:

1. In view of sensitivity of the message, the PA was unlikely to give it to a male staff member instead of delivering it to Mrs. Najma.
2. Mr. Amin dutifully received the message. If he had raised slightest objection, the PA was likely to reconfirm it to Mrs. Najma again. As this was not so, the PA had no need to repeat the message the next day.
3. Mr. Amin did not take any action when he received the message and did not inform his seniors about it. Though Mr. Khattak mentioned this in his statement, the statement written by Mr. Amin on behalf of office staff did not mention it.
4. During his statement in the presence of PA, Mr. Amin's demeanor seemed to be devoid of conviction.

In view of above and past adverse action against him by the director, his claim is difficult to believe.

Calling female probation officers to Peshawar

During the inquiry Mrs. Farzana also alleged the director had told the newly inducted female probation officers that they will each be called for a month to Peshawar for further training. Accordingly two officers, Mrs. Najma and Riffat Hina (Annex-11) were called to Peshawar who remained at the directorate for 4 months, and 2 weeks respectively and were entrusted accounts and establishment work.

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Perusal of record (Annexes-12, 13) reveals these officers stayed at directorate and handled files. However, the director denied training version and explained that these officers had requested to stay at Peshawar for domestic reasons as their families were resident at Peshawar.

This explanation is difficult to believe for the following reasons:

1. Both officers have denied they ever requested the director for this purpose; Mrs. Najma did not make any verbal or written request for this purpose. Riffat Hina did make a request for some leave; she never requested she wanted to work at the directorate. However, no formal transfer order was passed to ensure transparency, nor the officers were asked to make a written request in this regard. The director admitted that he passed orders verbally.
2. If the training pretext is believed, it is strange that there were no TOR for the same and the reason for training female officers one at a time is difficult to comprehend.
3. At that time two male probation officers, M. Raza Khan, and S. Afsar Shah, Probation Officers Dir and Swabi respectively had also joined service but they were not asked to undergo similar training
4. The training cycle was interrupted when the anonymous complaint landed in the PHC.

In my opinion, the training pretext was used to ask only female officers to remain at Peshawar. It was, thus an abuse of authority which had a potential to create a hostile work environment.

Conduct with female probation officer Peshawar

During her examination (Annex-14), Mrs. Farzana Sarwar alleged she was called to director's office and asked to type a few words on computer at very close proximity to director, who was sitting in front of the computer. When she made a mistake, she was touched by the arm. She protested and said he should not repeat the act. She also alleged he was very abusive and used to scratch his legs even during the presence of female staff

During his cross examination, the director claimed that the officer had made a request for allocation of a computer for her office. As he planned to issue computers to only those who knew how to type, he called her to his office to test her typing skills. As she made a mistake, he touched her arm with a finger to indicate she should forget about computer as she did not know even how to type. He added that other staff was also present and he apologized when she protested. The female officer denied she ever made such a request or that no staff was present at the time of incident.

In my opinion, since touching has been admitted, it in fact did take place and the presence of staff does not mitigate the gravity of the act. Also since the officer protested, it is a case of unwelcome sexual advance and harassment.

I asked both Mrs. Najma and Farzana why they did not give clear statements in the second inquiry. Both explained that the inquiry officer only asked questions about who had filed the

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complaint. Secondly both said they thought the inquiry officer being part of the department could not be independent and they did not want to disclose full facts being afraid of the consequences.

Defence of the accused

The accused officer filed a series of written replies; his original reply (Annex-15) and additional submissions after each cross examination of witnesses (Annexes-16-18). He was also heard in person and his statement recorded (Annex-19).

The pleaded that a lobby existed in the directorate that had conspired to file anonymous complaint to a judge of the PHC to harm his reputation. According to him he had taken disciplinary actions against most of the witnesses in the case and, hence, they had motive to malign him.

It is true that he did take such actions and provided documentary evidence in his submissions; the appreciation of evidence against him is not based on statements of witnesses alone. It is actually based on his *admission* and the documentary record. For example the conveying of message, the touching incident and calling officers to Peshawar have been admitted though different explanations were given by him. However those explanations have been analyzed and found to be unconvincing

Conclusions

As allegations of sexual harassment have been admitted and the alternate explanations not found convincing, the charge stands proved against the accused officer, to the extent of incidents mentioned above.

Recommendations

Specific

In view of the above, I recommend:

1. Major penalty of reduction of accused officer's current time scale of pay by one stage.
2. To prevent retaliatory action against female staff in future, Home department should consider issuing a policy directive that no adverse administrative action against any female probation officer should be taken without prior approval of secretary Home department.

General

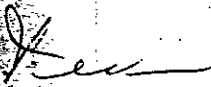
1. Considerable delay has already occurred regarding implementation of Harassment Act in this province. As this has a risk of legal challenge for the government as mentioned

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before, Establishment department may consider coordinating following actions in association with the Social Welfare and Law departments on urgent basis:

- a. Since the law requires implementation at **organization** level which includes public and private places, **other** than administrative departments, inquiry committees should be notified for these levels as well. This is a huge task requiring coordination of all concerned and proper time bound implementation plan needs to be put in place. There should also be a mechanism for progress reporting and monitoring.
- b. Similar action should be taken regarding integration of the Code of Conduct into HR policies and its public display at each level.
- c. Regarding notification of competent authorities under Harassment law, Establishment department may consider issuing a simple notification that competent authority means authorities defined under Efficiency and Disciplinary Rules, as the RSO stands repealed now.
- d. In the case of private sector, government should consider taking a lead role to ensure that similar action is taken as soon as possible.
- e. Regarding appointment of Ombudsman, Finance department may be requested to expedite action on pending case.



Dr. Ihsanul Haq
DMG BS-20
Director RMMU
Chief Secretary's office
October 3, 2011

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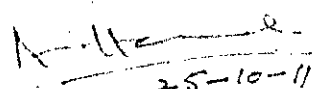
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SHOW CAUSE NOTICE.

I, Amir Haider Khan Hoti, Chief Minister Khyber Pakhtunkhwa, as competent authority, under the NWFP Removal from Service (Special Powers) Ordinance, 2000, do hereby serve you Mr. Mualim Jan, the then Director Reclamation & Probation as following:-

That consequent upon the completion of inquiry conducted against you by the Enquiry Officer and going through the findings and recommendations of the Enquiry Officer, the material on record and other connected papers, I am satisfied that the charge of sexual harassment levelled against you in the charge sheet have been proved

- 2- As a result thereof, I, as competent authority, have tentatively decided to impose upon you a major/minor penalty of Withholding of Five Annual Increment as defined under section 8 read with section 3 of the said Ordinance.
- 3- 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.
- 4- If no reply to this notice is received within (7) days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defence to put forward and in that case ex-parte action shall be taken against you.
- 5- Copy of the findings of the Inquiry Committee is enclosed.


25-10-11
(AMIR HAIDER KHAN HOTI)
CHIEF MINISTER NWFP

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To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department,
Peshawar.

Subject:- REPLY TO THE SHOW CAUSE NOTICE.

Dear Sir,

Kindly refer to your office letter No. 1/30-SO(Prs) HD/11, dated 27th October 2011 on the subject noted above and to enclose herewith reply to the show cause notice for further necessary action please.

Yours faithfully,

o/c



(MUALIM JAN) 29/10/11

Director

Reclamation and Probation Deptt:

(Under Suspension)

Khyber Pakhtunkhwa

had
29/10/11

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was apprised of the actual position immediately which has been testified by my PA on Holy Quran before the Inquiry Officer. Had

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REPLY TO THE SHOW CAUSE NOTICE

With reference to the show cause notice received vide Home & Tribal Affairs Department No. 1/30-SO(Prs) HD/11, dated 27th October 2011, I will take this opportunity to place before the competent authority, the following facts to prove my innocence.

1. At the outset, I shall apprise the competent authority that since my taking over as Director (Reclamation and Probation Department) a smear campaign has been launched against my character and my family. Sir, I joined Reclamation and Probation Department as Assistant Director through Khyber Pakhtunkhwa Public Service Commission on 01.02.1995. Since then I have been working with full devotion and dedication for the betterment and reformation of the Department to facilitate the rehabilitation of the prisoners to make them useful members of the society after their release on probation and parole. In the last 16 and above years service, I have never been given a reprimand even, what to talk about suspension.
2. The Inquiry Officer has given findings by quoting 03 instances which are discussed below in detail:

(i) MESSAGE TO FEMALE PROBATION OFFICER KOHAT

The factual position, as also clarified before the Inquiry Officer, was that I intended to take Mr. Niaz Khattak, Probation Officer Kohat along to visit DIKhan on official tour, therefore on 24-02-2011 when I was proceeding to DIKhan and was out of office, I asked my PA on telephone to inform the Probation Officer Kohat to accompany me as planned. Unfortunately, Mr. Niaz Khattak was not present at that moment in the office and my PA instead, informed Female Probation Officer Kohat (Mrs. Najma Ajmal) about the proposed visit. The PA later on, informed the undersigned about this episode and I showed my displeasure over it. My PA Ms. Hafsa Bibi had also narrated it before the Inquiry Officer and Mrs. Najma Ajmal had too narrated the same in the initial inquiry in the Home Department. My PA submitted before the Inquiry Officer that she immediately informed the Female Probation Officer Kohat that she is not required to accompany the Director rather, Male Probation Officer Mr. Niaz Khattak shall accompany as directed by the Director. In the instant Inquiry, the Inquiry Officer himself testified that the PA of the Director testified on Holy Quran in presence of Mrs. Najma that she had misunderstood the message, as later on, clarified by the Director. Moreover statements and evidence of Mrs Najma's supporting witnesses i.e. M/S Niaz Khattak and Noor ul Amin have been found unreliable and rejected by the Inquiry Officer which are clearly mentioned in the Inquiry Report. It can easily be presumed that both the witnesses had joined hands with my opponents to malign and disgrace me. This was neither a case of sexual advancement nor of any misconduct as defined in Harassment of Women at the Workplace Act, 2010 on my part due to the following reasons:

- a. Mrs. Najma was mistakenly informed by my PA which later on, was apprised of the actual position immediately which has been testified by my PA on Holy Quran before the Inquiry Officer. Had

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- there been any bad intentions on my part, Mrs. Najma would not have been immediately informed about the misunderstanding and she would have been allowed to move to DIKhan to accompany me.
- b. The fact that I did not take any adverse action against her during the next three months is sufficient proof that I did not have any bad intentions.
 - c. Telephonic talk between my PA and Mrs. Najma was a routine official communication. Mrs. Najma never complained about the incident. Furthermore I had no bad intentions, hence there seems to be no need or justification for offering apology to Mrs. Najma.
 - d. Mere fact that Mrs. Najma's supporting witnesses were found unreliable by the Inquiry Officer himself is sufficient to confirm the mala-fide on part of both the witnesses stands proved that they attempted to cook up the case against me and is solid evidence in support of my innocence.
 - e. Another important issue which was raised during the inquiry that Mr. Niaz Khattak did not accompany you on your tour to DIKhan. In this regard it is submitted that since the message could not be passed on to Mr. Niaz Khattak, as already mentioned above that he was out of office on that specific day, therefore, he could not be contacted and I went to DIKhan alone. Since I was already late, I did not visit the Kohat office on my way to DIKhan.
 - f. Sexual favors are not demanded through PAs and Private Secretaries. I, being the Director of the Department could easily talk to anybody in my Department at any time. Therefore question of sexual advancement or retaliation or creation of hostile environment does not arise at all.

(ii). **CALLING FEMALE PROBATION OFFICERS TO PESHAWAR**

Female Probation Officers posted at Kohat and DIKhan were directed to perform their duties in the Head Office at Peshawar because the one posted at Kohat had not done a single case of probation of female offender during one year, hence her retention at Peshawar could be more beneficial for the department than her retention at Kohat. Female Probation Officer DIKhan had her family at Peshawar and was asking for leave. Her detailment to Peshawar Head Office was beneficial for the department because instead of giving long leave to her, she was asked to work in the Head Office. This action was intended for betterment of the Department and taken in good faith. I can assure that it had not been originated out of any ill intention as is evident from the following:-

- a. The Inquiry Officer has testified that both these officers had been performing office work in the Headquarter.
- b. No incident of sexual harassment or misuse of authority or creation of hostile environment took place during their stay at Peshawar Head Office till now.
- c. Findings of the Inquiry Officer that this act was an abuse of authority which had a potential to create a hostile work environment are his personal judgment, rather unfounded apprehensions which have no nexus with the reality on ground. Mere fact that no such incident took place nor hostile work environment was created is sufficient to disprove the findings of the Inquiry Officer.

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(iii). CONDUCT WITH FEMALE PROBATION OFFICER PESHAWAR

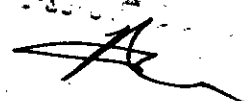
It was explained in detail before the Inquiry Officer that Mrs. Farzana Sarwar Probation Officer working in Head Office was demanding computer for which she was given test in presence of other staff. She could not type or handle the computer, therefore I asked her to leave the chair. Three members of the staff were also present at that moment i.e. Ms. Hafsa Bibi, PA to Director, Mr. Samad Ali, Office Assistant and Mr. Irshad Ali, Senior Clerk. Ironically, Mrs. Farzana Sarwar denied presence of other staff during inquiry. Despite my request to the Inquiry Officer to summon all the three above officials of the department for testifying the statement of Mrs. Farzana Sarwar, the Inquiry Officer did not call them, which shows the partiality even on the part of the Inquiry Officer as well. Findings of the Inquiry Officer are flawed due to the following facts:-

- a. The incident did not take place in privacy rather 03 other staff members were present who could testify my version and shall also testify that it was not sexual intimidation of any nature.
- b. She is working in the Head Office under my command but I have never misbehaved with her or done anything which could embarrass her. Had I been having any nefarious designs, I could have shown my intentions to her in privacy. Therefore my act in presence of other staff as alleged in the report was not sexual harassment in terms of any definition of unlawful act.

3. It is evident from record that I have never misbehaved, nor did I ever misuse my authority to the embarrassment of female staff and always gave them due respect and reverence. I never indulged in sexual harassment, nor I tried to create a hostile environment in the work place. Instead environment of my department always remained friendly for all the staff including the female.

4. It is regretted that the Inquiry Officer could not see and evaluate the facts objectively and failed to weigh the evidence independently in support or against the allegation. He proceeded with pre-conceived ideas. His report is full of conjectures and surmises and is based on subjective thinking and supposition. It appears as if the learned Inquiry Officer, after studying the terms and phrases in the Act in question, spent all his energies to situate the charges on them to exhibit his command over those phrases. In the same spirit he failed to do justice with the task and did not even consider or believe the account of the facts narrated on oath on Holy Quran by my PA.

5. It is hoped that the competent authority, at this stage would have come to the conclusion that the charges mentioned in the Charge Sheet and Statement of Allegations and the Inquiry Report in question is totally devoid of facts and there is hardly any element of truth in the whole saga. The basic ingredients of sexual harassment i.e. abuse of authority, creation of hostile environment and retaliation can not be sensed in the mentioned incidences nor it could be proved by the Inquiry Officer in a transparent approach. Moreover the entire case appears to have been cooked up to malign, harm and defame my person by interested lobby with malafides intentions.




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In view of the above facts and narration, it is humbly prayed that I may kindly be exonerated of the charges leveled against me and I may kindly be reinstated into service in the interest of justice.

In the end, it is also requested that I may kindly be provided with an opportunity of personal hearing to fully explain and prove my innocence in person.



(MUALIM JAN) 29/10/11

Director Reclamation and
Probation Department
(under suspension)
Khyber Pakhtunkhwa

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GOVERNMENT OF KHYBER PAKHTUNKHWA,
HOME & TRIBAL AFFAIRS DEPARTMENT.

Dated Peshawar, 23rd November, 2011

ORDER.

NO.2/3-SO(PRS)HD/10. WHEREAS Mr. Mualim Jan the then Director Reclamation & Probation was proceeded against under NWFP Removal from Service (Special Powers) Ordinance, 2000:

AND WHEREAS Dr. Ihsan-ul-Haq, Director RMMU Chief Secretary's Office was appointed as Enquiry Officer, who submitted his report;

AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges, material on record and report of the Enquiry Officer, reached the conclusion that the charges levelled against the accused officer have been proved;

And in view of the above, the Competent Authority (Chief Minister) has been pleased to impose the penalty of with-holding of three annual increments without cumulative effect on the accused officer, with immediate effect -

HOME SECRETARY
Khyber Pakhtunkhwa

Endrst: of even No/date.

Copy forwarded to:-

- 1- Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department
- 2- PSO to Chief Minister Khyber Pakhtunkhwa.
- 3- PSO to Chief Secretary Khyber Pakhtunkhwa
- 4- Accountant General Khyber Pakhtunkhwa Peshawar
- 5- Director Reclamation & Probation Khyber Pakhtunkhwa Peshawar
- 6- PS to Home Secretary for information.
- 7- Officer concerned.

23-11-2011
(MUHAMMAD GHULAM MARWAT)
SECTION OFFICER (PRISONS)

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DIRECTORATE OF
RECLAMATION AND PROBATION,
K.P.K., PESHAWAR

Benevolent Fund Building R. No. 126-127-128 & 231
P.No. 9213309, 9211207 Fax: 9210720

No. 3340 D.R&P (P/F)

Dated Peshawar the 7/12/2011

To

The Secretary to Govt: of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department, Peshawar.

Subject: Appeal against the order dated 23.11.2011 whereby the penalty with-holding of 3 annual increments without cumulative effect has been imposed.

Dear Sir,

Enclosed please find herewith an appeal against order dated 23-11-2011 of the undersigned for onward submission to quarter concerned please.

Yours faithfully,

(Mualim Jan Aramzai)
Director Reclamation & Probation,
Khyber Pakhtunkhwa,
Peshawar.

To

The Worthy Governor,
(Appellate Authority),
Khyber Pakhtunkhwa, Peshawar.

THROUGH PROPER CHANNEL.

Subject: Appeal against the order dated 23.11.2011 whereby the penalty with-holding of 3 annual increments without cumulative effect has been imposed.

Sir,

Most profoundly it is submitted that the appellant was charge sheeted on the basis of anonymous application for the charge of sexual harassment of female Probation Officers. The regular inquiry was conducted in the matter which recommended major penalty of reduction in time scale by one stage. On the basis of recommendation show cause notice was issued to the appellant in which the penalty of with-holding of 5 annual increments was proposed. The appellant submitted reply to the show cause notice after which the penalty of with-holding of 3 annual increments without cumulative effect was imposed vide order No.2/3-SO(PRS)HD/10 dated 23rd November 2011 (copy enclosed).

The said penalty order is liable to be struck down on the following grounds amongst the others:

GROUND:

1. That the whole action was taken on the basis of anonymous letter which was liable to be thrown in the dust bin in light of the S&GAD Notification No.SOR-II(S&GAD)5(29)/97-2; dated 22.7.1998 and letter No. SOR-II(S&GAD)5(29)/97-2; dated 15.11.1999. Despite of the clear instruction contained in the above mentioned letters, the appellant has been subjected to departmental proceedings.
2. That the inquiry which was conducted was not in accordance with the provision of Section-5-1 (a) and (c) of the RSO, 2000, because the appellant was directly served with the charge sheet by the authority which is violation of Section-5-1 (a) and during the inquiry the appellant was not provided a chance of cross examination of the official who recorded statement at the back of the appellant. Moreover, the appellant also requested for summoning some witnesses in defence, which was also ignored by the inquiry officer. Thus

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Section-5-1 (c) has been violated and the principles of justice were not adhered to by the inquiry officer.

3. The statements which were recorded by the inquiry officer clearly show that the appellant was not involved in any such conduct, because of having prestigious job and good family background.
4. That the inquiry officer has also ignored the past more than 16 years spotless service record not having any complaint for any such like involvement.
5. That the malafide and un-clearness of the inquiry officer and the authority is also evident from the recommendation made by the inquiry officer (major penalty of reduction in time scale), while the authority in show cause notice proposed with holding of 5 annual increments (minor penalty) which finally resulted in the stoppage of 3 annual increments.
6. That the appellant has not been treated according to law and rules and has been subjected to the departmental proceedings on the basis of baseless and anonymous complaint, thus, all the norms of justice and principle of fair play have been violated.

It is, therefore, humbly requested that on the acceptance of this appeal, the order dated 23.11.2011 may be set aside and the appellant may very graciously be exonerated from all such charges.

Appellant

SIC

Mualim Jan, 3/12/11
Director Reclamation & Probation,
Khyber Pakhtunkhwa,
Peshawar.

wait for 60 days.
Till = 01-2-2012

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VAKALAT NAMA

NO. _____ /20

IN THE COURT OF Service Tribunal Peshawar

Muallim Jaw (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt. of KPK etc (Respondent)
(Defendant)

I/We Muallim Jaw (appellant)

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

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

Dated _____ /20

[Signature]
(CLIENT)

ACCEPTED

[Signature]
M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

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

SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 281/12

Mualim Jan (Ex-Director Reclamation and Probation) KPK

Peshawar..... APPELLANT.

Versus

1. The Government of KPK through Chief Secretary KPK Peshawar.
2. The Chief Secretary to Govt of Khyber Pakhtunkhwa,
3. The Secretary to Govt of Khyber Pakhtunkhwa, Home & T.As Department Peshawar.

.....Respondents.

Written reply on Behalf of Respondent 1 to 3.

PRELIMINARY OBJECTIONS.

1. The appeal is not based on reality.
2. The appellant has concealed facts and misrepresented the case.
3. The appeal is bad for misjoinder and non joinder.
4. That the appeal is badly time barred.
5. That the appellant has not come to the Tribunal with clean hand.
6. That the appeal is not maintainable in its present form.
7. That the promotion is not the vested right of civil servants.

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 READ WITH SECTION 10 OF THE RSO-2000 AGAINST THE ORDER DATED 23-11-2011, WHEREBY THE PENALTY OF STOPPAGE OF THREE ANNUAL INCREMENTS HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST NOT TAKING ANY ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN STATUTORY PERIOD.

Respectfully Sheweth.

1. The family history or the back ground of the appellant has nothing to do with the case the matter relates to personal conduct, hence this plea is denied as incorrect.
2. The instructions regarding disposal of Enquiry cases based on anonymous/ Pseudonymous complaints attached by the inquiry officer which is too much clear (**Annexure-A**). Moreover the probation officers for disowning the complaint, but this is of no help to him .
3. After completion of all Codal formalities the competent authority serve the show causes Notice and statement of allegation to the appellant.
4. The appellant was given opportunity of self defense, cross examination, witness during the proper inquiry. So for as secret enquiry is concerned, departmental matter which is conducted as a measure of abound by Department, the accused his no right to have a copy thereof. However

was given proper charge sheet, statement of allegation and the show cause.

5. Needs no comments since relates to record..
6. As mentioned by the inquiry officer under title (**Defense of the accused**) at page -14 of the finding / report all the requirement of law and the rules have been fulfilled. (**Annexure-B**).
7. As per record.
8. The applet authority (worthy Governor Khyber Pakhtunkhwa) has decided the appeal against the appellant (**Annexure-C**).

GROUND.

- A. As mention at Para-8 above.
- B. The inquiry officer mentioned in their report under title "**Methodology**" at page-3 , that at least 10 witness were examined and under title "**Analysis of Charge**" at page No. 11-13.(**Annexure D & E**)
- C. The inquiry officer appointed under the RSO 2000 and the inquiry officer mention in their finding / report the authority of (S&GAD) "**that harassment acts do fall the category of misconduct, they can be dealt with under RSO**".(**Annexure- F**).
- D. The inquiry officer recommended Major Penalty, while the Competent authority has been pleased to reduce his punishment up to (5) Annual increments. Finally the appellant awarded the punishment of 3 Annual increments without accumulative effect (**Annexure- G & H**).
- E. As per Para-2 above.
- F. The punishment of three (3) Annual increments without accumulative effect has been imposed upon the appellant.
- G. Needs no comments.
- H. Needs no comments.

PRAYER:-

It is prayed that in view of above discussion and material on record, case has already been decided on merit, therefore the appeal may graciously be dismissed with cost.


Secretary to Govt of Khyber Pakhtunkhwa,

Home & T.As Department Peshawar.

No. 1 to 3

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Anonymous Complaints/Letters

Disposal of Enquiry cases based on anonymous/ Pseudonymous complaints.

The following instructions may be followed during disposal of anonymous communications:-

1. Anonymous communications must invariably be filed on their receipt. No action of any kind is to be taken on them and no notice of any kind is to be taken on their contents. If the communication is found to be pseudonymous it (and any previous notes etc. connected with it) must similarly be filed.
2. It is however recognized that there may be exceptional cases, when anonymous/ pseudonymous communication contain allegations of a specific nature having a ring of truth. then these may be inquired into only after obtaining the orders of Administrative Secretaries/Head of Attached Department/ Commissioners/ Deputy Commissioners, as the case may be.
3. Local heads of Police officers in the Districts can also exercise discretion to order enquiries into anonymous and pseudonymous petition on the analogy of Deputy Commissioners in their respective jurisdictions. Since the Deputy Commissioner is the General Administrative head of the District, his orders should be obtained by the concerned head of office under his administrative control if he wants to take action on any anonymous petition.
4. Anonymous petitions or letters should normally be filed except when definite allegations are made and concrete instances given.
5. In complaint against a civil servant, the petitioner should be asked to furnish an affidavit to the effect that all facts stated in his complaint are true and if his affidavit is proved false, he would be prepared to face legal action which could be taken against him.
6. Complaints received through anonymous/pseudonymous source should be ignored.
7. Antecedents and credentials of a complaint should be verified before an inquiry is instituted against the officials concerned.

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(39) (68)

complaint. Secondly both said they thought the inquiry officer being part of the department could not be independent and they did not want to disclose full facts being afraid of the consequences.

Defence of the accused

The accused officer filed a series of written replies; his original reply (Annex-15) and additional submissions after each cross examination of witnesses (Annexes-16-18). He was also heard in person and his statement recorded (Annex-19).

The accused pleaded that a lobby existed in the directorate that had conspired to file anonymous complaint to a judge of the PHC to harm his reputation. According to him he had taken disciplinary actions against most of the witnesses in the case and, hence, they had motive to malign him.

It is true that he did take such actions and provided documentary evidence in his submissions; the appreciation of evidence against him is not based on statements of witnesses alone. It is actually based on his admission and the documentary record. For example the conveying of message, the touching incident and calling officers to Peshawar have been admitted though different explanations were given by him. However those explanations have been analyzed and found to be unconvincing.

Conclusions

As allegations of sexual harassment have been admitted and the alternate explanations not found convincing, the charge stands proved against the accused officer, to the extent of incidents mentioned above.

Recommendations

Specific

In view of the above, I recommend:

1. Major penalty of reduction of accused officer's current time scale of pay by one stage.
2. To prevent retaliatory action against female staff in future, Home department should consider issuing a policy directive that no adverse administrative action against any female probation officer should be taken without prior approval of secretary Home department.

General

1. Considerable delay has already occurred regarding implementation of Harassment Act in this province. As this has a risk of legal challenge for the government as mentioned



Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
No. SO(Prisons)HD/23/2010
Dated Peshawar the July 12, 2012

To

Mr. Mualim Jan,
Ex Director (Reclamation & Probation),
Khyber Pakhtunkhwa, Peshawar

Subject:- APPEAL AGAINST THE ORDER DATED 23.11.2011
WHEREBY THE PENALTY WITHHOLDING OF 03
ANNUAL INCREMENTS WITHOUT CUMULATIVE
EFFECT HAS BEEN IMPOSED.

I am directed to refer to your appeal received vide NO. 3540-D R&P (P/F) dated 07.12.2011 against the orders dated 23.11.2011 whereby the penalty "withholding of 03 Annual Increments without cumulative effect" had been imposed by the competent authority upon you.

The Worthy Governor (Appellate Authority) after affording you the opportunity of personal hearing has been pleased to uphold and confirm the penalty of withholding of three annual increments without cumulative effect already imposed upon you by the competent authority vide aforementioned order.

12.07.12

(KHALID KHAN)
Section Officer (Prisons)

Endst: of even No/date

Copy forwarded for information to the:

1. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
2. PSO to Chief Minister Khyber Pakhtunkhwa.
3. PSO to Chief Secretary Khyber Pakhtunkhwa.
4. Accountant General Khyber Pakhtunkhwa Peshawar.
5. Director Reclamation & Probation Khyber Pakhtunkhwa Peshawar.
6. PS to Home Secretary for information.

12.07.12
Section Officer (Prisons)

13/7/12

Introduction

The subject inquiry was entrusted to me vide Home department letter dated 10 August 2011 (Annex-1)

An anonymous complaint was filed the Peshawar High Court (PHC) purporting to be from female probation officers of the Probation department that Mr. Moallim Jan (BS-18), Director Probation department, an attached department of the Home department, was sexually harassing them. The PHC sent the case to Chief Secretary for report (Annex-2).

The complaint was inquired twice by a Deputy Secretary of the Home department. In the former case, he reported that all probation officers have disowned the complaint (Annex-3). Since it was a one page report, the Court reportedly asked the department to properly conduct the inquiry. Accordingly female officers were called by the inquiry officer to give evidence. This time hereported (Annex-4) that while all disowned the complaint again, two officers mentioned about a specific incident and the director's bad behavior with the staff, thus *insinuating* wrongdoing. Hence the Home department moved a summary to the government for suspension of the accused officer and formal inquiry under Removal from Service Ordinance.

Hence the present case.

Methodology

Charge papers were sent to the accused officer for reply (Annex-5). Since the complaint referred to specific instances, the inquiry was restricted to witnesses referred to in the complaint and connected with the events. For this purpose, officers serving at Peshawar and nearby stations were called. However, some of the witnesses serving at far away stations were interviewed by phone.

The case record was obtained from Home department and the Probation directorate and the following witnesses were examined:

1. Mrs. Najma Ajmal, Female Probation Officer
2. Mr. Niaz Khattak, Probation Officer
3. Mr. Noorul Amin, J/Clerk
4. Mrs. Farzana Sarwar, Female Probation Officer
5. Mr. Ajmal Khan, J/Clerk, Probation directorate
6. Miss. Hafsa, J/Clerk, Personal Assistant, Director Probation
7. Mr. Riffat Hina, Female Probation Officer D.I.Khan (on phone)
8. Mr. Muzzafar Said, Probation Officer, Malakand

} Kohat

} Peshawar

- 36
(576) (29)
9. Mr. Ameeru Din, Probation Officer, Swat (on phone)
 10. Mr. Niamatullah, Probation Officer Bannu

I provided the accused officer full opportunity to cross-examine witnesses and also discussed with Member Inspection Team, PHC some aspects of the case.

The report was delayed for a couple of weeks due to the fact that record of earlier inquiries could not be provided by Home department in time as the then Inquiry Officer, Mr. Ahmad Khan, deputy secretary, had proceeded to *Umrah* and reportedly the file was in his custody. On his arrival, the file was produced

I would like to acknowledge with thanks the extraordinary and expeditious support provided by the departmental representative, Mr. Hidanyatullah Khan, Deputy Director Probation, in providing the needed record and summoning departmental staff for evidence.

The harassment Act

The Home department summary had made a recommendation that accused officer should also be probed under Harassment Act. The same was approved by the Competent Authority and mentioned in my appointment notification.

The Act in question, actually named Protection against Harassment of Women at Workplace Act 2010 was passed by the parliament and received presidential assent on 9 March 2010. According to this Act, following actions are required to be taken by the federation and the provinces:

11. Responsibility of employer.—(1) It shall be the responsibility of the employer to ensure implementation of this Act, including but not limited to incorporate the Code of Conduct for protection *against harassment at the workplace* as a part of their management policy and to form Inquiry Committee referred to in section 3 and designate a competent authority referred to in section 4.

(2) The management shall display copies of the Code in English as well as in language understood by the majority of employees at conspicuous place in the organization and the work place within six months of the commencement of this Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file *a petition before the District Court* and on having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees.

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(36) (58)

8. News papers publishing allegations, which are proved to be baseless, should be dealt with according to the law.

It is requested that strict observance of the above instructions may be ensured at all levels.

(Authority:-S&GAD's letter No.SORII(S&GAD)S(29)/97-II, dated 22.7.1998)

In the complaint, two specific incidents were mentioned; a message was passed to a female officer that she should accompany the director for two days to D.I. Khan and his conduct with two female probationers in Swat. Both the PHC and the department were, therefore, justified to probe such a complaint.

Analysis of charge

According to the charge sheet accused officer has been charged of sexually harassing female probation officers. Though the complaint mentioned some other allegations concerning female probationers, they were not mentioned in the charge sheet and are not probed in this inquiry. My findings regarding the charge are discussed as follows:

Message to Female Probation Officer Kohat

The complaint mentions that Mrs. Najma, Kohat female probation officer was given a message to accompany the director during his two day visit to D.I.K from 25-26 Feb. The incident was endorsed by the officer in her evidence (Annex-7) and admitted by the PA to director. The latter however, stated that she did not fully understand who was to accompany the director and could not get it clarified from the director. She added she was asked by the director subsequently, to clarify to the officer she was not the intended person as the male probation officer was intended and the message was passed due to misunderstanding. The PA even testified on Holy Quran, when demanded by Mrs. Najma that she had misunderstood the message as clarified later by the director. The misunderstanding was endorsed by the director in his cross examination of the witness and during his defence (Annex-8). He added that the male officer had requested him a number of times to take him to D.I.Khan during his next visit.

The plea raised by the PA and the director seems to be without force for a number of reasons as follows:

1. It was not conceivable that such an important message would be misunderstood by the PA, in view of its sensitivity in relation to a female officer.
2. There was no specific handicap why the PA could not get the message clarified from the director regarding who was to accompany him. There was sufficient time available for this purpose, before the director was to proceed on his journey.

- 45
- (37) (SA)
3. No message was passed to the 'correct' beneficiary, the male probation officer by the PA.
 4. The director proceeded on his visit **without** taking the male officer along, contrary to the plea.
 5. If this was a case of genuine misunderstanding, the director would have personally clarified to the officer and apologized for the anguish caused.

In my opinion, the incident is a case of sexual advances as the visit required two night stay at D.I. Khan as the director proceeded on his journey on 24th Feb and was to return on 26th, abuse of authority and creation of hostile environment as its refusal could invite a retaliatory action. I think the PA's plea of misunderstanding seems to be based on subordinate relationship and not on facts. However to the extent of conveying director's own clarification, the PA's statement is correct.

During examination of Mr. Khattak (Annex-9), he endorsed Mrs. Najma view point and added that a day before Mrs. Najma received the message. Mr. Noorul Amin clerk of his office also received the same message from PA to director. He also filed a statement of office staff (Annex-10).

Mr. Noorul Amin statement (Annex-10a) is difficult to believe due to the following:

1. In view of sensitivity of the message, the PA was unlikely to give it to a male staff member instead of delivering it to Mrs. Najma.
2. Mr. Amin dutifully received the message. If he had raised slightest objection, the PA was likely to reconfirm it to Mrs. Najma again. As this was not so, the PA had no need to repeat the message the next day.
3. Mr. Amin did not take any action when he received the message and did not inform his seniors about it. Though Mr. Khattak mentioned this in his statement, the statement written by Mr. Amin on behalf of office staff did not mention it.
4. During his statement in the presence of PA, Mr. Amin's demeanor seemed to be devoid of conviction.

In view of above and past adverse action against him by the director, his claim is difficult to believe.

Calling female probation officers to Peshawar

During the inquiry Mrs. Farzana also alleged the director had told the newly inducted female probation officers that they will each be called for a month to Peshawar for further training. Accordingly two officers, Mrs. Najma and Riffat Hina (Annex-11) were called to Peshawar who remained at the directorate for 4 months, and 2 weeks respectively and were entrusted accounts and establishment work.

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Perusal of record (Annexes-12, 13) reveals these officers stayed at directorate and handled files. However, the director denied training version and explained that these officers had requested to stay at Peshawar for domestic reasons as their families were resident at Peshawar.

This explanation is difficult to believe for the following reasons:

1. Both officers have denied they ever requested the director for this purpose; Mrs. Najma did not make any verbal or written request for this purpose. Riffat Hina did make a request for some leave; she never requested she wanted to work at the directorate. However, no formal transfer order was passed to ensure transparency, nor the officers were asked to make a written request in this regard. The director admitted that he passed orders verbally.
2. If the training pretext is believed, it is strange that there were no TOR for the same and the reason for training female officers one at a time is difficult to comprehend.
3. At that time two male probation officers, M. Raza Khan, and S. Afsar Shah, Probation Officers Dir and Swabi respectively had also joined service but they were not asked to undergo similar training.
4. The training cycle was interrupted when the anonymous complaint landed in the PHC.

In my opinion, the training pretext was used to ask only female officers to remain at Peshawar. It was, thus an abuse of authority which had a potential to create a hostile work environment.

Conduct with female probation officer Peshawar

During her examination (Annex-14), Mrs. Farzana Sarwar alleged she was called to director's office and asked to type a few words on computer at very close proximity to director, who was sitting in front of the computer. When she made a mistake, she was touched by the arm. She protested and said he should not repeat the act. She also alleged he was very abusive and used to scratch his legs even during the presence of female staff.

During his cross examination, the director claimed that the officer had made a request for allocation of a computer for her office. As he planned to issue computers to only those who knew how to type, he called her to his office to test her typing skills. As she made a mistake, he touched her arm with a finger to indicate she should forget about computer as she did not know even how to type. He added that other staff was also present and he apologized when she protested. The female officer denied she ever made such a request or that no staff was present at the time of incident.

In my opinion, since touching has been admitted, it in fact did take place and the presence of staff does not mitigate the gravity of the act. Also since the officer protested, it is a case of unwelcome sexual advance and harassment.

I asked both Mrs. Najma and Farzana why they did not give clear statements in the second inquiry. Both explained that the inquiry officer only asked questions about who had filed the

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has been appointed. The department informed me that a case has been referred to Law department who have taken up the case with Finance department. However, the matter is still pending. Similarly no action has been taken regarding implementation of the Code of Conduct appended to the Act.

Implementing of the Code of Conduct is a ground breaking step and is conceived to usher a new era of social conduct which is free of all discriminations against working women. It may also be noted that while the law could operate without an Ombudsman, as a district court could assume his functions till establishment of his office, no proceedings can even go past the inquiry stage in the absence of designated competent authorities. These deficiencies are, therefore, tantamount to killing the purposes of this law.

In view of the above, one can see that no significant progress has been made to implement this law, even after passage of two years, thereby, exposing the government to the risk of legal challenge and fine by concerned employees.

Issues

Probe under Harassment Act

Under this Act, the nature of the inquiry committee has been defined as follows:

3. Inquiry Committee. - (1) Each organization shall constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints under this Act.
- (2) The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

In view of the above, one can see that under this law, harassment against women can only be inquired by specific authorities and not by inquiry officer appointed under the RSO 2000. However since harassment acts do fall under the category of misconduct, they can be dealt with under RSO.

- 44
- (36) (58)
5. News papers publishing allegations, which are proved to be baseless, should be dealt with according to the law.

It is requested that strict observance of the above instructions may be ensured at all levels.

(Authority: S&GAD's letter No. SORII(S&GAD)5(29)/97-II, dated 22.7.1998)

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The plea raised by the PA and the director seems to be without force for a number of reasons as follows:

1. It was not conceivable that such an important message would be misunderstood by the PA, in view of its sensitivity in relation to a female officer.
2. There was no specific handicap why the PA could not get the message clarified from the director regarding who was to accompany him. There was sufficient time available for this purpose, before the director was to proceed on his journey.

SHOW CAUSE NOTICE.

I, Amir Haider Khan Hoti, Chief Minister Khyber Pakhtunkhwa, as competent authority, under the NWFP Removal from Service (Special Powers) Ordinance, 2000, do hereby serve you Mr. Mualim Jan, the then Director Reclamation & Probation as following:-

That consequent upon the completion of inquiry conducted against you by the Enquiry Officer and going through the findings and recommendations of the Enquiry Officer, the material on record and other connected papers, I am satisfied that the charge of sexual harassment levelled against you in the charge sheet have been proved

2- As a result thereof, I, as competent authority, have tentatively decided to impose upon you a major/minor penalty of withholding of five annual increment. as defined under section 8 read with section 3 of the said Ordinance.

3- 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.

4- If no reply to this notice is received within (7) days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defence to put forward and in that case ex-parte action shall be taken against you.

5- Copy of the findings of the Inquiry Committee is enclosed.

A. Haider
25-10-11

(AMIR HAIDER KHAN HOTI)
CHIEF MINISTER NWFP

87/69

GOVERNMENT OF KHYBER PAKHTUNKHWA,
HOME & TRIBAL AFFAIRS DEPARTMENT.

Dated Peshawar, 23rd November, 2011

ORDER.

NO.2/3-SO(PRS)HD/10. WHEREAS Mr. Mualim Jan the then Director Reclamation & Probation was proceeded against under NWFP Removal from Service (Special Powers) Ordinance, 2000:

AND WHEREAS Dr. Ihsan-ul-Haq, Director RMMU Chief Secretary's Office was appointed as Enquiry Officer, who submitted his report;

AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges, material on record and report of the Enquiry Officer, reached the conclusion that the charges levelled against the accused officer have been proved;

And in view of the above, the Competent Authority (Chief Minister) has been pleased to impose the penalty of with-holding of three annual increments without cumulative effect on the accused officer, with immediate effect

HOME SECRETARY
Khyber Pakhtunkhwa

Endrst: of even No/date.

Copy forwarded to:-

- 1- Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department
- 2- PSO to Chief Minister Khyber Pakhtunkhwa.
- 3- PSO to Chief Secretary Khyber Pakhtunkhwa
- 4- Accountant General Khyber Pakhtunkhwa Peshawar
- 5- Director Reclamation & Probation Khyber Pakhtunkhwa Peshawar
- 6- PS to Home Secretary for information.
- 7- Officer concerned.

[Handwritten signature]
23/11/11

[Handwritten signature] 23-11-2011
(MUHAMMAD GHULAM MARWAT)
SECTION OFFICER (PRISONS)

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

Signature
12/13/13

Service Appeal No. __281_/2012

Mr. Mualim Jan

V/S

Government of KPK

.....
REJOINDER ON BEHALF OF APPELLANT

.....
RESPECTFULLY SHEWETH:

Preliminary Objections

(1-7) All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents, so no comments.
- 2 Not replied according to the content of Para-2 of appeal where Para-2 of appeal is correct.
- 3 Admitted correct by the respondents, so no comments.
- 4 Incorrect, while Para-4 of appeal is correct. If the action is based on certain documents against the appellant, then the appellant has the right to examine the record.
- 5 Admitted correct by the respondents, so no comments.
- 6 Incorrect, while Para-6 of appeal is correct.
- 7 Admitted correct by the respondents, so no comments.
- 8 Incorrect, while Para-8 of appeal is correct.

9 Incorrect. While Para-8 of the appeal is correct. The appellant has not been communicated any kind of rejection order.

GROUND:

- A) Incorrect, while Para-A of appeal is correct.
- B) Incorrect, while Para-B of appeal is correct. The appellant has been penalized for no fault on his part.
- C) Incorrect, while Para-C of appeal is correct. Moreover, if an action is proved under the Harassment Act then the action could be taken against the appellant but in the instant case neither the harassment is proved on the part of the appellant nor the enquiry was properly conducted.
- D) Incorrect, while Para-D of appeal is correct.
- E) Incorrect, while Para-E of appeal is correct.
- F) Incorrect, while Para-F of appeal is correct.
- G) No comments endorsed by the respondents which mean they have admitted Para-G appeal is correct.
- H) Legal.

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

APPELLANT

Mualim Jan

Through:

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

AFFIDAVIT

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



Deponent
DEPONENT



To

Member Inspection Team,
Peshawar High Court,
Peshawar.

Subject:- APPLICATION/COMPLAINT (C # 11251)

Dear Sir,

I am directed to refer to your letter No.2308/MIT, dated 2nd May, 2011 addressed to the Chief Secretary Khyber Pakhtunkhwa on the subject noted above and to enclose herewith a copy of inquiry report conducted by Ahmad Khan, Deputy Secretary (L&O), Home & TAs Department in the subject matter (self explanatory) for your kind perusal/.inforamtion, please.

Yours faithfully,

ENCL: AS ABOVE.

[Signature]
SECTION OFFICER (PRISONS)

[Signature]
16/5/2011

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R-1

34. *[Signature]*

Confidential

GOVERNMENT OF KHYBER PAKHTUNKHWA,
HOME & TRIBAL AFFAIRS DEPARTMENT.

No. 1/39-SO(Prisons)HD/11
Dated Peshawar, 16th May, 2011.

R-2

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**HOME AND TRIBAL AFFAIRS
DEPARTMENT KHYBER PAKHTUNKHWA**

PUC at Page-1-3/3

Subject:- COMPLAINT AGAINST DIRECTOR PROBATION KPK

This is an anonymous complaint against Mr. Mualam Jan Director Probation and Proclamation received from the Peshawar High Court Peshawar wherein certain allegations have been leveled against the aforesaid officer. As per text of the attached application, complaint alleged to be filed by female Probation Officers.

Following the orders of Home Secretary, the undersigned contacted the following female Probation Officers on their phone/cell numbers noted against each; however every one disowned the complaint:

- | | |
|----------------------------|--------------|
| 1. Farzana Sarwar Peshawar | 0314-9002780 |
| 2. Rozina Wahab Mardan | 0937-9330584 |
| 3. Najma Ajmal Kohat | 0346-916647 |
| 4. Asma Begum Swat. | 0346-4366650 |
| 5. Salma Gul Wazir A.Abad | 0992-9310470 |
| 6. Rifat D.I.,Khan | 0966-713376 |

Submitted for perusal and appropriate orders please.


DS(L&I)

پارا ارہقت حنا برد بیٹھیں آٹھنہ باقرہ اصلاح بیان کرنی ہوں

کہ مجھے کوئی شکایت بندھ نہ خلات ڈائریکٹر پرہ شین

سر معلم جان دگنا پالیا جگو میں نے طلوع کر کے بیان

کرتی ہوں کہ مجھے اس بارے کچھ معلوم ہیں

کہ کس نے کیا ہے اور ترسے کیا ہے

Sd/-

31/8/2011

Attestation
[Signature]
31/8/11

صیں کجمنہ آجمل اقرار کرے نکھی ہوں کہ آج مجھے جو شکایت
نامہ سرگھلاٹ ڈائریکٹر پرویشن صدر معلم جان دگابا پو جنکو
صیں نے بغور مطالعہ کرے نکھی ہوں

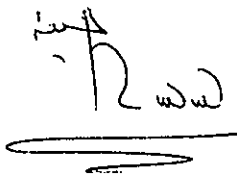
کہ اس اعلیٰ میں آئے ہوئے ہمیں صرف اور صرف ایک سال
پو گیا ہے جو کس باتیں نکھی گئی ہے میرے نزدیک اس میں
کوئی سمجھائی نہیں ہے۔

جیاں تک ڈپو اسماعیل خان کی بات ہے تو وہ ڈائریکٹر
کے پی۔ اے نے کی لکھی تکیں آسے جلدی لہر لی۔ اے نے دو با
مال کرے کیا نہ وہ سی میل پرویشن آفسر کو اپنے سامنے کر جائے
کے منجمل کو نہیں لے جا سکے۔ پونک وہ وٹانہ ذات ہے۔

جیاں تک میرے رونے دھونے کی بات ہے تو یہ بھی غلط ہے۔ میں خدا
کے سامنے کیوں نہیں روئی کہ میں کسی اور کے سامنے رو لوں۔

کجمنہ آجمل منجمل پرویشن آفسر کو کھٹا ط
ممنزہ (N) ۱۱-۵-۵۵
A.H. ۱۱/۵/۵۵
DS/200

میں روزینہ ویب پرویشن آئٹیم مردان اقرار کرتے
 تکی ہوں کہ مجھے آج شکایت برخلاف ڈائریکٹر سٹر معلم خان
 دہمایا جسکو میں نے عذرا سے پڑھا اور لکھ دیتا ہوں کہ مجھے اس
 شکایت سے بارے میں علم نہیں ہے اور نہ میں نے یہ کیا ہے۔

دست


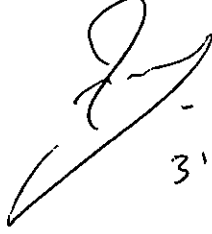
31/5/2011

Alhadi



31/5/2011

DS/hoo

حضرتانہ سرور بیان کر رہی ہیں کہ محمد آج شہادت
میں معلم جان دیکھا جس کو میں نے پڑھا۔ اور
دینی بیوں کہ یہ شہادت میں نے نہیں کی ہے۔ البتہ
ان کو اپنا روپ فیصلہ کی طرف روپ کھینک کرنا چاہیے


3/5

R-6

Abdus

3/5/2011
DS/LTD

R-7

35

اسماء بیگم

میں اسماء بیگم ہر اقرار صالح بیان کرتی ہوں کہ آج
مجھے جو نامعلوم تحریر شکایت دکھایا گیا۔ اُسکو
میں نے تفصیل سے پڑھا۔

میرا ان شکایات سے کوئی تعلق نہیں۔ اور نہ میں
نے یہ تحریر شکایت کی ہے۔ کیونکہ اس میں کسی
بھی بات کا مجھے کوئی علم نہیں اور نہ ہی مجھے کسی نے
کچھ بتایا ہے ڈائریٹر صاحب سے بارے میں۔

اس لیے میں اس نامعلوم تحریر شکایات

سے کوئی انکار ہوں۔

~~me~~

AAH
31/5/11

DS/2000



Confidential

GOVERNMENT OF KHYBER PAKHTUNKHWA,
HOME & TRIBAL AFFAIRS DEPARTMENT.

No. 1/39-SO(Prisons)HD/11
Dated Peshawar, 16th May, 2011.

To

Member Inspection Team,
Peshawar High Court,
Peshawar.

Subject:- APPLICATION/COMPLAINT (C # 11251)

Dear Sir,

I am directed to refer to your letter No.2308/MIT, dated 2nd May, 2011 addressed to the Chief Secretary Khyber Pakhtunkhwa on the subject noted above and to enclose herewith a copy of inquiry report conducted by Ahmad Khan, Deputy Secretary (L&O), Home & TAs Department in the subject matter (self explanatory) for your kind perusal/inforamtion, please.

Yours faithfully,

ENCL: AS ABOVE.

MMK 16-05-2011
SECTION OFFICER (PRISONS)

AJ
16/5/11

میں اسماء بیگم لبراقرار صالح بیاب لکری ہوں کہ آج
مجھے جو نامعلوم تحریری شکایت دکھایا گیا۔ اسے
لیجین نے تفتیش سے فرمایا۔

پہلے ان شکایات سے کوئی تعلق نہیں۔ اور وہ میں
نے یہ تحریری شکایت کی ہے۔ کیونکہ اس میں کسی
بھی بات کا مجھے کوئی علم نہیں اور نہ ہی مجھے کسی سے
کوئی بتایا ہے ڈائریٹر صاحب نے بارے میں۔

اس لیے میں اس نامعلوم تحریری شکایات

سے کوئی افکار ہوتے۔

~~_____~~

31/5/11
DS/1200

سرور بیان کر رہی ہوں کہ مجھے آج شکایت

سرور خان دیکھا جس کو میں نے پڑھا۔ اور وہ اور

بہنوں کے پاس ہے۔ یہ شکایت میں نے نہیں کی ہے۔ اللہ

ان کو اپنا رُوپ فیملی کی طرف روپ ٹیک کرنا چاہیے

✓ 3/5

Abbas



3/5

DS/HR

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR.

No. 3027 /ST

Dated 21 / 10 / 2020

To

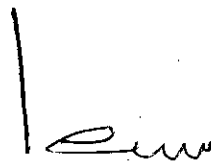
The Secretary Home & Tribal Affairs Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 281/2012, MR. MUALIM JAN.

I am directed to forward herewith a certified copy of Judgement dated 13.10.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR,
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

DAILY LIST FOR TUESDAY, 29 SEPTEMBER, 2020

MR. JUSTICE ROOH UL AMIN KHAN &
MR. JUSTICE IKRAMULLAH KHAN

Court No: 3

BEFORE-

Video Link Facility Is
Available

NOTICE CASES

- | | | |
|--|---|---|
| 21. W.P 910-P/2019
WITH IR() | Rizwan ullah
V/s
Government of KPK | Javed Iqbal Gulbela
<hr/> Sabah ud Din Khattak, Salmat
Nisar & M. Zahir Shah, Writ
Petition Branch AG Office |
| 22. W.P 1106-P/2019
With IR() | Saleem Khan
V/s
National Testing Services | Arbab Kaleem ullah
<hr/> Muhammad Imran Khan, Khurr
Saleem Baig, Mian Zia ul Islam
Writ Petition Branch AG Office |
| 23. W.P 2754-P/2019
With IR(N)(stay
granted on 29-5-
2019),() | Sheraz Khan
V/s
Government of KPK | M. Asif Yousafzai
<hr/> Hidayatullah (Focal Person),
Muhammad Khalid Matten, Writ
Petition Branch AG Office |
| 24. W.P 2941-P/2019
With IR() | Mst. Safia Sardar
V/s
Chief Administration Auqaf
Khan KPK | Muhammad Naeem Yousafzai
<hr/> Nasir Mehmood, Hayat Ullah
Shah, Muhammad Javed, Writ
Petition Branch AG Office, MIAT
HAYAT ULLAH SHAH |
| 25. W.P 3867-P/2019
with IR() | Arsalan Asad
V/s (Date By Court)
The Chancellor of FATA
University | Sajjad Ahmad Mehsud
<hr/> Mukhtar Ahmad Maneri, Mukhtar
Ahmad Maneri Advocate, Writ
Petition Branch AG Office |

DAILY LIST FOR TUESDAY, 29 SEPTEMBER, 2020

MR. JUSTICE ROOH UL AMIN KHAN &
MR. JUSTICE IKRAMULLAH KHAN

Court No: 3

Video Link Facility is Available

NOTICE CASES

26. W.P 3969-P/2019
With IR(N)(stay
granted on 7-8-
2019),()

Muhammad Nasir and Others
V/s
Govt of KPK and Others

M. Asif Yousafzai

Khush Muhammad Khan,
Muhammad Hayat Khan, Musha-
khan Marwat, Muhammad Anwar
Khan Banvi, Writ Petition Branch
AG Office

M. Asif Yousafzai

i IR(N) With W.P
3943/2019

Halim Shah and Others
V/s
Govt of KPK and Others

Kamran Ullah, Musharaf.khan
Marwat, Muhammad Anwar Kha
Banvi, Writ Petition Branch AG
Office

Taimur Ali Khan

ii IR(N) With W.P
3960/2019

Shahid ul Islam
V/s
Govt of KPK

Khush Muhammad Khan,
Muhammad Hayat Khan, Musha-
khan Marwat, Muhammad Anwar
Khan Banvi, Writ Petition Branch
AG Office

27. W.P 4346-P/2019
With CMs.2017-
p/19(M)(stay),
128-
p/20(N)(Impleadm
ent),()

M/S CGGC-Descon Joint
Venture
V/s
Federation of Pakistan

Muhammad Raza Baqur

Shakir Ullah Afridi, Deputy
Attorney General, Mukhtiar Ahr
Manerai, Law Officer FBR, Ami
Khan., Asghar Ali
Muhammad Baqir Hussain

W.P 826/2020

WAPDA Through Amir Shafiq ur
Rehman
V/s
Federation of Pakistan

Deputy Attorney General, Khial
Muhammad, Muhammad
Humayun, Amin Khan., Asghar
Ali

28. W.P 5224-P/2019
With IR()

Attaullah Khan
V/s
Govt of KPK

Kabeer Imam

Khush Muhammad Khan,
Muqarrab Khan, Muhammad
Anwar Khan Banvi, Writ Petition
Branch AG Office

DAILY LIST FOR TUESDAY, 29 SEPTEMBER, 2020

MR. JUSTICE ROOH UL AMIN KHAN &
MR. JUSTICE IKRAMULLAH KHAN

Court No: 8

BEFORE

Video Link Facility Is
Available

MOTION CASES (VL)

Note: These cases will be heard via video before ten break.

1. W.P 5321-P/2017(Naheed Iftkhar etc
Vs
Gov of KPK and Others M. Asif Yousafzai
Amjid Ali (Mardan), A.A.G

2. cm. 1398/2020 (m) Arshad Ali Shah Yaqoob Khan (Mardan)
in W.P 5145- Vs
P/2019() Government of KPK AG KPK

3. W.P 3917-P/2020 Tilawat khan Amjad Ali (Mardan)
with IR() Vs
NHA Deputy Attorney General, Syed
Jawad Ullah Shah

4. W.P 3923-P/2020 Waqas ullah Amjad Ali (Mardan)
with IR() Vs
Govt of KPK Hidayatullan (Focal Person).
Muhammad Khalid Matten, Writ
Petition Branch AG Office

5. W.P 3924-P/2020 Rahim Khan Amjad Ali (Mardan)
with IR() Vs
National Bank Pak, Mirza Babur Baig.

DAILY LIST FOR TUESDAY, 29 SEPTEMBER, 2020

MR JUSTICE ROOH UL AMIN KHAN &
MR JUSTICE IKRAMULLAH KHAN

Court No: 3

Video Link Facility Is
Available

NOTICE CASES

35. RP No. 134/2020
& Cm No. 72/2020
with W.P 1620-
P/2020 with IR()
- The Khyber Teaching Hospital
Vs (Date By Court)
The Federation of Pakistan
- Khalid Rehman, Amir Javed
Deputy Attorney General, Syed
Ghufran Ullah Shah, Khial
Muhammad, Muhammad Jamil
Asghar Ali, Sadaqat Ullah, Writ
Petition Branch AG Office, Dr
Amer Hamid
36. W.P 2001-P/2020
With IR(N,())
- Mukhtar Azam
Vs
Government of KPK
- Taimur Haider Khan
Writ Petition Branch AG Office
37. W.P 2176-P/2020
With IR(N,())
- Muhammad Imtiaz
Vs
Govt of KPK etc
- Nazir Ahmad
Asad ullah Khan, Kabir Khan,
Manzoor Ahmad, Muhammad
Anwar Khan Banvi, Writ Petition
Branch AG Office
38. W.P 2460-P/2020
With IR(N),with
cm.1001-
p/20(M)(Addl:
Documents),()
- Dr. Muhammad Sharif Khan
Vs
Govt of KPK etc
- Shahid Mahmood Khan
Sadaqat Ullah, Writ Petition
Branch AG Office, Dr. Amer
Hamid
39. W.P 2924-P/2020
with IR()
- Anwar Shamim Khan
Vs (Date By Court)
Govt of KPK etc
- M. Asif Yousafzai
Mirzali Khan, Kamran Ullah, A
Rauf, Writ Petition Branch AG
Office, Muhammad Arif Khan
(DD).
40. W.P 3212-P/2020
With IR(N,())
- Mofeeda Qadeem
Vs
Govt
- Ihtesham Ul Haq
Hidayatullah (Focal Person
Muhammad Khalid Matteri
Petition Branch AG Office.

Before The KP Service Tribunal, Peshawar

Appeal No. 281/2012

Muhammad Jan 1/15 Establishment Deptt.

Subject: Application for adjournment of instant appeal.

Respectfully sheweth:

1. That the instant appeal is fixed for today in argument stage before this august Tribunal

2. That the counsel for the appellant is busy in Honble High Court, Peshawar and ~~was~~ is unable to attend the case for today.

It is therefore, most humbly prayed that on acceptance of this application, the instant appeal may kindly be adjourned for today.

Appellant

Date 29-09-2020

Through

Mr. Asif Yousafzai



Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

No. SO (P&R) HD/8-4/2017.

Dated Peshawar, the 05th August, 2019

To,

✓ The Director Reclamation & Probation,
Khyber Pakhtunkhwa,
Peshawar.

Directorate of (R. & P.)
No. 3384
Date 2-8-19.
File No 281

Subject: - APPEAL NO. 281/2012 TITLED "MUALIM JAN VERSUS GOVT OF KHYBER PAKHTUNKHWA."

Sir,

I am directed to refer to your letter No. 3090D.R&P/appeal file dated 15.07.2019 on the subject noted above and to state that the fact-finding Inquiry report is not available on the record, please.

Copy forwarded for information to the: -

1. PS to Secretary Home Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (Courts), Home Department.
3. Master file.

Section Officer (P & R)

new
05/08/19

میں اسماء بیگم کے اقرار صالح نیاں کرتی ہوں کہ آج
مجھے جو نامعلوم تحریر شکایت دکھایا گیا اسکو
میں نے تفصیل سے پڑھا۔

میرا ان شکایات سے کوئی تعلق نہیں۔ اور میں
نے یہ تحریر شکایت کی ہے۔ کیونکہ اس میں کسی
بھی بات کا مجھے کوئی علم نہیں اور نہ ہی مجھے کسی نے
کچھ بتایا ہے ڈائریٹر صاحب سے بارے میں۔

اس لیے میں اس نامعلوم تحریر شکایات

سے کوئی انکار ہوں۔

~~me~~

AAH

31/5/11

DS/200

36
مگر ان سرور بیان کر رہی ہوں کہ مجھے آج شکایت بنا
میں نے پڑھا جس کو میں نے پڑھا ہے اور وہ کہ
دہلی ہوں کہ یہ شکایت میں نے میں نے ہے۔ البتہ
ان کو اپنا روپ پھیل ہی طرف روپ ٹھیک کرنا چاہیے

31/5

All stop



31/5/2011

DS/LTD

میں روزانہ ویب پرویشن آفٹن سردان افراد کرتے
 کتنی ہوں کہ مجھے آج شکایت برخلاف ڈائریکٹر مسٹر معلم جان
 رکھایا جسکو میں نے عذو سے لڑھا اور لکھ دیتی ہوں کہ مجھے اس
 شکایت سے بارے میں علم نہیں ہے اور نہ میں نے یہ کیا ہے۔

دست

31/5/2011

Alhast

25/2511

DS/hoo

تھیں لیکن آجکل اصرار کرتے دکھائی ہوں کہ آج مجھے جو شکایت
نامہ نیر خلاف ڈائریکٹر پروپیشن صدر معلم جان دیکھا گیا ہے جسکو
میں نے بغور مطالعہ کرنے کی کوشش کی ہے۔

کہ اس فیڈ میں آئے ہوئے پتھریں صرف اور صرف ایک سال
پہلے تھیں جو کہیں باقیں دکھائی گئی ہیں پھر نزدیکی اس میں
کوئی سببائی نہیں ہے۔

جہاں تک ڈپٹی سہیل خان کی بات ہے تو وہ ڈائریکٹر
کے پی۔ اے نے کی تھی لیکن اس کے جلد ہی بعد ہی۔ اے نے دوبارہ

حال کرتے کیا نہ وہ سہیل پروپیشن آفسر کو اپنے سامنے لے کر جانچ
کئے۔ جنہیں کوئی نہیں لے جانے لگے۔ کیونکہ وہ ذات ہے۔

جہاں تک میرے روتے دعوے کی بات ہے تو یہ بھی غلط ہے۔ میں خدا
کے سامنے بیوں بیوں روتی کہ میں اس اور کہ سامنے رولوں۔


لیکن آجکل جنہل پروپیشن آفسر کو کھانا
بھونڈا

11-05-2013

Handwritten signature and initials
Date: 05/10/2013

پورا وقت منا برد بیٹھیں آٹھ گھنٹہ یا قدر صلح بیان کر رہی ہوں
 کہ مجھے کوئی شکایت نہ تھی پر خلاف ڈاکٹر کلر پر بیٹھیں
 سر معلم جان دکھایا گیا جگو میں نے مطلع کر کے بیان
 کرتی ہوں کہ مجھے اس بار کے کچھ معلوم ہیں
 کہ کس نے کیا ہے اور نہیں کیا ہے۔

Dept
 31/5/2011

Attested

 31/5/11
 ۲

7

**HOME AND TRIBAL AFFAIRS
DEPARTMENT KHYBER PAKHTUNKHWA**

PUC at Page-1-3/C


Subject:- COMPLAINT AGAINST DIRECTOR PROBATION KPK

This is an anonymous complaint against Mr. Mualam Jan Director Probation and Proclamation received from the Peshawar High Court Peshawar wherein certain allegations have been leveled against the aforesaid officer. As per text of the attached application, complaint alleged to be filed by female Probation Officers.

Following the orders of Home Secretary, the undersigned contacted the following female Probation Officers on their phone/cell numbers noted against each; however every one disowned the complaint:

- | | |
|----------------------------|--------------|
| 1. Farzana Sarwar Peshawar | 0314-9002780 |
| 2. Rozina Wahab Mardan | 0937-9330584 |
| 3. Najma Ajmal Kohat | 0346-916647 |
| 4. Asma Begum Swat. | 0346-4366650 |
| 5. Salma Gul Wazir A.Abad | 0992-9310470 |
| 6. Rifat D.I.,Khan | 0966-713376 |

Submitted for perusal and appropriate orders please.


DS(L&I) 13/7



To

Member Inspection Team,
Peshawar High Court,
Peshawar.

Subject:- APPLICATION/COMPLAINT (C # 11251)

Dear Sir,

I am directed to refer to your letter No.2308/MIT, dated 2nd May, 2011 addressed to the Chief Secretary Khyber Pakhtunkhwa on the subject noted above and to enclose herewith a copy of inquiry report conducted by Ahmad Khan, Deputy Secretary (L&O), Home & TAs Department in the subject matter (self explanatory) for your kind perusal/inforamtion, please.

Yours faithfully,

ENCL: AS ABOVE.

34. 331
Confidential
SECTION OFFICER (PRISONS)
16-05-2011
16/5/11