

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.4924/2020

Date of Institution ... 01.06.2020
Date of Decision ... 18.12.2020

Mukamil Shah, Ex-Office Kanungo, Tehsil Saddar, Peshawar.

... (Appellant)

VERSUS

1. The Commissioner Peshawar Division, Peshawar and one another.

... (Respondents)

Present:

Noor Muhammad Khattak,
Advocate ... For appellant.

Riaz Khan Paindakheil,
Assistant Advocate General ... For respondents.

ROZINA REHMAN ... MEMBER (J)
ATIQU-UR-REHMAN WAZIR ... MEMBER (E)

JUDGMENT

18/12/20
ROZINA REHMAN, MEMBER: This judgment is intended to dispose of Fourteen connected service appeals including the present one bearing No.4924/20, titled Mukamil Shah Vs. Revenue Department and others, as common question of law and facts are involved therein.

2. Appellant, Mukamil Shah alongwith 13 others were serving in the respondents' department and the present appellant was Office Kanungo Tehsil Saddar Peshawar. He was dismissed from service vide order dated

20.02.2020. It is the legality and validity of this order which has been challenged by him in the present service appeal filed U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

3. Shortly narrated facts necessary for the disposal of the instant appeal are that appellant was the employee of respondents' department and during service, he alongwith other appellants were served with a show cause notice. In response to the said show cause notice, reply was submitted wherein all the allegations leveled against the appellants were denied. It was on 20.02.2020 when major penalty of dismissal from service was imposed upon appellant. He, therefore, preferred departmental appeal but the same was not responded to hence the present service appeal.

4. Learned counsel appearing on behalf of appellants in support of appeals contended with vehemence that the impugned orders are illegal, against law, facts and norms of natural justice. He submitted that the appellants were not treated in accordance with law and rules on the subject and were not given fair trial as enshrined under Article 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. He argued that neither charge sheet nor statement of allegations were served upon appellants before issuing the impugned order. All the appellants were stated to have been condemned unheard. Learned counsel submitted that no regular inquiry was conducted before the issuance of the impugned order which as per Apex Court is necessary in punitive actions against civil servants and that major penalty cannot be imposed on the basis of single show cause notice and lastly, he submitted that one of the major allegations leveled against the appellant was absence from Tehsil Darbar but there is no written document or any cogent reason in order to prove that appellant alongwith others were

18/12/20

called for Darbar and they failed to attend the same. Reliance was placed on 2000 PLC (C.S) 484; 1989 SCMR 551; 2009 SCMR 329; 2011 SCMR 1618; 2012 PLC (C.S) 787 and 2011 PLC (C.S) 522.

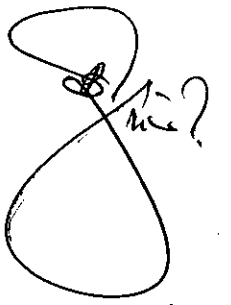
5. Conversely learned A.A.G submitted that impugned order was issued under E&D Rules, 2011 wherein it was clearly mentioned that inquiry was dispensed with under Section 5 due to misconduct of the appellants by instigating the staff, making hurdles in performing official duties, creating problems in redressing public grievances at the occasions of Darbar. He submitted that all the proceedings were conducted according to law and no rules were violated rather instructions/laws of the Provincial Government were followed in letter and spirit. He submitted that show cause notice was properly issued and the same was replied where-after personal hearing was made but the appellants could not put any valid justification in their defense, therefore, they all were dismissed according to law.

6. Arguments heard, parawise comments and record perused.

7. The allegations against the present appellant and others were that all the Revenue staff were directed to be present on 13.02.2020 in the Tehsil office alongwith Revenue record for conducting Revenue Darbar proceedings but they failed to do so; they instigated other Revenue staff in disobeying the lawful commands of the superior and announced boycott of Tehsil Hazri, Polio Duties and refused to shifting of Patwar Khana within respective Halqa; they were repeatedly warned to refrain from such conduct of resembling mutiny but they expressed utter disregard to such directions; their absence caused inconvenience to the general public.

Handwritten signature and date:
18/12/20

8. By referring to the above allegations, we subscribe to the arguments of the learned counsel for appellants to the effect that the competent authority was not having sufficient material available on record to have formed an opinion that there was no need of initiation of regular inquiry into the case of appellants. We admit that the Competent Authority is within its right to dispense with the departmental inquiry in terms of Rule-5 (1) of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules 2011, when there is sufficient material available which prima facie connects the accused with the commission of misconduct; while in the instant case, the material, so produced on record, is deficient in all respects and an opinion cannot be legally formed to justify the dispensation of inquiry. In the instant case, we find that neither the Competent Authority was in possession of documentary evidence against the appellants nor any satisfactory reasons have been recorded, thus the appellants were not provided sufficient chance to vindicate themselves against the allegations. The main object of the Efficiency & Disciplinary Rules are to maintain administrative and financial discipline in the Department, similarly, the procedure so prescribed is aimed to give a proper chance of proving his innocence to the accused officer/official and mere issuance of the charge sheet/show cause notice or enquiry cannot be allowed to be used as a device to done away with the services of an employee. In cases where imposition of major penalty is contemplated, holding of regular enquiry is a must, as laid down by the Hon'ble Supreme Court of Pakistan in a number of case laws, but it was not done in this case. The appellants have been punished without procuring adequate evidence to prove inefficiency and misconduct. It was held in the case of Muhammad Mohsin Siddiqui Vs. Government of West Pakistan PLD 1964 S.C 64 that;

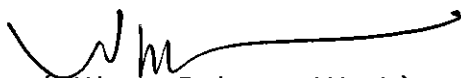

18/12/20

"The whole proceedings in a departmental enquiry is required by the Rules to be conducted in accordance with the principles of justice. The superior courts will not tolerate, and certainly not within the framework of the judicial administration itself, conditions in which officials can be made prosecutors, judges and punishing authorities when they themselves are the complainants, merely on the ground that the power of removal is vested in them as appointing authorities under the Rules"

9. For the reasons recorded herein above, the impugned orders dated 20.02.2020 and 13.02.2020 whereby a major penalty of dismissal from service was imposed upon the appellants under Rule 4 (1)(b)(IV) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, are not sustainable and are accordingly set aside. Instant appeal alongwith connected appeals are accepted and the appellants stand reinstated in service with all back benefits. With no order as to costs. File be consigned to the record room.

ANNOUNCED.

18.12.2020

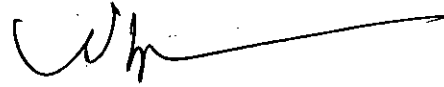

(Attiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

11.11.2020

Junior to counsel for appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 04.12.2020 for hearing before the D.B.



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



Chairman

04.12.2020

Appellant present through counsel.

Riaz Khan Paindakheil learned Assistant Advocate General alongwith Sajjad ADK for respondents present.

Arguments heard. To come up for order on 15.12.2020 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

10.08.2020

Counsel for the appellant and Addl. AG alongwith Qaizarud Din, ADK (Revenue) for the respondents present.

Representative of the respondents requests for further time to submit written reply/comments. Last opportunity is granted to the respondents for submission of requisite reply/comments on 30.09.2020 before S.B.


Chairman

30.09.2020

Counsel for the appellant and Addl. AG alongwith Azmatullah, D.K for the respondents present.

Representative of respondents states that reply has been prepared but is yet to be signed by the respondent(s). He, therefore, requests for adjournment.

On 10.08.2020 a similar request was made on behalf of the respondents and the matter was adjourned but as last opportunity.

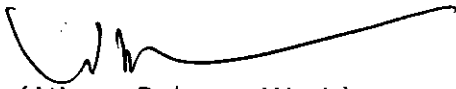
Instant appeal is, therefore, posted for hearing by a D.B on 27.10.2020. The respondents may submit the reply/comments in the meanwhile, if they desire to.


Chairman

27.10.2020

Junior to counsel for the appellant and Addl. AG alongwith Sajjed Khan, ADK for the respondents present.

Parawise comments on behalf of respondents 1 & 2 have been submitted. Placed on record. To come up for hearing on 11.11.2020 before the D.B. The appellant may furnish rejoinder in the meanwhile if so advised.


(Atiq-ur-Rehman Wazir)
Member


Chairman

11.06.2020

Counsel for the appellant present.

Contends that departmental inquiry against the appellant was dispensed with before passing of impugned order awarding major penalty against him but without assigning any reason. Further contends that in a number of judgments, the Apex Court has repeatedly held that in cases where major penalty is awarded to a civil servant, a proper inquiry is all the more necessitated.

Keeping in view the available record and submissions by the learned counsel, instant appeal is admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 03.07.2020 before S.B.

Amount Deposited
Security & Process Fee


Chairman

03.07.2020

Counsel for the appellant and Addl: AG alongwith Mr. Azmatullah, District Konongo for respondents present. Written reply on behalf of respondents not submitted. Requests for time to submit the same on the next date.

Adjourned to 24.07.2020 for written reply/comments before S.B.


MEMBER

24.07.2020

Mr. Noor Muhammad Khattak, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Qabar-ud-Din, ADC Revenue are also present.

Representative of the department seeks short adjournment to submit the requisite reply/comments. May do so on next date of hearing. Adjourned to 10.08.2020 for submission of written reply/comments before S.B.

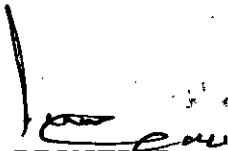


(MUHAMMAD JAMAL KHAN)
MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4924 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/06/2020	<p>The appeal presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up on <u>11/06/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 4924 /2020

MUKAMIL SHAH

VS

REVENUE DEPTT:

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APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO 4924 /2020

Diary No. 4198

Dated 01/6/2020

Mr. Mukamil Shah, Ex-Officer Kanungo,
Tehsil Saddar, Peshawar.....

APPELLANT

VERSUS

- 1- The Commissioner, Peshawar Division, Peshawar.
- 2- The Deputy Commissioner, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT-1974
AGAINST THE IMPUGNED ORDER DATED 20.02.2020
WHEREBY MAJOR PENALTY OF DISMISSAL FROM
SERVICE HAS BEEN IMPOSED UPON THE APPELLANT
AND AGAINST NO ACTION TAKEN ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN
STATUTORY PERIOD OF NINTY DAYS.

PRAYER:

That on acceptance of this service appeal the impugned order dated 20.02.2020 may very kindly be set aside and the appellant be re-instated into service with back benefits. Any other remedy which this August Tribunal deems fit that may also be granted to the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to present appeal are as under:

1- That the appellant was the employee of respondent Department and served as Officer Kanungo Tehsil Saddar Peshawar quiet efficiently and up to the entire satisfaction of his superiors.

1- That during service as Office Kanungo the appellant was served with a show cause notice dated 13.2.2020 where in it were alleged that:-

(a) That all the Revenue staff were directed to be present on 13.02.2020 in the Tehsil Office along with revenue

Filed to-day
Registrar
11/6/2020

record for conducting the Tehsil Hazri/Revenue Darbar proceedings to facilitate the general public on the direction of the Provincial Govt: and in line with Land Record Manual, but you failed to do so.

(b) That you have instigated other revenue staff in disobeyed the lawful commands of superiors and have announced boycott of tehsil hazari, polio duties and have refused to shif patwar Khanas within respective halqas as per the directions of Board of Revenue

(c) that you were repeatedly warned by the undersigned and other officers to refrain from such conduct resembling mutiny, but you expressed utter disregard to such directions. Moreover, Commissioner Peshawar also spoke to you and your representative on the same subject on 12.02.2020 and warned you to not become a cause of embarrassment for provincial Government, but you did not listen and yet again disobeyed on 13.02.2020.

(d) that your absence not only caused inconvenience to the general public, but also shown clear violations of the orders of your superior.

(e) That your this act comes under dis-obedience to the general, violation of instructions, misconduct and utter disregard of official decorum.

Copies of the suspension order and show cause notice are attached as annexure **A and B.**

2- That in response to the said show cause notice the appellant submitted his detail reply and denied all the allegations leveled against him. Copy of the reply is attached as annexure **C.**

3- That astonishingly the respondent No.2 without conducting regular inquiry into the matter issued the impugned order dated 20.02.2020 whereby major penalty of dismissal from service has been imposed upon the appellant. Copy of the Impugned order is attached as annexure **D.**

4- That appellant feeling aggrieved from the impugned order dated 20.02.2020 filed departmental appeal to the appellate authority i.e. respondent No.1 but no response has been received so far. Copies of the Departmental appeal and forwarding letter is attached as annexure E.

5- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst others.

ON GROUNDS:

A- That the impugned order dated 20.02.2020 is against the law, facts, norms of natural justice and material on the record hence not tenable and liable to be set aside.

B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

C- That no charge sheet and statement of allegation have been served upon on the appellant before issuing the impugned order dated 20.02.2020.

D- That no opportunity of personal hearing/defense has been provided to the appellant before issuance of the impugned order dated 20.02.2020 and as such the appellant has been condemned un heard.

E- That the respondents acted in arbitrary and malafide manner by issuing the impugned order dated 20.02.2020 without fulfilling the codal formalities, hence the impugned order dated 20.02.2020 is not tenable and liable to be set aside.

F- That no regular inquiry has been conducted before issuance of the impugned order dated 20.2.2020 which is as per Supreme Court judgments is necessary in punitive actions against Civil Servant.

G- That it is also the consistent view of the Apex Court that major punishment cannot be imposed on the basis of single show cause notice.

- H- That prior to show cause notice no fact finding inquiry has been conducted in the matter to dig out the actual facts and figures, therefore the impugned order dated 20.2.2020 is void ab initio in the eye of law and rules.
- I- That the respondent No.2 was called Revenue Darbar but the appellant was not informed about such Darbar and due unawareness the appellant was not appear in the aforementioned Darbar.
- J- That in the instant case the appellant has been made escape goat and as such the impugned order dated 20.2.2020 issued by the respondent No.2 is against the law and rules.
- K- That the appellant seeks permission to adduce any other ground and proof at the time of regular hearing.

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

Dated: 29.05.2020

APPELLANT


MUKAMIL SHAH

THROUGH:


NOOR MUHAMMAD KHATTAK


MIR ZAMAN SAFI

&


**AFRASIAB KHAN WAZIR
ADVOCATES**



A-5

THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar


No. 00524 /DC(P)/EA

Dated: 13-February-2020

ORDER:

Mr. Mukamil Shah, Office Kanungo Saddar Tehsil is hereby placed under suspension with immediate effect for non-attending Tehsil Revenue Hazri/Darbar held on 13.02.2020, refusal to perform poliq and other duties, and disobedience to lawful command of government and superiors.

Show Cause Notice under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 is served separately.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

Endst: No. and Date Even:

Copy forwarded to the:-

1. Commissioner Peshawar Division Peshawar.
2. Addl. Deputy Commissioner, Peshawar.
3. Accounts Officer of this office for necessary action.
4. District Kanungo, Peshawar.
5. Assistant Commissioner Saddar with the direction to hand over the charge of Office Kanungo City to a suitable Girdawar till further orders.
6. Official concerned for compliance.


DEPUTY COMMISSIONER

ATTESTED

SHOW CAUSE NOTICE

B-6

I, Muhammad Ali Asghar, Deputy Commissioner Peshawar, as competent authority, under the Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011, do hereby Charge you, Mr. Mukammil Shah, OK Tehsil Saddar, as follows:


1. That you were posted as Office Kanungo Tehsil Saddar committed the following irregularities:

- (a) That all the Revenue staff were directed to be present on 13-02-2020 in the Tehsil office along with revenue record for conducting the Tehsil Hazri/Revenue Darbar proceedings to facilitate the general public on the direction of the Provincial Govt. and in line with Land Record Manual, but you failed to do so.
- (b) That you have instigated other revenue staff in disobeying the lawful commands of superiors and have announced boycott of tehsil hazari, polio duties and have refused to shift Patwar khanas within respective halqas as per the directions of Board of Revenue.
- (c) That you were repeatedly warned by the undersigned and other officers to refrain from such conduct resembling mutiny, but you expressed utter disregard to such directions. Moreover Commissioner Peshawar also spoke to you and your representative on the same subject on 12.02.2020 and warned you to not become a cause of embarrassment for Provincial Government, but you did not listen and yet again disobeyed on 13.02.2020.
- (d) That your absence not only caused inconvenience to the general public, but also shown clear violations of the orders of your superior.
- (e) That your this act comes under dis-obedience, violation of instructions, misconduct and utter disregard of official decorum.

2. By reasons of the above, you appear to be guilty of mis-conduct and subversion under rule-3 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

3. Since, the undersigned as competent authority, witnessed the whole scenario myself and their remains no doubt about your conduct, or the need of any inquiry or further probe into the matter, therefore the same is dispensed with, as provided under Rule 5 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules 2011.

4. Your written defense, if any, should reach the undersigned, within seven (07) days, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER
(Competent Authority)


ATTESTED

To

The worthy Deputy Commissioner
Peshawar.

Subject: - REPLY TO THE SHOW CAUSE NOTICE NO. 656/DK DATED 12 FEBRUARY 2020.

Dear Sir,

With reference to the show cause notice above, I submit the following.

1. That I perform my duties to the entire satisfaction of my superior with great Zeal Zest, Honesty, enthusiasm and throughout my service career, no complaint from anyone made against me.
2. That prior to this show cause Notice no charge sheet along with statement of allegations or Regular inquiry was conducted which is mandatory under the Law.
3. That Right of fair Trial has been generated by the Article 10-A of The constitution of Islamic Republic of Pakistan 1973. However issuing such a show cause Notice amount to Violation of Article 10- A of the constitution 1973.
4. That the issuance of show cause Notice amount to discrimination as there are several other official posted in the Tehsil sadder However the issuance of show cause Notice to me is discrimination which is violation of Article 25 of the constitution of Islamic Republic of Pakistan 1973. Hence the same, being void is Liable to be filed, without further proceedings.
5. That there is no ocular or circumstantial evidence which may support the allegations against me.
6. That from Para 3 of the show cause notice it is evident that your good self is not only complainant, Judge but eyewitness as well. However it is a settled principle of Law that "no one can become a Judge in his own cause.
7. That though the inquiry has been dispensed with however no reason for dispensation of the inquiry as per Rules 5 Read with R 7 of E& D Rules 2011, has been mentioned thus the show cause Notice is violation of the above Rules.
 - a. That allegation mentioned in this Para is totally denied as I have not been informed through any letter/ parwana or order so I performed my duty at my place of posting and was unaware from any such Darbar. I always obeyed the orders of my superior's and facilitate the public of large throughout my service career.

ATTESTED

b. That allegation in Para (b) is incorrect neither I disobeyed the orders of my superior nor did I instigate any official for disobedience or boycotting polio or shifting patwar Khanas. There is no single iota of evidence in support of the allegations leveled in the show cause Notice.

c. That neither I disobeyed or performed any act which amount to disobedience nor misconduct, therefore this allegation is denied.

d. Incorrect proper reply has been given in reply to the allegations (b) and (c).

e. Incorrect as already stated in reply to the above charges that I have not disobeyed or violated any order of my superiors or committed misconduct and all the allegations are baseless.

It is, therefore, requested that on acceptance of the above reply the instant show cause Notice, may kindly be filed without any further proceedings. I further request for personal hearing.

Yours obediently

Mr. Mukamil Shah
O.K Tehsil Saddar Peshawar.

ATTESTED



THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar

No. 744 /DK

Dated: 20-February-2020

ORDER:

WHEREAS, Mr. Mukammil Shah, Office Kanungo ~~Subdar~~ was placed under suspension vide order No.00524/DC(P)/EA dated 13-02-2020 and served upon a Show Cause Notice vide No.659/DK dated 13-02-2020 for illegal strike of Patwaris refusing to attend court of law and instigating other Patwaris to perform official duties resultantly creating problems for general public and causing financial loss to the govt. exchequer.

AND WHEREAS, on 10-02-2020, the accused official assembled alongwith other Patwaris in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Disaster Relief Activities and Tehsil Hazri/Darbar.

AND WHEREAS, on 12-02-2020, the accused official alongwith other Patwaris assembled in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Damage Assessment in Disaster Relief Operations and Tehsil Hazri/Darbar. The worthy Commissioner Peshawar Division also summoned Patwar Union and other Patwaris to his office and sensitized them of the mistake they were committing and blatant violations they committing. The worthy Commissioner directed them to forthwith resume official duties failing which strict action will be initiated against them.

AND WHEREAS, on 13-02-2020, a Revenue Tehsil Hazri was organized for the facilitation of the general public, upon the direction of the worthy Chief Minister Khyber Pakhtunkhwa and in line with Land Record Manual. All revenue staff was summoned in tehsil Peshawar alongwith revenue record. But the accused official failed to his presence in the Tehsil Hazri which is an act of gross misconduct, violation of official norm, subverting the lawful command of the Provincial Govt. and disobeying the official commands of superiors in Revenue hierarchy.

AND WHEREAS, the accused official is blatantly challenging the law and causing obstruction in the executive functioning of the government and they have repeatedly resorted to strikes and agitation thrice before in last 06 months

AND WHEREAS, the accused official submitted his reply to the Show Cause Notice on 18-02-2020 refusing the allegations leveled against him.

AND WHEREAS, the accused was summoned for personal hearing on 20-02-2020, and was heard in person, wherein it came to the notice that the accused official had no valid justification to offer in his defence other than citing unfounded and frivolous excuses.


AND WHEREAS, keeping in view no need for any enquiry or further probe into the matter and therefore need of the inquiry was dispense with as provided in rules 5 under Gov.t of Khyber Pakhtunkhwa servants (efficiency & discipline) Rule 2011 being involved in subversive activities, bring loss to the public exchequer causing embarrassment for the govt. and have raised the banner of mutiny.

ATTESTED

[Signature]

10

NOW THEREFORE, in exercise of the powers conferred under Rule-04(1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I **Muhammad Ali Asghar, Deputy Commissioner Peshawar** is competent authority, hereby impose a major penalty of *Dismissal from service* upon Mr. Mukammil Shah, Office Kanungo City Peshawar with immediate effect.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

Endst: No. and Date Even:

- (i) Commissioner, Peshawar Division, Peshawar.
- (ii) Accountant General, Khyber Pakhtunkhwa, Peshawar.
- (iii) Addl. Deputy Commissioner, Peshawar.
- (iv) Addl. Assistant Commissioner (Rev) Peshawar.
- (v) Accounts Officer of DC office for necessary action.
- (vi) Mr. Mukammil Shah, Ex-Office Kanungo ~~City~~ Peshawar


DEPUTY COMMISSIONER

To

THE HONOURABLE COMMISSIONER,
Peshawar Division, Peshawar.

E (11)

Subject: **DEPARTMENTAL APPEAL AGAINST THE DISMISSAL ORDER DATED 20.02.2020**

Respected Sir,

Most respectfully it is stated that I was working as Office Kanungo Saddar in District Peshawar. I was appointed as Halqa Patwari under your kind control in District Peshawar. During my entire service career I have performed my duties quite efficiently, whole heartedly and upto the entire satisfaction of my high ups and as such I have an unblemished service record.

That while performing my duty I was issued a show cause notice which was followed by the impugned dismissal order whereby major penalty of dismissal from service was imposed on me. **(copies of show cause, reply and impugned dismissal order are annexed)** that feeling aggrieved from the impugned dismissal order I approached your good self through this departmental appeal and submit as under.

That the impugned order has been passed in a hasty manner without following codal formalities as mentioned in the E&D Rules, 2011. That no statement of allegations and charge sheet has been served on me which is mandatory requirement of E&D rules, 2011 before passing major penalty. That the allegations leveled in show cause has not been substantiated by a single iota of evidence. That though inquiry has been dispensed with to dig out the true state of facts by the worthy deputy commissioner while imposing the major penalty of dismissal from service, but no reasons has been recorded for dispensing the same which is mandatory under E&D rules. That I submitted a detail reply to the show cause notice but neither that reply has been considered nor any opportunity of personal hearing has been extended to me which is not only against E&D rules but

ATTESTED

(12)

reply has been considered nor any opportunity of personal hearing has been extended to me which is not only against E&D rules but also against principle of natural justice and fundamental right guaranteed under Article 10(A) of the Constitution of Pakistan, 1973.

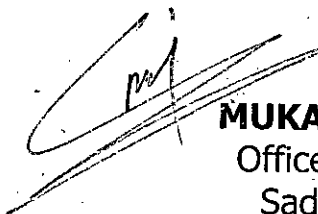
Furthermore the main allegation leveled in show cause notice and dismissal order is about absentia from Tehsil darbar on 13/02/2020, but it is pertinent to mention here that no notice in this regard has been served on me and on the same date I was performing duty on my original place of duty. It is also worth mentioning that I have not disobeyed any order of my superiors.

Thus in view of the above submission, it is, therefore, most kindly requested that Dismissal order dated 20.02.2020 may be set aside and I may be re-instated into service with all back benefits.

I shall be very thankful to you for this kindness.

Dated: 24-02.2020

Obediently Yours,



MUKAMIL SHAH,
Officer kanungo,
Saddar Tehsil


ATTESTED



(13)

**OFFICE OF THE
COMMISSIONER PESHAWAR DIVISION
PESHAWAR**

No. Reader CPD/2020 / 2944
Date: 04.03.2020

To

The Deputy Commissioner
Peshawar.

Subject: **DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER
DATED 20.02.2020.**

I am directed to enclose herewith a copy of departmental appeal filed by the appellant (**Mr. Mukammil Shah Office Kanungo**) against the order bearing no. 744/DK dated 20.02.2020 of the Deputy Commissioner Peshawar whereby the appellant was dismissed from service under Rule 4(1)(b)(iv) of the Khyber Pakhtunkhwa Servants (Efficiency & Disciplinary) Rules-2011.

It is requested that Para-wise comments in the matter may be furnished please.

**Assistant to Commissioner (Rev/GA)
Peshawar Division Peshawar.**

No. Reader CPD/2020 / 2944

Copy forwarded to PS to Commissioner Peshawar

**Assistant to Commissioner (Rev/GA)
Peshawar Division Peshawar.**

ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Appeal No.4924/2020

Mr. Mukammil Shah, Ex-Office Kanungo, Peshawar

.....(Appellant)

VERSUS

1. The Commissioner Peshawar.
2. The Deputy Commissioner Peshawar

.....(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 & 2

Respectfully Sheweth,

Preliminary Objections.

1. That the appellant in the instant case has no locus standi or cause of action to institute present appeal.
2. That the appellant has not come to this honourable court with clean hands.
3. That the appellant is estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in the present form.
5. That the instant appellant is barred by law.

OBJECTION ON FACTS.

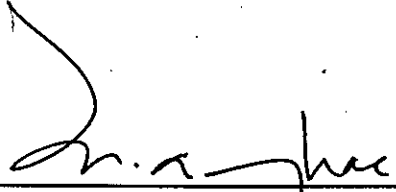
1. Correct to the extent that he performed duty as Office Kanungo in District Peshawar.
1. Correct.
2. Correct to the extent that reply to the Show Cause notice was submitted.
3. Correct to the extent that the order of dismissal was issued. The said order was issued under E&D Rules 2011 wherein it was clearly mentioned that enquiry was dispensed with under section 5 due to the grave misconduct of the appellant by instigating the staff, making hurdles in performing official duties, creating problems in redressing public grievances at the occasion of Tehsil Hazri (Darbar), shouting over their superiors, refusing to perform duties etc.
4. Incorrect. The matter was under consideration, but due to Corona pandemic the offices were closed by the Provincial Govt. hence no action could be taken.
5. Incorrect. The appellant has no justification to file the instant appeal.

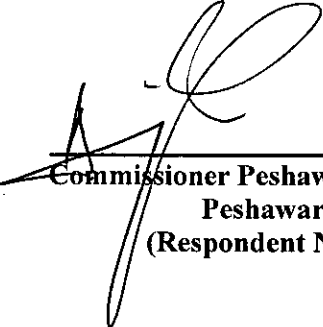
GROUND

- A. Incorrect. The order was issued according to the E&D Rules 2011, keeping in view the misconduct of the appellant as explained in the dismissal order dated 20-02-2020.
- B. Incorrect. All the proceedings were conducted under E&D Rules 2011 and no law/rules have been violated rather instructions/laws of the Provincial Govt. were followed in letter and spirit.

- C. Incorrect. As per para-3 above.
- D. Incorrect. Proper Show Cause Notice was issued to the appellant vide No.659/DK dated 13-02-2020, which was replied. After which personal hearing was made on 20-02-2020 but the appellant could not put any valid justification in his defense.
- E. Incorrect. All the require rules/regulations were followed after which the dismissal order dated 20-02-2020 was issued.
- F. Incorrect. The inquiry was dispense with as per rule 5 of E&D Rules 2011 due to gravity of misconduct behavior of the appellant.
- G. Incorrect. All the prescribed procedure under E&D Rules 2011 were followed.
- H. Incorrect. As Para-F above.
- I. Incorrect. All the concerned officials were properly informed and Darbar occasion was publically advertised in daily newspapers.
- J. Incorrect. The appellant is making false excuses and have nothing in defense. His unlawful act have badly affected the performance of other officials which resulted in violations of directions/instructions of high-ups and creating hurdles for general public.
- K. The respondents seek leave to raise additional grounds at the time of arguments.

It is therefore prayed before the honourable court that appeal in hand having no weight may very humbly be dismissed with cost.


Deputy Commissioner/Collector
Peshawar
(Respondent No.2)


Commissioner Peshawar Division,
Peshawar
(Respondent No.1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Appeal No.4924/2020

Mr. Mukammil Shah, Ex-Office Kanungo, Peshawar(Appellant)

VERSUS

1. The Commissioner Peshawar.
2. The Deputy Commissioner Peshawar

.....(Respondents)

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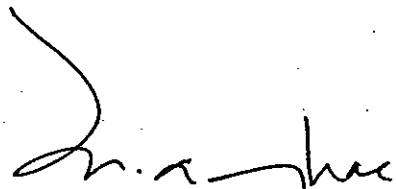
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5. Incorrect. The appellant has no justification to file the instant appeal.


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- A. Incorrect. The order was issued according to the E&D Rules 2011, keeping in view the misconduct of the appellant as explained in the dismissal order dated 20-02-2020.
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- K. The respondents seek leave to raise additional grounds at the time of arguments.

It is therefore prayed before the honourable court that appeal in hand having no weight may very humbly be dismissed with cost.


Deputy Commissioner/Collector
Peshawar
(Respondent No.2)


Commissioner Peshawar Division,
Peshawar
(Respondent No.1)

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 4141 /ST

Dated 28/12 / 2020

To


The Deputy Commissioner,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 4924/2020, MR. MUKAMIL SHAH & OTHERS.

I am directed to forward herewith a certified copy of Judgement dated 18.12.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

Muhammad Shah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Revenue Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Muhammad Shah

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, 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 cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2020

Muhammad Shah
CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

MIR ZAMAN SAFI

&

AFRSIYAB KHAN WAZIR
ADVOCATES

OFFICE:

Flat No.4, 2nd Floor, Juma Khan
Plaza, near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No.0345-9383141

PUC-I to IV

The personal hearing of the Patwaris was held today on 28-11-2019 and they have submitted replies vide PUCs to the Show Cause Notices issued to them (Flag-A) for their illegal strike. They have announced end of the strike with the assurance that they will coordinate with their high-ups in resolving their demands.

- 1. Mr. Imran,
- 2. Mr. Zarshad,
- 3. Mr. Sadqatullah,
- 4. Mr. Asif.

The demands have already been decided in a meeting held with Anjuman-e-Patwarian on 27-11-2019 as recorded in the minutes of the meeting vide Flag-B.

If agreed, may issue warning to be careful in future.

Submitted for order please.

ADC(P)

Supdt.

28/11

4 per 3/ade in minutes for
ords, W

DC/CP

28/11

~~Personal hearing done. The accused appeared and pleaded for leniency.~~

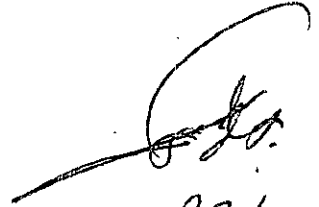
They have given an affidavit to the effect that they will withdraw their strike unconditionally, and would not resort to agitation, strike or disruption of office business in future. Based on this assurance lenient view is taken, and disciplinary proceedings will not proceed further. However warning is issued to remain careful.

Supdt

28/11

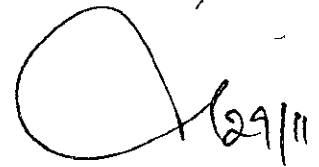
6 Draft warning has been prepared & placed next for kind approval / signature please.

w. DC (P)


28/11

7.

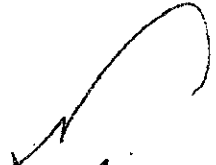
Signed


29/11

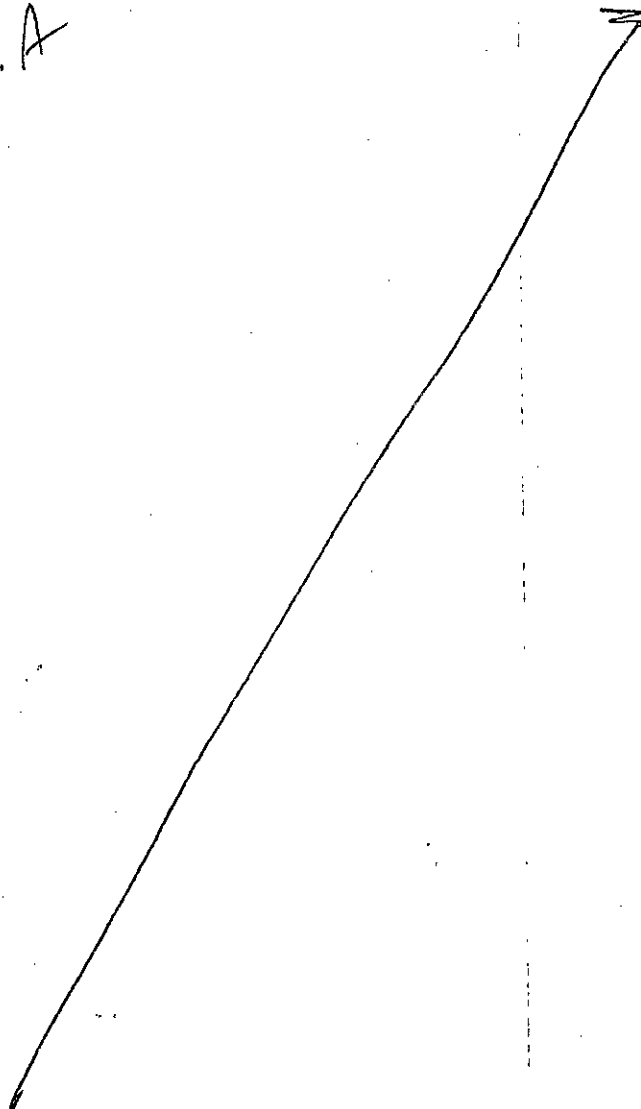
~~Signed~~

8.

initials H.


29/11

E.A





OFFICE OF THE DEPUTY COMMISSIONER PESHAWAR

Reference Para 05/N:


09. The accused officials Patwari Mr. Sadaqatullah, Patwari Mr. Muhammad Imran, Patwari Mr. Zarshad Khan, and Patwari Mr. Asif Khan had sought mercy from the Competent Authority on 28-November-2019, and assured this office that they would end the strike forthwith, obey all lawful commands of the revenue administration, and refrain from all such activities which are aimed at subverting the legal commands of Government or its authorized officers, and causing distress to public. They also submitted affidavits to this effect, which are placed on file (F/A-D).
10. Based upon the assurances given by the officials, the disciplinary proceedings initiated against these officials through showcause notices (F/E) were halted and held in abeyance. The accused officials were directed to improve their professional conduct, and were told that their activities would be minutely monitored, and that in case of any further disobedience or subversive activities reported from their side, the withheld disciplinary proceedings would resume, and strict action would be taken. They were also issued warning notices vide this office memo no. 3656/DK dated 28.11.2019 (F/F).
11. On 10-February-2020, the patwar union (*Anjuman-e-Patwarian/Qanungoian*) assembled in Tehsil Building Peshawar, and started chanting slogans against provincial government, their superior officers, and refused to perform their official duties. They were approached by this office, and strictly warned to remain mindful of the pending disciplinary proceedings against some of their ring-leaders, on the same issue, and that they should resume their official duties, but to no avail. On 11-February-2020, the patwar union issued a resolution (F/G), according to which they announced refusal to attend Tehsil Hazari/Darbar, refusal to perform polio duties, and refusal to comply with other government instructions including reporting and damage assessment in disaster relief operations. On 12-February-2020, the worthy Commissioner Peshawar Division also summoned the patwar union and other patwaris to his office, and sensitized them of the mistake they were committing, and blatant violations of the government conduct they are committing. The Commissioner further directed them to forthwith resume official duties, failing which strict action would be initiated against them. However, the patwar union and these four officials mentioned above refused blatantly. In fact they were seen instigating other patwaris to refuse government instructions.
12. Today, on 13-February-2020, Revenue Tehsil Hazari was organized for the facilitation of general public, upon directions of the worthy Chief Minister of Khyber Pakhtunkhwa, and in line with the Land Records Manual. All revenue staff was summoned in Tehsil Peshawar along with revenue record. However, as per the attendance list available with this office, other than 27 patwaris, rest all of them decided to boycott the event and did not show up. Such an act is gross mis-conduct, violation of official norm, subverting the lawful command of provincial government, and disobeying the official commands of superiors in revenue hierarchy. This act of theirs caused extreme embarrassment for the provincial government, wherein a large number of public was present, and the revenue staff was absent, and all officers – DC, ADC, ACs, Tehsildars – were present and listening

to public complaints. Moreover, National Immunization Day (NID) polio campaign is commencing from 17-February-2020. Non-participation of patwaris in the campaign is likely to cause irreparable damage to the campaign. Apart from financial loss to the public exchequer in terms of missed days and wasted vaccine, the chances of virus circulation is likely to increase manifold. Already 100+ polio effected cases have been confirmed in Pakistan, which has brought extreme embarrassment for the country.

13. The officials are blatantly challenging the law, and causing obstruction in the executive functioning of the government, and I as Competent Authority am directly witness to all this. There remains no need for any enquiry or further probe into the matter, and therefore the need for enquiry is dispensed with, as provided under Rule 05 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Furthermore, they are involved in subversive activities, bringing loss to public exchequer, causing embarrassment for the government, and have raised the banner of mutiny, according to which they loose all rights of personal hearing vide Rule 5(a) and Rule 5(b)(ii) of the rules ibid. The proceedings withheld previously vide Para 05/N stand revived.

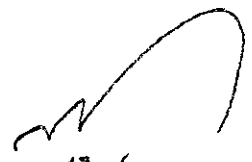
17. In view of the afore said observations, and in exigency of public service delivery, and upon observing the whole matter myself, and in view of the persistent disobedience till date of the above noted officials, the disciplinary proceedings withheld previously vide Para 05/N are resumed, and undersigned has reached the opinion that Mr. Sadaqatullah, Mr. Muhammad Imran, Mr. Zarshad Khan, and Mr. Asif Khan stand guilty of misconduct and causing subversive activities. In view thereof, vide powers conferred under Rule 04(1)(b)(iv) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, I **Muhammad Ali Asghar, Deputy Commissioner, Peshawar** as Competent Authority, hereby impose major penalty of Dismissal from Service on Mr. Sadaqatullah Patwair, Mr. Muhammad Imran Patwari, Mr. Zarshad Khan Patwari, and Mr. Asif Khan Patwari with immediate effect.

18. Superintendent DC Office is directed to put up necessary references and orders for these decisions.


DEPUTY COMMISSIONER /
DISTRICT COLLECTOR, PESHAWAR

Superintendent D.C. Office:

19 -
20 -
E/A
here
Suffd
for a. - 10
As per direction, 4 Nos DFA are placed
for personal please.


17/2
13/2

21 -
Ref. P. Nos 09 - 18/N

(3)
SHOW CAUSE NOTICE

I, Muhammad Ali Asghar, Deputy Commissioner Peshawar, as competent authority, under the Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011, do hereby serve you, Mr. Sadaqatullah, Patwari presently serving in Litigation Section, as follows:

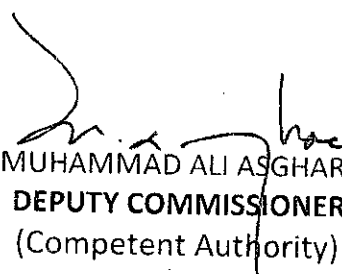
1. I am satisfied that you have committed the following acts /omissions specified/falls under the purview of Section 3 of the said Ordinance:

- (a) That you have resorted to illegal act of orchestrating strike of Patwaris in the district, thereby causing difficulties for the general public in obtaining land documents; for courts, criminal cases and other state matters.
- (b) That your act has instigated Patwaris from refusing to attend courts of law.
- (c) That your act is causing financial loss to the Government Treasury as mutations have stopped and Government taxes are not being realized.
- (d) That your act falls in the definition of insubordination and causing mutiny; and is bringing bad name to Government.

2. On the basis of clear violations committed by you, as duly observed by undersigned, I am satisfied to dispense with the requirements of inquiry, as provided under Rule 5(a) of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011.

3. You are, therefore, required to show cause as to why a penalty as provided under Rule-4 including major penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

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


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER
(Competent Authority)

(4)

SHOW CAUSE NOTICE

I, Muhammad Ali Asghar, Deputy Commissioner Peshawar, as competent authority, under the Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011, do hereby serve you, Mr. Muhammad Imran, Patwari Halqa Nothia Peshawar, as follows:

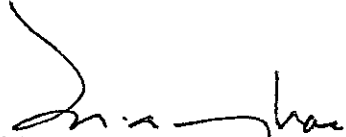
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- (c) That your act is causing financial loss to the Government Treasury as mutations have stopped and Government taxes are not being realized.
- (d) That your act falls in the definition of insubordination and causing mutiny; and is bringing bad name to Government.

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


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER
(Competent Authority)

Muhammad Ali Asghar, Deputy Commissioner Peshawar, as competent authority, Under the
Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011, do hereby serve you,
Zarshad Khan, Patwari Halqa Salman Khel Peshawar, as follows:

I am satisfied that you have committed the following acts /omissions specified/falls under
the purview of Section 3 of the said Ordinance:

- (a) That you have resorted to illegal act of orchestrating strike of Patwaris in the district, thereby causing difficulties for the general public in obtaining land documents; for courts, criminal cases and other state matters.
- (b) That your act has instigated Patwaris from refusing to attend courts of law.
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- (d) That your act falls in the definition of insubordination and causing mutiny; and is bringing bad name to Government.

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3. You are, therefore, required to show cause as to why a penalty as provided under Rule-4 including major penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

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


 (MUHAMMAD ALI ASGHAR)
 DEPUTY COMMISSIONER
 (Competent Authority)

(6)

SHOW CAUSE NOTICE

I, Muhammad Ali Asghar, Deputy Commissioner Peshawar, as competent authority, under the Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011, do hereby serve you, Mr. Asif Khan, Patwari Halqa Tukra No.1 Peshawar, as follows:

1. I am satisfied that you have committed the following acts /omissions specified/falls under the purview of Section 3 of the said Ordinance:

- (a) That you have resorted to illegal act of orchestrating strike of Patwaris in the district, thereby causing difficulties for the general public in obtaining land documents; for courts, criminal cases and other state matters.
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4. If no reply to this notice is received within **seven days** of its delivery, in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case an exparte action shall be taken against you.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER
(Competent Authority)


بخدمت جناب ڈپٹی کمشنر صاحب پشاور

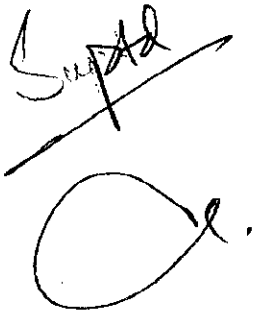
جناب عالی!

گزارش ہے کہ سابقہ شوکاژ نوٹس ختم کیا جائے۔ فدوی بحیثیت عہدیدارانہ منجمن

کے ہڑتال ختم کرنے کا اعلان کرتا ہوں اور آئندہ کے لئے اپنے مطالبات کے حل کے لئے

افسران بالا کے ساتھ رابطہ کرونگا۔

عرض

 صداقت اللہ (پٹواری)

Supad


بخدمت جناب ڈپٹی کمشنر صاحب پشاور

جناب عالی!

گزارش ہے کہ سابقہ شوکا ز نوٹس ختم کیا جائے۔ فدوی بحیثیت عہدیدار انجمن

کے ہڑتال ختم کرنے کا اعلان کرتا ہوں اور آئندہ کے لئے اپنے مطالبات کے حل کے لئے

افسران بالا کے ساتھ رابطہ کرونگا۔

عرض
زر شاو (پٹواری)

زر شاو (پٹواری)

Supad
D

بخدمت جناب ڈپٹی کمشنر صاحب پشاور

جناب عالی!

گزارش ہے کہ سابقہ شوکاژ نوٹس ختم کیا جائے۔ فدوی بحیثیت عہدیدارانہ منجمن
 کے ہڑتال ختم کرنے کا اعلان کرتا ہوں اور آئندہ کے لئے اپنے مطالبات کے حل کے لئے
 افسران بالا کے ساتھ رابطہ کرونگا۔

عرض
 آصف (پٹواری)

Supra
 Q

بخدمت جناب ریپی کٹنر صاحب پشاور

جناب عالی!

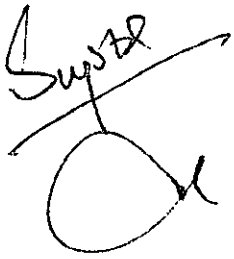
گزارش ہے کہ سابقہ شوکا ز نوٹس ختم کیا جائے۔ فدوی بحیثیت عہدیدار انجمن

کے ہڑتال ختم کرنے کا اعلان کرتا ہوں اور آئندہ کے لئے اپنے مطالبات کے حل کے لئے

افسران بالا کے ساتھ رابطہ کرونگا۔

عرض


عمران (پٹواری)

Supra




THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar

No.655/DK

Dated:13-February-2020

ORDER:

WHEREAS, Mr. Sadaqatullah Patwarj was served upon a Show Cause Notice vide No.44576/AC(P) dated 26-09-2019 for illegal strike of Patwaris refusing to attend court of law and instigating other Patwaris to perform official duties resultantly creating problems for general public and causing financial loss to the govt. exchequer.

AND WHEREAS, the accused official sought mercy from the competent authority on 28-09-2019 and assured this office that they would end the strike forthwith, obey all lawful commands of the revenue administration and refrain from all such activities which are aimed at subverting the legal commands of the Government or its authorized officers and causing distress to public.

AND WHEREAS, on 10-02-2020, the accused official assembled alongwith other Patwaris in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Disaster Relief Activities and Tehsil Hazri/Darbar.

AND WHEREAS, on 12-02-2020, the accused official alongwith other Patwaris assembled in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Damage Assessment in Disaster Relief Operations and Tehsil Hazri/Darbar. The worthy Commissioner Peshawar Division also summoned Patwar Union and other Patwaris to his office and sensitized them of the mistake they were committing and blatant violations they committing. The worthy Commissioner directed them to forthwith resume official duties failing which strict action will be initiated against them.

AND WHEREAS, on 13-02-2020, a Revenue Tehsil Hazri was organized for the facilitation of the general public, upon the direction of the worthy Chief Minister Khyber Pakhtunkhwa and in line with Land Record Manual. All revenue staff was summoned in tehsil Peshawar alongwith revenue record. But the accused official failed to his presence in the Tehsil Hazri which is an act of gross misconduct, violation of official norm, subverting the lawful command of the Provincial GOvt and disobeying the official commands of superiors in Revenue hierarchy.

AND WHEREAS, the National Immunization Day (NID) Polio Campaign is commencing from 17-02-2020. Non-participation of the Patwaris in the campaign is likely to cause irreparable damage to the campaign. Already 100+ polio effected cases have been confirmed in Pakistan which has brought extreme embarrassment for the country.

AND WHEREAS, the accused official is blatantly challenging the law and causing obstruction in the executive functioning of the govt.


AND WHEREAS, keeping in view no need for any enquiry or further probe into the matter and therefore need of the inquiry is dispense with a provided rules 5 under Gov.t of Khyber Pakhtunkhwa servants (efficiency & discipline) Rule 2011. Furthermore the accused is involved in subversive activities bring loss to the public exchequer causing embarrassment for the govt. and have raised the banner of mutiny according to which he lose all rights of personal hearing vide rule 5 (a) and rule 5(b)(ii) of the rules ibid.

NOW THEREFORE, vide detailed order placed on file and in exercise of the powers conferred under Rule-04(1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I **Muhammad Ali Asghar, Deputy Commissioner Peshawar** is competent authority, hereby impose a major penalty of **Dismissal from service** upon Mr. Sadaqatullah, Patwari with immediate effect.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

Endst: No. and Date Even:

- (i) Commissioner, Peshawar Division, Peshawar.
- (ii) Addl. Deputy Commissioner, Peshawar.
- (iii) Addl. Assistant Commissioner (Rev) to assign the charge of Patwari Halqa to another suitable official in DC office and report immediately.
- (iv) Accounts Officer of DC office for necessary action.
- (v) Mr. Sadaqatullah, Ex-Patwari.


DEPUTY COMMISSIONER



THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar

No.657/DK

Dated:13-February-2020

ORDER:

WHEREAS, Mr. Zarshad Khan S/o Ali Akbar Patwari was served upon a Show Cause Notice vide No.44576/AC(P) dated 26-09-2019 for illegal strike of Patwaris refusing to attend court of law and instigating other Patwaris to perform official duties resultantly creating problems for general public and causing financial loss to the govt. exchequer.

AND WHEREAS, the accused official sought mercy from the competent authority on 28-09-2019 and assured this office that they would end the strike forthwith, obey all lawful commands of the revenue administration and refrain from all such activities which are aimed at subverting the legal commands of the Government or its authorized officers and causing distress to public.

AND WHEREAS, on 10-02-2020, the accused official assembled alongwith other Patwaris in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Disaster Relief Activities and Tehsil Hazri/Darbar.

AND WHEREAS, on 12-02-2020, the accused official alongwith other Patwaris assembled in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Damage Assessment in Disaster Relief Operations and Tehsil Hazri/Darbar. The worthy Commissioner Peshawar Division also summoned Patwar Union and other Patwaris to his office and sensitized them of the mistake they were committing and blatant violations they committing. The worthy Commissioner directed them to forthwith resume official duties failing which strict action will be initiated against them.

AND WHEREAS, on 13-02-2020, a Revenue Tehsil Hazri was organized for the facilitation of the general public, upon the direction of the worthy Chief Minister Khyber Pakhtunkhwa and in line with Land Record Manual. All revenue staff was summoned in tehsil Peshawar alongwith revenue record. But the accused official failed to his presence in the Tehsil Hazri which is an act of gross misconduct, violation of official norm, subverting the lawful command of the Provincial GOvt and disobeying the official commands of superiors in Revenue hierarchy:

AND WHEREAS, the National Immunization Day (NID) Polio Campaign is commencing from 17-02-2020. Non-participation of the Patwaris in the campaign is likely to cause irreparable damage to the campaign. Already 100+ polio effected cases have been confirmed in Pakistan which has brought extreme embarrassment for the country.

AND WHEREAS, the accused official is blatantly challenging the law and causing obstruction in the executive functioning of the govt.

AND WHEREAS, keeping in view no need for any enquiry or further probe into the matter and therefore need of the inquiry is dispense with a provided rules 5 under Gov.t of Khyber Pakhtunkhwa servants (efficiency & discipline) Rule 2011. Furthermore the accused is involved in subversive activities bring loss to the public exchequer causing embarrassment for the govt. and have raised the banner of mutiny according to which he lose all rights of personal hearing vide rule 5 (a) and rule 5(b)(ii) of the rules. ibid.

NOW THEREFORE, vide detailed order placed on file and in exercise of the powers conferred under Rule-04(1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I **Muhammad Ali Asghar, Deputy Commissioner Peshawar** is competent authority, hereby impose a major penalty of **Dismissal from service** upon Mr. Zarshad Khan S/o Ali Akbar, Patwari with immediate effect.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

Endst: No. and Date Even:

- (i) Commissioner, Peshawar Division, Peshawar.
- (ii) Addl. Deputy Commissioner, Peshawar.
- (iii) Addl. Assistant Commissioner (Rev) to assign the charge of Patwari Halqa to another suitable official in DC office and report immediately.
- (iv) Accounts Officer of DC office for necessary action.
- (v) Mr. Zarshad Khan S/o Ali Akbar, Ex-Patwari.


DEPUTY COMMISSIONER



THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar

No.658/DK

Dated:13-February-2020

ORDER:

WHEREAS, Mr. Asif Khan Patwari was served upon a Show Cause Notice vide No.44576/AC(P) dated 26-09-2019 for illegal strike of Patwaris refusing to attend court of law and instigating other Patwaris to perform official duties resultantly creating problems for general public and causing financial loss to the govt. exchequer.

AND WHEREAS, the accused official sought mercy from the competent authority on 28-09-2019 and assured this office that they would end the strike forthwith; obey all lawful commands of the revenue administration and refrain from all such activities which are aimed at subverting the legal commands of the Government or its authorized officers and causing distress to public.

AND WHEREAS, on 10-02-2020, the accused official assembled alongwith other Patwaris in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Disaster Relief Activities and Tehsil Hazri/Darbar.

AND WHEREAS, on 12-02-2020, the accused official alongwith other Patwaris assembled in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Damage Assessment in Disaster Relief Operations and Tehsil Hazri/Darbar. The worthy Commissioner Peshawar Division also summoned Patwar Union and other Patwaris to his office and sensitized them of the mistake they were committing and blatant violations they committing. The worthy Commissioner directed them to forthwith resume official duties failing which strict action will be initiated against them.

AND WHEREAS, on 13-02-2020, a Revenue Tehsil Hazri was organized for the facilitation of the general public, upon the direction of the worthy Chief Minister Khyber Pakhtunkhwa and in line with Land Record Manual. All revenue staff was summoned in tehsil Peshawar alongwith revenue record. But the accused official failed to his presence in the Tehsil Hazri which is an act of gross misconduct, violation of official norm, subverting the lawful command of the Provincial GOvt and disobeying the official commands of superiors in Revenue hierarchy.

AND WHEREAS, the National Immunization Day (NID) Polio Campaign is commencing from 17-02-2020. Non-participation of the Patwaris in the campaign is likely to cause irreparable damage to the campaign. Already 100+ polio effected cases have been confirmed in Pakistan which has brought extreme embarrassment for the country.

AND WHEREAS, the accused official is blatantly challenging the law and causing obstruction in the executive functioning of the govt.

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AND WHEREAS, keeping in view no need for any enquiry or further probe into the matter and therefore need of the inquiry is dispense with a provided rules 5 under Gov.t of Khyber Pakhtunkhwa servants (efficiency & discipline) Rule 2011. Furthermore the accused is involved in subversive activities bring loss to the public exchequer causing embarrassment for the govt. and have raised the banner of mutiny according to which he lose all rights of personal hearing vide rule 5 (a) and rule 5(b)(ii) of-the rules ibid.

NOW THEREFORE, vide detailed order placed on file and in exercise of the powers conferred under Rule-04(1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I **Muhammad Ali Asghar, Deputy Commissioner Peshawar** is competent authority, hereby impose a major penalty of **Dismissal from service** upon Mr. Asif Khan, Patwari with immediate effect.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

Endst: No. and Date Even:

- (i) Commissioner, Peshawar Division, Peshawar.
- (ii) Addl. Deputy Commissioner, Peshawar.
- (iii) Addl. Assistant Commissioner (Rev) to assign the charge of Patwari Halqa to another suitable official in DC office and report immediately.
- (iv) Accounts Officer of DC office for necessary action.
- (v) Mr. Asif Khan, Ex-Patwari.


DEPUTY COMMISSIONER



THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar

No.656/DK

Dated:13-February-2020

ORDER:

WHEREAS, Mr. Muhammad Imran S/o Fida Muhammad Patwari was served upon a Show Cause Notice vide No.44576/AC(P) dated 26-09-2019 for illegal strike of Patwaris refusing to attend court of law and instigating other Patwaris to perform official duties resultantly creating problems for general public and causing financial loss to the govt. exchequer.

AND WHEREAS, the accused official sought mercy from the competent authority on 28-09-2019 and assured this office that they would end the strike forthwith, obey all lawful commands of the revenue administration and refrain from all such activities which are aimed at subverting the legal commands of the Government or its authorized officers and causing distress to public.

AND WHEREAS, on 10-02-2020, the accused official assembled alongwith other Patwaris in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Disaster Relief Activities and Tehsil Hazri/Darbar.

AND WHEREAS, on 12-02-2020, the accused official alongwith other Patwaris assembled in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Damage Assessment in Disaster Relief Operations and Tehsil Hazri/Darbar. The worthy Commissioner Peshawar Division also summoned Patwar Union and other Patwaris to his office and sensitized them of the mistake they were committing and blatant violations they committing. The worthy Commissioner directed them to forthwith resume official duties failing which strict action will be initiated against them.

AND WHEREAS, on 13-02-2020, a Revenue Tehsil Hazri was organized for the facilitation of the general public, upon the direction of the worthy Chief Minister Khyber Pakhtunkhwa and in line with Land Record Manual. All revenue staff was summoned in tehsil Peshawar alongwith revenue record. But the accused official failed to his presence in the Tehsil Hazri which is an act of gross misconduct, violation of official norm, subverting the lawful command of the Provincial GOvt and disobeying the official commands of superiors in Revenue hierarchy.

AND WHEREAS, the National Immunization Day (NID) Polio Campaign is commencing from 17-02-2020. Non-participation of the Patwaris in the campaign is likely to cause irreparable damage to the campaign. Already 100+ polio effected cases have been confirmed in Pakistan which has brought extreme embarrassment for the country.

AND WHEREAS, the accused official is blatantly challenging the law and causing obstruction in the executive functioning of the govt.

AND WHEREAS, keeping in view no need for any enquiry or further probe into the matter and therefore need of the inquiry is dispense with a provided rules 5 under Gov.t of Khyber Pakhtunkhwa servants (efficiency & discipline) Rule 2011. Furthermore the accused is involved in subversive activities bring loss to the public exchequer causing embarrassment for the govt. and have raised the banner of mutiny according to which he lose all rights of personal hearing vide rule 5 (a) and rule 5(b)(ii) of the rules ibid.

NOW THEREFORE, vide detailed order placed on file and in exercise of the powers conferred under Rule-04(1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I **Muhammad Ali Asghar, Deputy Commissioner Peshawar** is competent authority, hereby impose a major penalty of **Dismissal from service** upon Mr. Muhammad Imran S/o Fida Muhammad, Patwari with immediate effect.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

Endst: No. and Date Even:

- (i) Commissioner, Peshawar Division, Peshawar.
- (ii) Addl. Deputy Commissioner, Peshawar.
- (iii) Addl. Assistant Commissioner (Rev) to assign the charge of Patwari Halqa to another suitable official in DC office and report immediately.
- (iv) Accounts Officer of DC office for necessary action.
- (v) Mr. Muhammad Imran S/o Fida Muhammad, Ex-Patwari.


DEPUTY COMMISSIONER

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.**

NOTIFICATION

Peshawar dated the 16th September, 2011.

No.SO(REG-VDE&AD/2-6/2010)-In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

1. Short title, application and commencement.---(1) These rules may be called the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

(2) These shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with affairs of the Province.

(3) These shall come into force at once.

2. Definitions.---(1) In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "accused" means a person in Government service against whom action is initiated under these rules;
- (b) "appellate authority" means the authority next above the competent authority to which an appeal lies against the orders of the competent authority;
- (c) "appointing authority" means an authority declared or notified as such by an order of Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder or an authority as notified under the specific laws/rules of Government;
- (d) "charges" means allegations framed against the accused pertaining to acts of omission or commission cognizable under these rules;

- (h) "Governor" means the Governor of the Khyber Pakhtunkhwa;
- (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
- (j) "inquiry committee" means a committee of two or more officers, headed by a convener, as may be appointed by the competent authority under these rules;
- (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
- (l) "*misconduct*" includes-
 - (i) conduct prejudicial to good order or service discipline; or
 - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
 - (iii) conduct unbecoming of Government servant and a gentleman; or
 - (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
 - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
 - (vi) making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
 - (vii) conviction for a moral offence by a court of law.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Province Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

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

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

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

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

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

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

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or
- (ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or
- (iii) a Government servant is involved in subversive activities; or
- (iv) it is not reasonably practicable to give such an opportunity to the accused; or

- (b) get an inquiry conducted into the charge or charges against the accused, by appointing an inquiry officer or an inquiry committee, as the case may be, under rule 11:

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

- (i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or
- (ii) a Government servant is or has been absent from duty without prior approval of leave:

Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry.

(2) The charge sheet or statement of allegations or the show cause notice, as the case may be, shall be signed by the competent authority.

6. **Suspension.**---A Government servant against whom action is proposed to be initiated under rule 5 may be placed under suspension for a period of ninety days, if in the opinion of the competent authority, suspension is necessary or expedient, and if the period of suspension is not extended for a further period of ninety days within thirty days of the expiry of initial period of suspension, the Government servant shall be deemed to be reinstated:

Provided that the competent authority may, in appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave as may be admissible to him, from such date as may be specified by the competent authority.

7. **Procedure where inquiry is dispensed with.**---If the competent authority decides that it is not necessary to hold an inquiry against the accused under rule 5, it shall-

- (a) inform the accused by an order in writing, of the grounds for proceeding against him, clearly specifying the charges therein, alongwith apportionment of responsibility and penalty or penalties proposed to be imposed upon him;
- (b) give him a reasonable opportunity of showing cause against the proposed action, within seven days of receipt of the order or within such extended period, as the competent authority may determine;
- (c) on receipt of reply of the accused within the stipulated period or after the expiry thereof, if no reply is received, determine whether

خدمت جناب جسٹر اسروین کٹر پرنسپل جیل کٹووا ان اور

درخواست عمارت عطا سٹیٹ فنل آرڈر سٹیٹ مورفہ 4/12/2020 مگر 4924/20 مکمل سٹاؤ ویز

عنون مکمل سٹاؤ ویز 4924/20

صدا عالی

گزارش کے لئے سائل آرڈر سٹیٹ مذکورہ کی نقل کی ضرورت ہے۔

یہذا سائل کو آرڈر سٹیٹ مورفہ 4/12/2020 - 15/12/2020, 18/12/2020

کی نقیودت کی نقل عطا فرمائیں۔

عین گزارش ہوگی۔

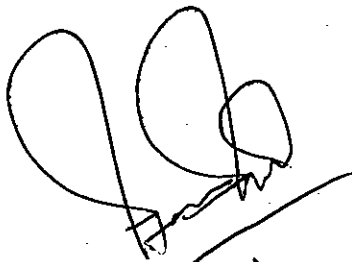
اکبر فرما

1/03/2021

الہ آباد جیل ہاؤس کٹووا



Allowed as per rules



1/3/21