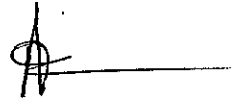


04.08.2021

Counsel for the petitioner and Mr. Kabirullah Khattak, Addl. AG alongwith Sajid Superintendent for the respondents present.

Copy of judgment dated 10.06.2021 passed in C.P No. 581-P/2016 by August Supreme Court of Pakistan has been produced and placed on file. Accordingly, the judgment of this Tribunal dated 07.11.2016 under implementation in present petition has been set aside and the matter was remanded to the department with a particular direction mentioned in the operative part of the judgment. As the judgment of this Tribunal pressed into service for implementation through petition at hand remained no more in field, this Execution Petition is filed and consigned to the record room.




Chairman

21.01.2021 Petitioner present in person.

Noor Zaman District Attorney alongwith Naseem Khan Section Officer for respondents present.

Reply was submitted by the petitioner to the application filed by the respondents' Department praying for dismissal of the execution petition. To come up for arguments in light of available record, on 17.03.2021 before S.B.

  
(Rozina Rehman)  
Member (J)

17.03.2021

Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 25.05.2021 before S.B.

  
**Reader**

25.05.2021

Petitioner through counsel and Mr. Kabirullah Khattak, Addl. AG alongwith Nasib Khan S.O for the respondents present.

Learned AAG states that the respondent department has filed CPLA against the judgment of this Tribunal. As per the representative of the respondents, the operation of judgment under implementation has been suspended by the Apex Court. To come up for production of order by the Apex Court on 04.08.2021 before S.B.

  
Chairman

581-2)  
10/2/20  
10/2/21  
10/2/22  
10/2/23

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Gulzar Ahmed, CJ  
Mr. Justice Mazhar Alam Khan Miankhel  
Mr. Justice Sayyed Mazahar Ali Akbar Naqvi

**CIVIL PETITION NO.581-P OF 2016**

(Against the judgment dated 07.11.2016 passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No.1010/15)

***Government of Khyber Pakhtunkhwa  
through Chief Secretary, Peshawar and  
others***

...Petitioners

***Versus***

***Amanullah***

...Respondent

For the Petitioners : Barrister Qasim Wadood,  
Addl.A.G.KP

For the Respondent : Mr. Muhammad Asif Yousafzai, ASC

Date of Hearing : 10.06.2021

**ORDER**

**GULZAR AHMED, CJ.-** The respondent has filed a service appeal claiming pay and allowances of higher post to which he was posted in his own pay and scale vide Notification dated 18.09.2013. The respondent who was working in BPS-18 was posted as District Comptroller of Accounts (BPS-19) in his own pay and scale. The Khyber Pakhtunkhwa Service Tribunal, Peshawar (the '*Tribunal*') vide impugned judgment dated 07.11.2016 allowed the appeal and directed that pay of higher post may be fixed presumptively with effect from the date the officer assumes the charge of the higher post.

**ATTESTED**

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

2. Learned Additional Advocate General has contended that in the first place the respondent was being paid 20% allowance of doing work on a higher post and secondly to become entitled to pay and allowances of the higher post, the employee has to establish his eligibility for such higher post and then only pay and allowances of higher post would be granted. He has further contended that the respondent was not eligible for being promoted to the higher post of District Comptroller of Accounts (BPS-19) as he has not completed 12 years service in BPS-17 which is the mandatory requirement.

3. Learned ASC for the respondent while relying upon the document at page-8 of the CMA No.5774/2021 i.e. final seniority list as it stood on 31.12.2020 dated 04.02.2021 has submitted that the name of the respondent appears at Serial No.1 and he has completed the required length of service for being promoted to the post of District Comptroller of Accounts (BPS-19) and while making his appointment to the higher post on acting charge basis he was entitled to the grant of pay and allowances of the said post.

4. It seems that the Tribunal has not dealt with this very question in the impugned judgment and even the department has also not considered this aspect of the matter that the respondent was eligible for promotion to the post of District Comptroller of Accounts (BPS-19).

5. In view of the above, while setting aside the impugned judgment dated 07.11.2016 of the Tribunal, the matter is remanded to the department where it will consider the case of the

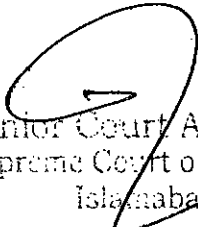
**ATTESTED**

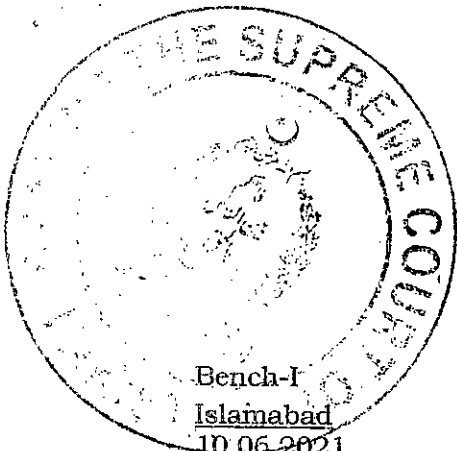
respondent regarding his eligibility of being promoted to the post of District Comptroller of Accounts (BPS-19) and in case he is found eligible, he will be paid salaries and allowances of the higher post which he is holding on acting charge basis. As the matter appears to be quite old, the department is expected to decide the same within a period of three months from today.

6. The petition is converted into appeal and allowed in the above terms.

Sdf- HCJ  
Sdf-J  
Sdf-J

Certified to be True Copy

  
Senior Court Associate  
Supreme Court of Pakistan  
Islamabad



Bench-I  
Islamabad  
10.06.2021  
Nasir Khan/\*  
NOT APPROVED FOR REPORTING

*Handwritten notes:*  
14/6/21

GR No.	10221/21	Civil/Criminal
Date of Presentation	10-6-21	
No of Pages	900	
No of Exhibits	9	
Regul. Fee Paid Rs.	5/-	
Copy Fee Rs.	15.58	
Court Fee Stamp	10/58	
Date of Copy Made	14/6/21	
Date of Delivery of Copy	15/6/21	
Compared by: Prop.	<i>(Signature)</i>	
Received by:		


21.09.2020 Counsel for the petitioner and Addl. AG alongwith Sajid Superintendent for the respondents present.

Learned counsel for the petitioner requests for time to submit reply/objection regarding the implementation report submitted on 05.08.2020. Adjourned to 04.11.2020 before S.B.

  
Chairman

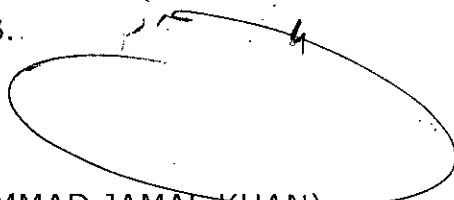
04.11.2020 Junior counsel for petitioner is present. Mr. Kabirullah Khattak, Additional Advocate General alongwith representatives of the department Mr. Sajid, Superintendent and Mr. Shahid Hassan, Assistant, are also present.

Since the Members of the High Court as well as of the District Bar Association, Peshawar, are observing strike today, therefore, learned senior counsel for petitioner is not available today. Adjourned to 02.12.2020 on which date to come up for reply/objection regarding the implementation report submitted by respondents on 05.08.2020 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

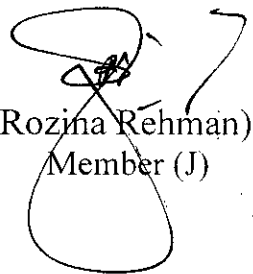
02.12.2020 Counsel for petitioner is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Saleem Sajid, Superintendent, for the respondents are also present.

Learned counsel for petitioner requested for adjournment. Adjourned to 21.01.2021 on which date to come up for reply/objection regarding the implementation report submitted by respondents on 05.08.2020 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

22.06.2020

Learned counsel for the petitioner present. Mr. Kabir Ullah Khattak learned Additional Advocate General present and produced an office letter addressed to Registrar of this Tribunal regarding implementation of judgment dated 07.11.2016 of this Tribunal with a request for adjournment. Request is allowed with direction to submit implementation report and the respondents are directed to make sure presence of an officer not below Grade-17 in order to apprise the court in respect of implementation order for 05.08.2020 before S.B.

  
(Rozina Rehman)  
Member (J)

05.08.2020

Syed Noman Ali Bukhari, Advocate, for petitioner is present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Sajid, Superintendent present.

Learned Additional AG submitted implementation report in compliance the judgment of the august Tribunal as per previous order sheet dated 22.06.2020. Since it consist, of almost 16 pages learned counsel for the petitioner sought time for going through the orders in the light of arguments. Time sought. Time is given. Adjourned to 21.09.2020. File to come up for further proceedings before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER

02.01.2020

Nemo for petitioner. Addl. AG alongwith Shah Roon, SDO for respondents present.

A request for time is made on behalf of the respondents for submission of implementation report/reply to the execution petition.

Adjourned to 17.02.2020 for further proceedings before S.B.



Chairman

17.02.2020

None is present on behalf of the petitioner. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Sajid, Superintendent for the respondents present. Another request for time is made on behalf of the respondents for submission of implementation report/reply to the execution petition. Adjourned to 30.03.2020 for implementation report before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

30.03.2020

Due to public holiday on account of COVID-19, the case is adjourned for the same on 22.06.2020 before S.B.

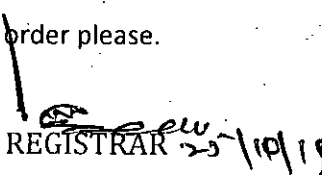
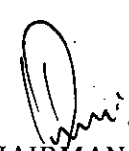

  
Reader



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 393/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.10.2019	<p>The execution petition of Mr. Aman Ullah submitted today by Syed Noman Ali Bukhari Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 25/10/19</p>
2	28/10/19	<p>This execution petition be put up before S. Bench on <u>22/11/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
1	22.11.2019	<p>Counsel for the petitioner present.</p> <p>Notices be issued to the respondents for submission of implementation report on 02.01.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p>

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

Execution Petition No. 393 /2019  
In Service Appeal 1010/2015



Mr. Amanullah  
District Comptroller of Accounts,  
D.I Khan.

**(PETITIONER)**

**VERSUS**

1. The Govt of Khyber Pakhtunkhwa through Chief Secretary, Govt: of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
2. The Chief Secretary, Govt: of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
3. The Secretary Finance Deptt., Govt: of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
4. The Secretary, Establishment, Department, Govt: of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
5. The District Treasuries and Accounts Khyber Pakhtunkhwa Civil Secretariat, Peshawar.

**(RESPONDENTS)**

.....

**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE JUDGMENT  
DATED 07.11.2016 OF THIS HONORABLE TRIBUNAL  
IN LETTER AND SPIRIT.**


.....

**RESPECTFULLY SHEWETH:**

1. That the appellat filed an appeal bearing No.1010/2015 for Granting Full pay benefits of District Comptroller of Accounts post with effect from 04.10.2013 till date and onwards.

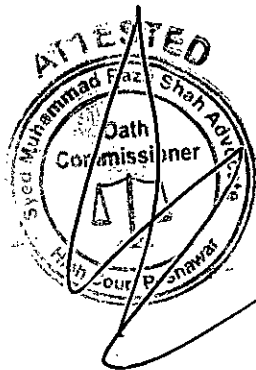
2. That the said appeal was finally heard by the Honorable Tribunal on 7.11.2016 and the Honorable Tribunal was kind enough to accept the appeal and issued direction to the respondent that the pay of the higher post may be fixed presumptively with effect from the date the officer assume charges of the higher post. **(Copy of judgment is attached as Annexure-A).**
3. That in-action and not fulfilling formal requirements by the department after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
4. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to pass formal appropriate order.
5. That the petitioner has having no other remedy except to file this execution petition.

It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment dated 7.11.2016 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

  
**PETITIONER**  
Ammanullah

THROUGH:

  
**SYED NOMAN ALI BUKHARI**  
ADVOCATE, HIGH COURT



**AFFIDAVIT:**

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able Tribunal.

  
Deponent

To

The Secretary,  
to Govt: of Khyber Pakhtunkhwa,  
Finance Department,  
Peshawar.

Through **Proper Channel**

**Subject: IMPLEMENTATION OF HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR JUDGEMENT DATED 07.11.2016 IN SERVICE APPEAL NO. 1010/2015 IN R/O AMANULLAH DCA D.I.KHAN**

Sir,

Most respectfully requested in continuation of the previous application/appeal vide NO.DCA-DIK/16-17 dated 03.01.2017 and following reminder bearing No.DCA.DIK/283-84 DATED 04.05.2017 on the subject and once again submitted that in the light of judgment dated 31.01.2019 of Peshawar Hight Court Peshawar in writ petition No.2439-P/2017 implemented Vide No. SO (Estt) FD/5-41/2019/up gradation dated 24.05.2019 (Copy Attached as Annexure A) subject to Final decision of the Supreme Court of Pakistan in CPLA NoC.P 234-P /2019, regarding similarity, that a CPLA No.581-P 2016 against me over the subject noted matter is yet pending in the Supreme Court of Pakistan and so far no suspension order from the Supreme Court of Pakistan exist against me, my request for the implementation of Khyber Pakhtunkhwa Service Tribunal judgment as referred in the subject also mandatory, being individual Hardship case, under the direction of Establishment and Admn Department contained vide S.O.-VI (E&AD) 1-4/2004 dated 22.08.2004 (Copy Attached as Annexure B).

It is therefore accordingly prayed that said judgment of Khyber Pakhtunkhwa, Services Tribunal dated 07.11.2016 in service appeal No. 1010/2015 (Copy Attached) may kindly be implemented similarly as above precedence and directions subject to I early requested that during said period I was paid a sum of Rs 120,000.00 on account of Current Charge Allowance, may be adjusted in the drawl of full pay and allowances of B-19 as DCA D.I.Khan for relevant period please.

Thanking You.

Dated 02.07.2019

**ATTESTED**

Yours Obediently

(Amanullah)  
Ex-DCA D.I.Khan  
Presently DAO Torghar  
at Mansehra

P/c.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Dated Pesh: the 24-05-2019

Ann: A

Finance Department Civil Secretariat Peshawar <http://www.financekpp.gov.pk> [facebook.com/GoKPPD](https://www.facebook.com/GoKPPD) [twitter.com/GoKPPD](https://twitter.com/GoKPPD)

Notification

No.SO(Estt)FD/5-41/2019/Up-gradation In pursuance of Judgement dated 31-01-2019 of Peshawar High Court, Peshawar in Writ Petition No.2439-P/2017, the competent authority, in relaxation of ban, has been pleased to accord sanction for the up-gradation of the following posts of Khyber Pakhtunkhwa, Directorate of Treasuries & Accounts, with immediate effect.

S.No.	Nomenclature of Posts	Present Scale	Up-graded to
1.	Assistant Accountant	BPS-16	BPS-17
2.	Sub-Accountant	BPS-15	BPS-16

The above up-gradation will be subject to the final decision of the Supreme Court of Pakistan in CPLA No.Cp-234-p/2019.

**SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT.**

No. SO(FR)7-8/2017/6284

dated 24-05-2019

Copy forwarded for information and further necessary action to:-

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
3. The Director, FMIU, Finance Department.

Section Officer (FR)  
Finance Department.

Endst No. SO (Estt:-I)FD/5-41/2019/Up-gradation

dated 24-05-2019

Copy of the above is forwarded to:-

1. All the District Comptroller of Accounts, in Khyber Pakhtunkhwa.
2. All the District Accounts Officers in Khyber Pakhtunkhwa.
3. The Private Secretary to Secretary, Finance Department.
4. The Private Secretary to Special Secretary, Finance Department.
5. The Section Officer (FR), Finance Department.
6. The Budget Officer-XI, Finance Department.
7. The P.A to Additional Secretary (Admn:), Finance Department.
8. The PA to Dy: Coordinator (PIAC), Finance Department.
9. Office Order file.

**ATTESTED**  
  
25/5/2019  
Section Officer(Estt-I)

حکومت صوبہ سرحد  
اسٹیبلشمنٹ اینڈ ایڈمنسٹریشن ڈیپارٹمنٹ  
(ریگولیشن ونک)

Ann. B

مورخہ پشاور ۲۳ اگست ۲۰۰۴ء

نمبر انٹرمیڈیٹ (ای اینڈ اے ڈی) ۱۰۱-۱۰۲-۲۰۰۴

بخدمت

- ۱- تمام انتظامی معتمدین حکومت، صوبہ سرحد
- ۲- معتمد برائے گورنر، صوبہ سرحد
- ۳- معتمد برائے وزیر اعلیٰ، صوبہ سرحد
- ۴- تمام سربراہان ماتحت محکمہ جات، صوبہ سرحد
- ۵- تمام سربراہان خود مختار نیم خود مختار ادارہ جات، صوبہ سرحد
- ۶- تمام ڈسٹرکٹ سیشن جج، صوبہ سرحد
- ۷- رجسٹرار پشاور ہائی کورٹ، پشاور
- ۸- معتمد مجلس ہالیات، صوبہ سرحد، پشاور
- ۹- معتمد صوبہ ہائی پبلک سروس کمیشن، پشاور
- ۱۰- ناظم انسداد رشوت ستانی اسٹیبلشمنٹ پشاور
- ۱۱- رجسٹرار سروس ٹریبونل پشاور
- ۱۲- تمام ضلعی رابطہ افسران صوبہ سرحد

الکلیت

سروس ٹریبونل کے فیصلوں کے بارے میں وقت تکمیل

عنوان:

جناب عالی!

مجھے ہدایت کی گئی ہے کہ عرض کروں کہ مجاز حاکم کے نوٹس میں یہ بات لائی گئی ہے کہ سروس ٹریبونل کے فیصلوں پر بروقت عمل درآمد نہیں ہو رہا ہے۔ جسکی وجہ سے سرکاری ملازمین کو ان پر عمل درآمد کرانے کے لئے دوبارہ سروس ٹریبونل سے رجوع کرنا پڑتا ہے جسکی وجہ سے ان فیصلوں میں غیر ضروری تاخیر واقع ہوتی ہے۔ ان مشکلات کو مد نظر رکھتے ہوئے یہ فیصلہ کیا گیا ہے کہ تمام انفرادی کیسوں میں فوری طور پر عمل درآمد کیا جائے جبکہ وہ اجتماعی کیسز جن میں معقول رقم کا فرما ہو غور و فکر اور متعلقہ محکمہ جات کے مشورے سے عمل کیا جائے جن کیسوں میں سپریم کورٹ آف پاکستان نے حکم اجتماعی جاری نہ کیا ہو تو متعلقہ محکمہ کو سروس ٹریبونل کے فیصلے کی فوری تکمیل کرنی چاہیے۔ سروس ٹریبونل کے فیصلوں کو مناسب وقت میں پایہ تکمیل تک پہنچایا جائے بصورت دیگر متعلقہ اشخاص کے خلاف تاحی کارروائی عمل میں لائی جائے گی۔ چیئر مین سروس ٹریبونل معتمد اعلیٰ صوبہ سرحد کو ان معاملات سے آگاہ رکھیں گے جن معاملات میں غیر ضروری تاخیر واقع ہو رہی ہو خصوصاً محکمہ صحت، تعلیم اور پولیس، جہاں ملازمین کی تعداد دوسرے محکمہ جات سے نسبتاً زیادہ ہے۔

SM

9/2

آپ کا مخلص

محمد حسین  
(ایم قاسم جان)

سیکشن آفیسر (ضوابط-۶)

for HAD

2743

(درج ذیل)

ATTESTED

نقل برائے اطلاع:

- ۱- حساب دار عمومی صوبہ سرحد
- ۲- تمام ضلعی و ایجنسی انسران حساب داری صوبہ سرحد
- ۳- ذاتی معتمد برائے معتمد اعلیٰ صوبہ سرحد
- ۴- ذاتی معتمد برائے گورنر صوبہ
- ۵- ذاتی معتمد برائے معتمد اعلیٰ صوبہ سرحد
- ۶- تمام ذاتی معتمدین برائے صوبائی وزارتیں

انصر صیفہ-۶

تظہر نمبر و تاریخ ایضاً

نقل برائے اطلاع:

- ۱- تمام اضافی معتمدین رنائب معتمدین، محکمہ سٹیٹمنٹ اور ایڈمنسٹریشن صوبہ سرحد
- ۲- ناظم سٹاف ڈیپارٹمنٹ، ہولڈنگ ڈیپارٹمنٹ، ہولڈنگ ڈیپارٹمنٹ پشاور صدر
- ۳- تمام سیکشن آفسران رنائب آفسر محکمہ سٹیٹمنٹ اور ایڈمنسٹریشن صوبہ سرحد
- ۴- ذاتی معتمد برائے معتمد محکمہ سٹیٹمنٹ، صوبہ سرحد
- ۵- نائب معتمد ہولڈنگ ڈیپارٹمنٹ، محکمہ سٹیٹمنٹ اور ایڈمنسٹریشن صوبہ سرحد
- ۸- مہتمم کتب خانہ، محکمہ سٹیٹمنٹ اور ایڈمنسٹریشن صوبہ سرحد

انصر صیفہ-۶

No H-24(113) R.B/2001/5652 Dated :- 22/9/09

- 1) All OAS/ASAs
- 2) All pay Roll Section
- 3) Pension Section

22/9  
AAO (H-24)

ATTESTED

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

SERVICE APPEAL NO. 1010/2015

Date of institution ... 11.09.2015  
Date of judgment ... 07.11.2016



Mr. Amanullah,  
District Comptroller of Accounts,  
D.I.Khan.

(Appellant)

VERSUS

1. The Gov: of Khyber Pakhtunkhwa through Chief Secretary, Gov: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Chief Secretary, Gov: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary, Finance Department, Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary, Establishment Department, Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
5. The District Treasuries & Accounts, Khyber Pakhtunkhwa Peshawar.

(Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, FOR GRANTING FULL PAY BENEFITS OF DISTRICT COMPTROLLER OF ACCOUNTS POST WITH EFFECT FROM 04.10.2013 TILL DATE AND ONWARDS AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

Mr. M.Asif Yousafzai, Advocate.  
Mr. Muhammad Jan, Government Pleader

.. For appellant.  
.. For respondents.

MR. MUHAMAMD AAMIR NAZIR  
MR. PIR BAKHSH SHAH

.. MEMBER (JUDICIAL)  
.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER: Amanullah, District Comptroller of Accounts; hereinafter referred to as appellant, has filed the instant appeal under section-4 of Khyber Pakhtunkhwa service Tribunal Act 1974 praying for grant of full pay benefits of the

**ATTESTED**



The learned Government Pleader, while replying to the arguments advanced by the learned counsel for the appellant argued before the court that the appellant is BPS-18 Officer and cannot claim financial benefits attached to the post of BPS-19. That since the appellant has been performing his duty as District Comptroller of Accounts in his own pay and scale, hence the instant appeal being devoid of any merits may be dismissed.

We have heard arguments of learned counsel for the appellant and learned Government Pleader for the respondents and have gone through the record available on file

Perusal of the case file reveals that the appellant has been performing duties against the higher post that is the post of District Comptroller of Accounts BPS-19 from the year 2012 in his own pay scale as he is eligible and fit for the said post. As per Fundamental Rule-17, the appellant is entitled for pay/benefits of higher post during the period he holds the charge of the higher post. Similarly, in case of Secretary Finance vs. Gazi Abdul Karim reported in 1978 SCMR 289, it was held by the apex court that the employee appointed/promoted to officers in a higher post involving higher responsibilities held entitled to minimum pay of grade of higher post. Admittedly, the appellant is performing duties against a higher post therefore, as per rule and dictum of superior courts, he is entitled to the monetary benefits which should be extended to him without any hindrance. The pay of the higher post may be fixed presumptively with effect from the date the officer assumes charge of the higher post. In the above stated circumstances, we are constrained to accept the instant appeal on the above terms. Parties are left to bear their own costs. File be consigned to the record.

*Handwritten signatures and dates:*  
 07-11-2019  
 07-11-2019  
 07-11-2019



**ATTESTED**

*Handwritten notes and dates at the bottom of the page:*  
 07-11-2019  
 07-11-2019  
 07-11-2019

# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF KP Service Tribunal Peshawar

Mr. Amanullah (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS


Govt (Respondent)  
(Defendant)

I/We Mr. Amanullah

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.

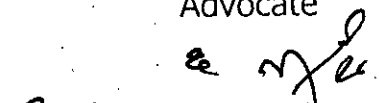
I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding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

Dated 25/10 /2019

  
( CLIENT )

ACCEPTED

  
**M. ASIF YOUSAFZAI**  
Advocate

  
**Syed Noman Ali Baloch**  
Advocate High Court

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

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



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar <http://www.financekpp.gov.pk> facebook.com/GoKPPFD twitter.com/GoKPPFD

NO:SO(ESTT-I)FD/1-5/2017/Amanullah

Dated Pesh: the 12-02-2020

To

The Registrar,  
Khyber Pakhtunkhwa Services Tribunal,  
Peshawar.

Subject: IMPLEMENTATION OF JUDGEMENT DATED 07-11-2016 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL IN SERVICE APPEAL NO.1010/2015 TITLED MR. AMANULLAH DISTRICT COMPTROLLER OF ACCOUNTS D. I. KHAN VS GOVT: OF KHBER PAKHTUNKHWA THROUGH CHIEF SECRETARY & OTHERS.

I am directed to refer to your E/Petition Notice No.393/19 dated 16.12.2019 on the subject noted above and to state that the petitioner Mr. Amanullah District Accounts Officer (BS-18) was transferred and posted as District Comptroller of Accounts DI Khan (BS-19) in own pay & scale as stopgap arrangements on 04.10.2013. During the said posting he has drawn Rs:120,000/- @20% of the basic pay on account of current charge allowance by conversion of his posting, as District Comptroller of Accounts DI Khan in own pay & scale into appointment on current charge basis at his own level. Moreover, CPLA No.581-P/2016 has also been filed in the Supreme Court of Pakistan against the said Judgement which is under process.

2. In view of above, it is humbly requested that the subject petition may kindly be filed and wait for the final decision of Supreme Court of Pakistan on CPLA No.581-P/2016.

*AS*  
22/2/2020  
Section Officer(Estt-I)

*A*  
22/6/20  
Endst: Even No. & Date

Copy forwarded for information to:-

1. The Section Officer (Lit:-II), Finance Department.
2. The P.A to Provincial Coordinator (PIAC), Finance Department.

*AS*  
22/2/2020  
Section Officer(Estt-I)

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

In the matter of

Execution Petition No. 393/2019

Amanullah, District Comptroller of Accounts, DIKhan.

**Versus**

Government of Khyber Pakhtunkhwa and others

Implementation Report on behalf of Secretary Finance (Respondents No.03)

**Respectfully Sheweth.**

**ON FACTS:**

1. Pertain to record hence no comments.
2. Correct. The directions of the Hon'ble Tribunal were complied with and a case regarding fixation of pay of the officer on the higher post on presumptive basis was processed. However, on examination of record, it was found that while posting as District Comptroller of Accounts BS-19 as stopgap arrangement **(Annex-A)**, the officer has drawn an amount of Rs.120,000/- @ of 20% of basic pay on account of current charge allowance by conversion of his posting in own pay scale into appointment on current charge basis at his own level as admitted by appellant in his appeals to the relevant authorities **(Annex- B & C)**.
3. Not correct. As the officer had already drawn the current charge allowance therefore, no question of non-implementation of the judgment of the Hon'ble Tribunal arise.. Furthermore, if the appellant's salary had been fixed presumptively, he would have been paid twice, which would have led to the violation of the government rules / policy regarding fixation / payment of salaries. The appellant had already accepted illegal drawl of current charge allowance and promised to deposit the same if the competent authority allowed fixation of pay on higher post **(Annex-D)**.
4. As explained at Para 2 above. However, proper action will be taken on orders of the Supreme Court in the CPLA already filled **(Annex-E)**.
5. No comments.

In view of above, it is therefore, most humbly prayed that the petition being devoid of merit may kindly be dismissed.

**SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA,  
FINANCE DEPARTMENT  
(RESPONDENT NO.03)**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Dated Pesh: the 18-9-2013.

NOTIFICATION

NO:SO(ESTT)FD/1-4/2013/GPT. The competent authority has been pleased to order the posting/transfer of the following officers of Treasury Establishment with immediate effect in the public interest:-

Sl: No.	Name of Officer & Designation	From	To	Remarks
1.	Mr. Muhammad Riaz Awan, District Comptroller of Accounts.	District Comptroller of Accounts, Kohat.	District Comptroller of Accounts, Abbottabad.	Vice No.3
2.	Mr. Said Akbar, District Comptroller of Accounts.	District Comptroller of Accounts, DIKhan.	District Comptroller of Accounts Kohat.	Vice S.No.1
3.	Mr. Shahid Pervez Bhatti, District Comptroller of Accounts, in his own pay & scale.	District Comptroller of Accounts, Abbottabad.	District Accounts Office, Haripur.	Posted as District Accounts Officer. Vice No.4
4.	Mr. Muhammad Haroon, District Accounts Officer, in his Own pay & scale.	District Accounts Office, Haripur.	District Accounts Office, Kohistan.	Vice No.5
5.	Mr. Amanullah, District Accounts Officer	District Accounts Office, Kohistan.	District Comptroller of Accounts, DI Khan.	Posted as District Comptroller of Accounts, in his own pay & scale, Vice No.2

SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

No.SO(Estt)FD/1-4/2013/GPT/

Dated Pesh: the 18-9-2013.

Copy forwarded for information to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Accountant General, Pakistan Revenue Sub Office, Peshawar.
3. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
4. The Deputy Commissioner, Kohat, Abbottabad, DIKhan. Haripur & Kohistan.
5. The District Comptroller of Accounts, Kohat, Abbottabad & DIKhan.
6. The District Accounts Officer, Haripur & Kohistan.
7. PS to Finance Secretary, Finance Department, Peshawar.
8. Officers concerned.
9. Office order file.

(MUHAMMAD AMAN)  
SECTION OFFICER(ESTT)

B

The Chief Minister,  
Khyber Pakhtunkhwa,  
Peshawar.

Through: Proper Channel.

SUBJECT: REVIEW PETITION/APPLICATION IN RESPECT OF AMANULLAH, DISTRICT  
COMPTROLLER OF ACCOUNTS, DERA ISMAIL KHAN.

Honorable Sir,

Accounts

I, Amanullah the District Comptroller of D.I. Khan, most humbly submit the followings  
as a review Petition/Application against the Office Order bearing No.

S.O (ESTT) FD/19-25/015/Amanullah, dated 16.09.2016, received to me On 24.10.2016.

- 1). That I have drawn Rs. 120,000/= as Current Charge Allowance subject to the condition laid down for arrangement of my posting/transfer/appointment made in the light of (Appointment, Promotion and Transfer) Rules 1989, then the provincial Finance Department vide Notification No. FD(SR-1)02.02.2000, dated 26.12.2002, allowed as a General Order of Special Allowance at the rate of 20% of Basic Pay or Maximum ceiling as the case may be, Copy attached as Annexure "A".
- 2). As above, then no Rules and Order of the Competent Authority, I have breached/defiance, have been made or otherwise facts available that the Department have not made Regular Enquiry/Concluding rather someone used the same against me as personal revenge, contrary to justice & facts.
- 3). The department as contained in the Notification bearing No. FD(SR-1) 2.2.2000, dated 26.12.2002, Copy attached as Annexure "A" have provided the word prior consultation of Finance Department, which have diverted against me into prior approval of Finance department and so on.....
- 4). The prior consultation is not within the domain of the Petitioner, however seems best <sup>applicable</sup> before other departments as and when, they are making as such arrangement in their departments and entitlement of Allowance is admissible as per Para 1<sup>st</sup> above by General Order to all concerned, therefore also could not established in the facts finding Enquiry as not admissible but the Enquiry Officer besides facts misunderstood the prior consultation into approval, so as to punish for no fault as such.
- 5). My posting/transfer/appointment not only been made by the Finance department but in facts a proper summary also been approved priorly through all the Channels From your Good self.
- 6). The matter if not clear for the department also be made opined from the Establishment and Law department so as to establish justice.

It is therefore accordingly, prayed that Order may kindly be reviewed, to exonerate me so as to establish & provide "Justice" which is the motto of present Government in particular, please.

(1)

Dated. 28.10.2016

Yours Obediently,

(Amanullah)

District Comptroller of Accounts,  
Dera Ismail Khan.

C | MEX 23 (23)

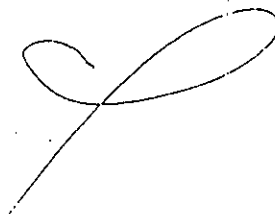
COMPTROLLER OF

STATEMENT OF MR. AMANULLAH, DI  
ACCOUNTS DIKHAN TOWARD ENQUIRY VIDE FINANCE DEPARTMENT  
NO.PA TO AFS(B)/2015 DATED 30-9-2015, REGARDING  
UNAUTHORISED DRAWL OF CURRENT CHARGE ALLOWANCE.

(12)

I, Amanullah the District Comptroller of Accounts' already submitted the position to vide No.DCA-DIK/Admn/856 dated 18-8-2015 on the justification, however during the personal hearing an opportunity for further accordingly been provided by the Enquiry officer, so the following submitted:-

- i) I am posted as DCA DIKhan by mentioned the word as "Own Pay & Scale" which could not have any legal effect but rules provided as current charge or acting charge basis in the light of Rule No.9 of Khyber Pakhtunkhwa appointment, promotion and transfer rules 1989 so as to legal / statutory cover be available to a civil servant in his discharge of duties and function or otherwise own pay and scale could not provided in any Acts rules and orders, therefore, accordingly, I am entitled either to draw current charge allowance or subject to the grant of competent authority higher pay & scale of the post i.e. BS-19 in the light of Finance Division (Reg: Wing) No.F8(4)Imp/97 dated 06-10-2003 (copy attached).
- ii) As I have made several representation to all concerned that my status be clarified copy of the one vide No.45-46/DCA/DIK/Admn/13-14 dated 10-1-2014 attached which is much explanatory on the present subject as from the start to date position but still in vain.
- iii) I have drawn the 20% current charge allowance under the provision of Finance Department letter No.FD(SR-I)2-2-2000 dated 26-12-2002 (copy attached) and the prior consultation of Finance Department is not applicable in my case due to posting made of competent authority and Finance Department.



...(P/2).....

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iv) I have drawn the said allowance as and when not responded by the Administrative Department, since 11/2013 to date excluding the leave period in the month of December, 2014; after my posting carried forwarded by the competent authority as usual beyond the six month period (not dispensed the arrangements) beyond the six month period as provided in rule 9 of Khyber Pakhtunkhwa appointment, promotion rules 1989 or otherwise now I have completed more than two year of service as such but still not regularized my position subject to the provision of Khyber Pakhtunkhwa appointment, promotion and transfer rules 1989, Finance Department own notifications and clear cut decision / judgments on the subject by the Supreme Court of Pakistan and now I have preferred an appeal in due course to the Khyber Pakhtunkhwa Services Tribunal for the grant of relief as stated / hinted in my reply to the Director Treasuries & Accounts Khyber Pakhtunkhwa vide No.DCA-DIK/Admn/856 dated 18-8-2015.

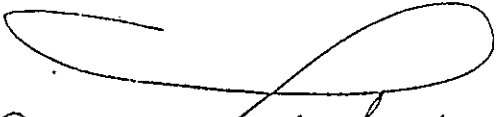
v) There is no bar of drawl of 20% current charge allowance beyond six months period on the part of affected also provided below the decision of FR.49, but authorities have required to make arrangements of current charge / own pay and scale appointment, for less than six Months period so the drawl be automatically upto six month or otherwise justice could not furnish/ deprive the persons for the no fault of their's own.

Submitted please

Dated

6/10/15

6/10/15

  
6/9/15  
(AMANULLAH)  
District Comptroller of Accounts,  
D.I. Khan.



Back ground.

Director Treasuries & Accounts, Khyber Pakhtunkhwa reported that Mr. Amanullah, District Accounts Officer (BS-18) who was posted as District Comptroller of Accounts DIKhan (BS-19) in his own pay & scale vide notification No. SO(Estt)FD/1-4/2013/GPT dated 18-09-2013 (Annex-I) has drawn current charge allowance @ Rs.6000/- P.M. illegally / un-authorizely without approval / sanction of the competent authority (Annex-II).

The undersigned was appointed as inquiry officer vide office order No. SO(Estt)/FD/1-19/2012/A.G dated 29-09-2015 (Annex-III), to conduct fact finding inquiry of the charge of unauthorized drawl of current charge allowance @ Rs.6000/- P.M. by the above named officer and submit report within 30 days.

Proceeding.

Mr. Amanullah, District Comptroller of Accounts, DIKhan was directed vide letter at Annex-IV, to attend the office of the undersigned on 02-10-2015 at 8:00 a.m. alongwith all relevant record for inquiry proceedings and to justify the drawl of current charge allowance. Accordingly, the said officer attended the office of the undersigned on 02-10-2015. Director Treasuries & Accounts and S.O.(Estt) were also present during the inquiry proceedings.

During inquiry proceeding the above named officer has informed that after his posting as DCA DIKhan (BS-19) in his own pay & scale, on 18-09-2013, he assumed the charge of the said post on 23-10-2013 and submitted the case for grant of financial benefits of higher pay scale, to the Finance Department for grant of sanction/ approval, in the light of Finance Division letter No. F.8(4)/Imp/97 dated 06-10-2003 (Annex-V). However, when no response from the administrative department received till December, 214 therefore, he has drawn the current charge allowance @ Rs.6000/- P.M. w.e.f. 11/2013 excluding the period of 04 months earned leave, in the light of Finance Department letter No. FD(SR-1)2-2-2000 dated 26-12-2002 (Annex-VI). He added that no prior consultation of Finance Department was required in my case due to the reason that my posting was made by the Finance Department and the competent authority.

Moreover, posting of officers in own pay & scale has not legal effect under the rules but only current charge or acting charge appointment should be made in the light of provision under Rule-9 of the Khyber Pakhtunkhwa (Appointment Promotion & Transfer) Rules, 1989.

The officer concerned was directed to submit his written statement. Accordingly, he has submitted his written statement on 06-10-2015 (Annex-VII).

FINDINGS.

15 26

After going through the relevant documents available on record and written statement of the officer concerned, it is observed that:

- i) the above named District Accounts Officer (BS-18) was posted against the post of District Comptroller of Accounts (BS-19), in his own pay & scale. There is no indication regarding his appointment on current charge basis, in the office order of his posting / transfer at Annex-I.
- ii) The said officer assumed the charge of the post of DCA DIKhan and claimed financial benefit for his posting in higher pay scale in the light of Finance Department letter at Annex-VIII, which is under process.
- iii) In December, 2014 he has drawn current charge allowance @ Rs.6000/- P.M. with arrear from the date of his posting at his own level by presuming his posting as appointment on current charge basis.
- iv) The officer admitted drawl of current charge allowance as irregular in his reply to the Director Treasuries & Accounts vide Annex-IX, by stating that current charge allowance being drawn by him on holding the post of DCA (BS-19) on current charge basis will be adjusted if the competent authority granted him the graded pay of DCA (BS-19) for which the case is already in the process, since his posting.

In the light above discussion, the current charge allowance being drawn by the above named officer is irregular and misuse of official position as District Accounts Officer.


  
(DAWOOD KHAN)

Add: Finance Secretary (Budget)/  
Inquiry Officer

E.No.13-13(P-445)

*Put up Please*

Asstt:

  
20/1/15

~~20/1/15~~  
Diary No. 13/445  
Date 22/1/15



**OFFICE OF THE  
DISTRICT COMPTROLLER OF ACCOUNTS  
D.I. KHAN**

No. DCA-DIK/Admn: 1856,

Dated: 18.08

To

The Director,  
Treasuries & Accounts,  
Khyber Pakhtunkhwa,  
Peshawar.

**SUBJECT: JUSTIFICATION REGARDING DRAWAL OF CHARGE  
ALLOWANCE.**

Memo:

Kindly refer to your letter No. 19-24/DT&A/15/Budget/DIKhan/1 dated 17.08.2015, on the subject.

The Charge allowance @ Rs. 6000/- P.M, being draw by the under consequently on my status as still holding the Post of District Comptroller of Accounts D.I.Khan (B-19) on current charge basis as per existing rules, or otherwise the same be adjusted if the Competent Authority granted me the graded Pay of District Comptroller of Accounts (B-19) for which the case is already in the process since posting to date through your good self, please.

DD.

19/8/15

District Comptroller of Accounts  
Dera Ismail Khan

E

150 1

POWER OF ATTORNEY

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)  
ORIGINAL JURISDICTION

Govt. of KPK and others

PETITIONER(S)

VERSUS

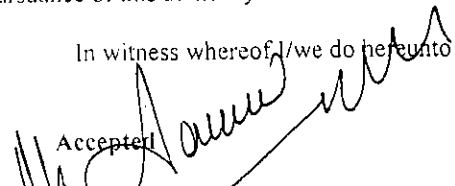
Mr. Amanullah

RESPONDENTS

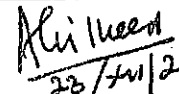
I, through Petitioner (Govt. of KPK) in the above Petition, do hereby appoint and constitute Mian Saadullah Jandoli, Advocate-on-Record, Supreme Court, for Govt. of KPK the Attorney for the aforesaid Petitioner(s) to commence and prosecute appear and defend this action/appeal/suit/petition/reference on my/our behalf and all proceeding that may be taken in respect on any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take back documents, to accept the proceeds of the Court, to appoint and instruct Counsel, to represent the aforesaid Petitioner(s) in the above matter and to do all things incidental to such acting for the aforesaid Petitioner(s).


Aforesaid Petitioner(s) hereby agrees/agree to ratify all acts done by the aforesaid Attorney in pursuance of this authority.


In witness whereof, I/we do hereunto set my/our hand/hands

Accepted  
  
(Mian Saadullah Jandoli)  
Advocate-on-Record  
Supreme Court of Pakistan  
(for KPK) Advocate-General's  
Office KPK, High Court Building, Peshawar  
Office Tel. # 091-9210312, 9210719

Signed with Official seal stamp

  
22/11/2016  
1-2 Chief Secretary,  
Govt. of Khyber Pakhtunkhwa,  
Peshawar  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

  
3- Secretary Finance,  
Govt. of Khyber Pakhtunkhwa,  
Peshawar.

  
4- Secretary Establishment  
Govt. of Khyber Pakhtunkhwa  
Peshawar.

  
5- Director Treasuries & Accounts,  
Khyber Pakhtunkhwa, Peshawar.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Dated Pesh: the 16-09-2016

OFFICE ORDER

No.SO(Estt)/FD/19-25/015/Amanullah. WHEREAS a facts finding inquiry of the charges of unauthorized drawal of Rs.120,000/- on accounts of current charge allowance, was conducted against Mr. Amanullah, District Accounts Officer (BS-18) posted as District Comptroller of Accounts (BS-19) DIKhan in his own pay & scale and he was given an opportunity of personal hearing vide No. PA to AFS(B)/2015 dated 30-09-2015.

AND WHEREAS, Inquiry Officer Mr.Daud Khan, Additional Finance Secretary (Budget / Admn), Finance Department submitted his findings that current charge allowance being drawn by the above named officer is irregular and misuse of official position as District Accounts Officer.

AND WHEREAS, the competent authority under Rule-5 read with Rule-7 of Khyber Pakhtunkhwa Govt; Servant (Efficiency & Discipline) Rules, 2011 dispense with the formal inquiry and a show cause notice alongwith a copy of Inquiry report was served upon Mr. Amanullah indicating the imposition of penalty and giving him the opportunity of showing cause.

AND WHEREAS, he was given an opportunity of replying / personal hearing and he was replied accordingly.

NOW THEREFORE, the undersigned after going through the record and reply of show cause notice is satisfied that the charges against him are proved. Therefore being competent authority in this case and in exercise of the powers conferred upon me under rule-14 of the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 order the imposition of minor penalty of "censure + recovery of unauthorized drawn amount of Rs.120,000/- (Rs.One hundred and twenty thousand only)" on Mr.Amanullah District Comptroller of Accounts DIKhan in his own pay & scale.

CHIEF MINISTER,  
KHYBER PAKHTUNKHWA

No.\_SO(Estt)/FD/19-25/015/Amanullah

Dated Pesh: the 16-09-2016

Copy forwarded for information and necessary action to:-

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director, Treasuries and Accounts, Khyber Pakhtunkhwa
3. The District Comptroller of Accounts, DIKhan
4. Mr. Amanullah, District Accounts Officer (BS-18) posted as DCA (BS-19), DIKhan in his own pay & scale.
5. PS to Chief Minister, Khyber Pakhtunkhwa.
6. PS to Secretary Finance.

(MUHAMMAD AMAN)  
Section Officer (Estt)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Dated Pesh: the 16-09-2016

OFFICE ORDER

No.SO(Estt)/FD/19-25/015/Amanullah. WHEREAS a facts finding inquiry of the charges of unauthorized drawal of Rs.120,000/- on accounts of current charge allowance was conducted against Mr. Amanullah, District Accounts Officer (BS-18) posted as District Comptroller of Accounts (BS-19) DIKhan in his own pay & scale and he was given an opportunity of personal hearing vide No. PA to AFS(B)/2015 dated 30-09-2015.

AND WHEREAS, Inquiry Officer Mr.Daud Khan, Additional Finance Secretary (Budget / Admn), Finance Department submitted his findings that current charge allowance being drawn by the above named officer is irregular and misuse of official position as District Accounts Officer.

AND WHEREAS, the competent authority under Rule-5 read with Rule-7 of Khyber Pakhtunkhwa Govt; Servant (Efficiency & Discipline) Rules, 2011 dispense with the formal inquiry and a show cause notice alongwith a copy of Inquiry report was served upon Mr. Amanullah indicating the imposition of penalty and giving him the opportunity of showing cause.

AND WHEREAS, he was given an opportunity of replying / personal hearing and he was replied accordingly.

NOW THEREFORE, the undersigned after going through the record and reply of show cause notice is satisfied that the charges against him are proved. Therefore being competent authority in this case and in exercise of the powers conferred upon me under rule-14 of the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 order the imposition of minor penalty of "censure + recovery of unauthorized drawn amount of Rs.120,000/- (Rs.One hundred and twenty thousand only)" on Mr.Amanullah District Comptroller of Accounts DIKhan in his own pay & scale.

CHIEF MINISTER,  
KHYBER PAKHTUNKHWA

No.\_SO(Estt)/FD/19-25/015/Amanullah

Dated Pesh: the 16-09-2016

Copy forwarded for information and necessary action to:-

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director, Treasuries and Accounts, Khyber Pakhtunkhwa
3. The District Comptroller of Accounts, DIKhan
4. Mr. Amanullah, District Accounts Officer (BS-18) posted as DCA (BS-19), DIKhan in his own pay & scale.
5. PS to Chief Minister, Khyber Pakhtunkhwa.
6. PS to Secretary Finance.

*Wahid*  
20/9/16

*Wahid*  
20/9

*Mohammad Aman*  
(MOHAMMAD AMAN)  
Section Officer (Estt)

TCS

Amaz

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
No: SO(ESTT)FD/19-25/2015/Amanullah/  
Dated Pesh: the 09-3-2016

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To

Mr. Amanullah,  
District Comptroller of Accounts,  
DIKhan.

Subject: DISCIPLINARY ACTION AGAINST MR. AMANULLAH, DISTRICT ACCOUNTS OFFICER BS-18, PRESENTLY WORKING AS DISTRICT COMPTROLLER OF ACCOUNTS BS-19 DIKHAN, IN HIS OWN PAY & SCALE, UNDER THE KHYBER PAKHTUNKHWA (E&D) RULES, 2011

I am directed to refer to the subject noted above and to convey Show Cause Notice in original duly signed by the Chief Minister, Khyber Pakhtunkhwa, the competent authority, alongwith copy of inquiry report which are self explanatory for information and compliance.

Encl: As above.

(MUHAMMAD AMAN)  
Section Officer (Estt.)

F.No.1-1-16(P-134)

Received  
on 16/3/2016

SHOW CAUSE NOTICE

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I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Amanullah, District Accounts Officer BS-18 working as District Comptroller of Accounts, BS-19 DIKhan (in his own pay & scale) as follows:-

- (i) "You have drawn Rs:120,000/-, on account of current charge allowance @ Rs.6000/- per month w.e.f. November, 2013 for the whole duty period during your posting as District Comptroller of Accounts BS-19 DIKhan in his own pay & scale without approval / sanction of the competent authority, by misusing the authority as District Accounts Officer / Custodian of the Government Treasury".
- (ii) On going through the findings of the inquiry officer, the material on record including your defense before inquiry officer wherein you have admitted drawl of said allowance:-

I am satisfied that you have committed the above acts / omissions specified in rule-3 of the Rules ibid, constituting the charge of misconduct.

2 As a result, thereof, I, as Authority, have tentatively decided to impose upon you the penalty of Censure + Recovery of unauthorised drawn amount. under rule 4 of the Rules ibid.

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

4 If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5 A copy of the findings of the inquiry officer/inquiry committee is enclosed.

*Pervez Khattak*  
PERVEZ KHATTAK  
Chief Minister, Khyber Pakhtunkhwa/  
Authority  
4/3/16

Mr. Amanullah,  
District Comptroller of Accounts (BS-18)  
DIKhan (in his own pay, & scale)



To  
The Chief Minister,  
Khyber Pakhtunkhwa,  
Peshawar.

(Handwritten initials)

(25)

Through: Proper Channel.

SUBJECT: REVIEW PETITION/APPLICATION IN RESPECT OF AMANULLAH, DISTRICT COMPTROLLER OF ACCOUNTS, DERA ISMAIL KHAN.

Honorable Sir,

ACCOUNTS

I, Amanullah the District Comptroller of D.I. Khan, most humbly submit the followings as a review Petition/Application against the Office Order bearing No.

S.O (ESTT) FD/19-25/015/Amanullah, dated 16.09.2016, received to me On 24.10.2016.

- 1). That I have drawn Rs. 120,000/= as Current Charge Allowance subject to the condition laid down for arrangement of my posting/transfer/appointment made in the light of (Appointment, Promotion and Transfer) Rules 1989, then the provincial Finance Department vide Notification No. FD(SR-1)02.02.2000, dated 26.12.2002, allowed as a General Order of Special Allowance at the rate of 20% of Basic Pay or Maximum ceiling as the case may be, Copy attached as Annexure "A".
- 2). As above, then no Rules and Order of the Competent Authority, I have breached/defiance, have been made or otherwise facts available, that the Department have not made Regular Enquiry/Concluding rather someone used the same against me as personal revenge, contrary to justice & facts.
- 3). The department as contained in the Notification bearing No. FD(SR-1) 2.2.2000, dated 26.12.2002, Copy attached as Annexure "A" have provided the word prior consultation of Finance Department, which have diverted against me into prior approval of Finance department and so on.....
- 4). The prior consultation is not within the domain of the Petitioner, however seems best <sup>applicable</sup> before other departments as and when, they are making as such arrangement in their departments and entitlement of Allowance is admissible as per Para 1<sup>st</sup> above by General Order to all concerned, therefore also could not established in the facts finding Enquiry as not admissible but the Enquiry Officer besides facts misunderstood the prior consultation into approval, so as to punish for no fault as such.
- 5). My posting/transfer/appointment not only been made by the Finance department but in facts a proper summary also been approved priorly through all the Channels From your Good self.
- 6). The matter if not clear for the department also be made opined from the Establishment and Law department so as to establish justice.

It is therefore accordingly, prayed that Order may kindly be reviewed, to exonerate me so as to establish & provide "Justice" which is the motto of present Government in particular, please.

Yours Obediently,

Dated.28.10.2016

(Amanullah)

District Comptroller of Accounts  
Dera Ismail Khan

28/10/16

The Chief Secretary,  
Govt. of Khyber Pakhtunkhwa,  
Peshawar.

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Through Proper Channel

**Subject:** APPEAL /REPRESENTATION FOR CONSIDERATION OF PROMOTION FROM DISTRICT ACCOUNTS OFFICER B-18 TO DISTRICT COMPTROLLER OF ACCOUNTS B-19 BY PSB ON ACTING CHARGE/REGULAR BASIS IN R/O AMANULLAH D.A.O. TORGHAR FROM THE DATE WHEN JUNIOR WERE PROMOTED.

Sir,

Most humbly requested that on the subject narrated matter, that I Amanullah presently working as D.A.O Torghar, resident of District Battagram being regularly, deffered in the P.S.B Meetings held on 25.09.2017, 17.09.2018 and 19.04.2019 from District Accounts Officer BPS-18 to District Comptroller of Accounts BPS-19 on the grounds , that two enquires are pending against me and PER for the year 2015 not available while my most junior cadre fellows are promoted.

I am therefore accordingly compelled to brought into your kind notice the factual position in r/o the above mentioned stigmas as below :-

**1. Factual position of Enquiry No.1**

The enquiry was conducted by the enquiry committee in the month of January, 2017 and report was submitted to concerned in May, 2017 therefore I received a show cause notice in the month of November , 2017 and I was submitted reply accordingly vide No.DAO/TG/B-I/1501 dated 08.12.2017 (Copy attached for ready reference as annexure -A )

Hence nothings are pending on the part of me, therefore adverse using/lying of the same as pending are not justified in the light of Establishment of justice and various judgments of the superior Courts, in as such position also provided that promotion of a Civil Servant may not be keep pending due to as such bars.

**2. Factual Position of Enquiry No. 2**

This one is not an Enquiry to be pending, however a 2<sup>nd</sup> show cause notice vide No.SO(ESTT)FD/19-25/2015/Amanullah, dated 01.02.2017 was served upon me, on the same facts, enquiry and alligations on which once legal proceeding was completed and minor punishment was imposed upon me, as such even after mandatory period was also lapsed , therefore the same was challenged by me in the Peshawar High Court Peshawar through a writ petition No.537-P/2017 and so far the same order of the Competent Authority is suspended by the Honorable Peshawar High Court , Peshawar , order dated 10.02.2017 , copy of the order sheet , (attached as annexure-B).

Hence operation of adverse effect of the same against me is violation of court order as per the knowledge and belief of me.

The PER for the year 2015. Not Available.

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In fact my PER for the period 25.08.2015 to 31.12.2015 was intimated to me as adverse remarks of the reporting officer and countersigning officer, therefore accordingly I was preferred an appeal before, the Chief Secretary of Khyber Pakhtunkhwa, for its expunge on facts, grounds and figures, so the then Chief Secretary i-e Muhammad Azam Khan Sb was pleased to expunge the adverse remarks of reporting /countersigning officers received to me vide office order NoSO(ESTT)FD/1-51/2017/ACR/Amanullah, dated 26.12.2017 (Copy of the order attached as annexure-C) and remaining portion was asked me as under process, which is still on the others parts and not me.

If the other portion i-e w-e-f 01.01.2015 to 24.08.2015 is still not completed, by someone, then it is provided under the provision of E&D Rules 2011, Rule No.2 (i) (vii) as misconduct on some one part, therefore accordingly requested for appropriate necessary action instead the same is bar against me for my due service advancement , or otherwise an alternate solution also been provided in the matter as per Para No.2.39-A (2) (3) (4) of a guide to performance Evolution/ACRs (Copy attached as annexure-D) and most appropriate that my reporting officer for the whole year 2015 is one and same, therefore his reporting and remarks which are for the period 25.08.2015 to 31.12.2015 are same for the other portion may kindly be treated for the whole year 2015 as expunged by the Competent Authority and Matter of countersigning be dealt as per Rules Para. 2-39 A (4) by only recording of reason as in Part IV of the PER cannot countersigned being countersigning officer was Employee of Federal Govt, and his repatriation is tantamount to as an officer retired from the department service, so dealing completion of P.E.Rs provided as explained above,

The position narrated as above accordingly prayed that I may kindly be granted/reviewed my due rights of service advancement and promotions as on acting charge basis as DCA B-19 from the date of 25.09.2017, when my juniors were promoted/appointed on acting charge basis and from 17.09.2018 on regular basis as DCA B-19, when my Most Junior were promoted on Regular basis, also both the services events on proforma basis under the provision of FR-17, please.

Thanking you an anticipation

Dated 04.07.2019

Yours Obediently

(Amanullah)  
DAO Torghar