

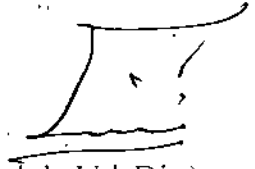
02.12.2022

Clerk of learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not feeling well today. Adjourned. To come up for arguments on 30.01.2023 before the D.B.



(Rozina Rehman)  
Member (J)



(Salah-Ud-Din)  
Member (J)

30<sup>th</sup> Jan, 2023

Junior of learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy before the august Supreme Court of Pakistan. Last opportunity is granted to argue the case on the next date falling which the case will be decided on the available record without arguments. To come up for arguments on 08.05.2023 before D.B.



(Muhammad Akbar Khan)  
Member (E)




(Kalim Arshad Khan)  
Chairman

SCANNED  
KPST  
Peshawar

SCANNED  
KPST  
Peshawar

11.08.2022


Junior to counsel for the appellant present and requested for adjournment on the ground that senior counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 28.09.2022 before S.B.

  
(Fareeha Paul)  
Member (E)

28.09.2022

Mr. Waleed Khan, Junior of learned counsel for the appellant present. Mr. Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

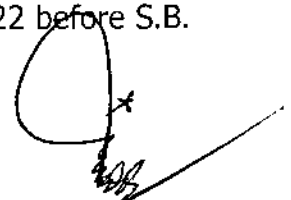
Junior to learned counsel for the appellant appeared and *se-* argued the case on those lines previously reflected in order sheet dated 22.11.2021. Learned Assistant Advocate General assisted the Bench and his views were also *in* consonance with those of the Bench. Since reply/comments of the respondents on pre-admission notice have been received, the case is therefore to be posted for regular hearing before the D.B on 02.12.2022.

  
(Mian Muhammad)  
Member (E)

30.03.2022

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.


Written reply/comments on pre-admission notice not submitted. Notices be issued to the respondents for submission of written reply/comments. Adjourned. To come up for written reply/comments /preliminary hearing on 22.06.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER(E)

22<sup>nd</sup> June, 2022

Counsel for the appellant present. Syed Naseer Ud Din Shah, Asst: AG for respondents present.

Written reply on behalf of the respondents not submitted. Last chance is given to the respondents. Respondents are directed to submit reply on or before the next date. To come up for written reply/comments/preliminary hearing on 11.08.2022 before S.B.

  
(Kalim Arshad Khan)  
Chairman

**Late Diary**

22<sup>nd</sup> June, 2022

Learned counsel for the appellant present. Syed Naseer Ud Din Shah, Asst: AG for respondents present.

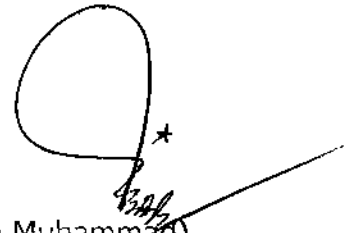
Written reply/comments on behalf of the respondents submitted which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. To come up for preliminary hearing on 11.08.2022 before S.B.

  
(Kalim Arshad Khan)  
Chairman

22.11.2021

Counsel for the appellant present. Preliminary arguments have been heard.

Learned counsel for the appellant contended that the appellant is aggrieved of the impugned order dated 20.08.2018 whereby he was awarded the major penalty of "Removal from service". The appellant preferred departmental appeal to the appellate authority on 24.12.2019 which was not responded, hence, the instant service appeal filed in the Service Tribunal on 13.05.2020. According to learned counsel for the appellant the impugned order is void ab-initio as no prescribed procedure has been followed to conduct a formal/regular enquiry and the impugned order has been issued with retrospective effect i.e from the date of his absence (17.07.2018) as ex-parte action without meeting the ends of justice. Moreover, as per judgement of Larger Bench in service appeal No. 562/2016 titled Rahim-ud-Din-vs-Inspector General of Police, Khyber Pakhtunkhwa and others, it has been held that in case of void order(s) limitation does not run. On the contrary, the supreme court of Pakistan in CP No. 2478 of 2019 dated 24.12.2020 has held that even a void order needs to be challenged and the period of limitation provided by the law, is to be taken into account. Let pre-admission notice be issued to respondents to submit reply/parawise comments and assist the Tribunal. To come up for preliminary hearing on 28.01.2022 before S.B.

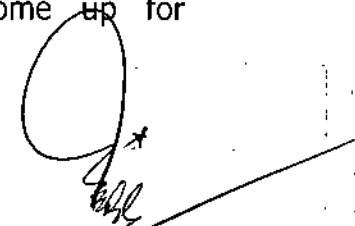


(Mian Muhammad)  
Member(E)

28.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Written reply on pre-admission notice not submitted. Learned AAG seeks time to contact the respondents for submission of written reply. Adjourned. To come up for reply/preliminary hearing on 30.03.2022 before S.B.



(Mian Muhammad)  
Member(E)

30.06.2021

Junior to counsel for appellant present.

He made a request for adjournment as senior counsel is busy before Hon'ble Peshawar High Court, Mingora Bench. In this regard, application was also submitted which is placed on file of Service Appeal No.2238/2019 titled Muhammad Ismail. Case is adjourned. To come up for preliminary hearing on 28.09.2021 before S.B.



(Rozina Rehman)  
Member(J)

28.09.2021

Mr. Said Khan, Advocate junior of counsel for the appellant present.

Junior of learned counsel for the appellant requested for adjournment on the ground that senior learned counsel is busy before the Peshawar High Court, Peshawar in some other cases. Adjourned. To come up for preliminary hearing before the S.B on 22.11.2021.



(MIAN MUHAMMAD)  
MEMBER (E)

29.10.2020

Appellant present in person.

Lawyers are on general strike, therefore, case is adjourned to 13.01.2021 for preliminary hearing, before S.B.

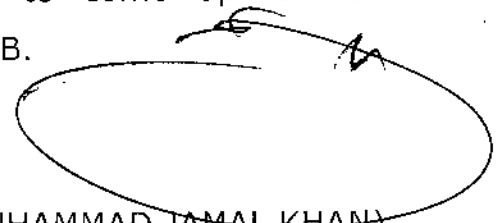


(Rozina Rehman)  
Member (J)

13.01.2021

Mr. Afrasiyab Wazir, Advocate, for appellant is present.

Learned counsel for appellant while making reference to impugned order dated 20.08.2018 submitted that retrospective effect was given to the referred to order, the issue with retrospectivity is pending before the Larger Bench of this august Tribunal constituted for the purpose therefore, unless and until judgment is made by the worthy Larger Bench of this Tribunal, this appeal is kept pending. File to come up for further proceedings on 18.02.2021 before S.B.



(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

18.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 30.06.2021.






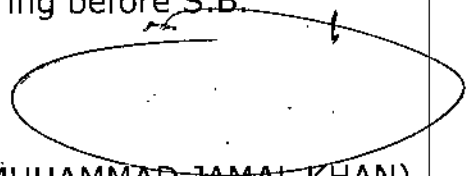
**Reader**

Form- A

FORM OF ORDER SHEET

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

Case No.- 4306 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/05/2020	<p>The appeal of Mr. Zia-ur-Rahman presented today i.e 13.05.2020 by Mr. Noor Muhamamd Khattak Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR, 13/5/2020.</p>
2-	28.05.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up on <u>28.05.2020</u></p> <p style="text-align: right;"> MEMBER</p> <p>Nemo for appellant.</p> <p>Notices be issued to appellant/counsel for preliminary hearing on 06.08.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	06.08.2020	<p>Mr. Noor Muhammad Khattak, learned counsel for the appellant is present. He is seeking adjournment for non-preparation of the instant appeal. Adjourned to 29.10.2020. File to come up for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER</p>

SCANNED  
KPST  
Peshawar

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

APPEAL NO. 4306 /2020

**ZIA UR REHMAN**

**VS**

**H/EDUCATION DEPTT:**

**INDEX**

<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
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2	Appointment order	<b>A</b>	4.
3	Medical certificate	<b>B</b>	5.
4	FIR	<b>C</b>	6.
5	Impugned order	<b>D</b>	7.
6	Judgment	<b>E</b>	8- 13.
7	Departmental appeal	<b>F</b>	14.
8	Vakalat nama	.....	15.

**APPELLANT**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**



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

**APPEAL NO \_\_\_\_\_/2020**

Mr. Zia-Ur-Rehman, Ex- Naib Qasid (BPS-03),  
Government Degree College, Hangu.....**APPELLANT**

**VERSUS**

- 1- The Secretary Higher Education, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
- 3- The Principal, Government Degree College, Hangu.

.....**RESPONDENTS.**

**APPEAL UNDER SECTION-4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST**  
**THE IMPUGNED ORDER DATED 20.08.2018 WHEREBY**  
**MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN**  
**IMPOSED ON THE APPELLANT AND AGAINST NO ACTION**  
**TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT**  
**WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on the acceptance of this service appeal, the impugned order dated 20.08.2018 may very kindly be set aside and the appellant be reinstated into service with all back benefits. And any other remedy which this August Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

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

- 1- That appellant was initially appointed as Naib Qasid (9BPS-03) in the respondent Department vide order dated 15.12.2017. That after appointment against the said post the appellant started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order and medical certificate are attached as annexure.....**A & B.**

- 2- That during service of the appellant an FIR No.648, U/S 380, dated 08.07.2018 in P.S City Hangu was lodged against unknown person. That later the appellant and two other employees of the college were falsely implicated in the aforementioned FIR. Copy of the FIR is attached as annexure.....C.
- 3- That on the basis of above mentioned FIR the respondent Department removed the appellant from his service vide impugned order dated 20.08.2018 without fulfilling the legal formalities and without waiting of the decision of the learned trial Court. Copy of the impugned order is attached as annexure.....D.
- 4- That later on the appellant was acquitted in the criminal appeal by the Learned Additional Session Judge-II vide judgment dated 27.11.2019. Copy of the Judgment are attached as annexure.....E.
- 5- That after acquittal in the criminal case the appellant filed Departmental appeal before the appellate authority but no reply has been received so far from the quarter concerned. Copy of the Departmental appeal is attached as annexure.....F.
- 6- That the appellant feeling aggrieved filed departmental appeal dated 24.12.2019 against the aforementioned impugned order but no reply has been made so far. Copy of the departmental appeal is attached as annexure.....G.
- 7- That the appellant feeling aggrieved and having no other remedy but to file this instant service appeal on the following grounds amongst others.

**ON GROUNDS:**

- A- That the impugned order date 20.08.2018 is against the law, facts, norms of natural justice and material on record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondent department acted in arbitrary and malafide manner while issuing the impugned order dated 20.08.2018 which is

not tenable in the eye of law, therefore, the same is liable to be set aside.

D- That no charge sheet and statement of allegation have been served on the appellant before issuing the impugned order dated 20.08.2020.

E- That respondent department while issuing the impugned order dated 20.08.2018 haven't served show cause on the appellant.

F- That no chance of personal hearing/defense has been provided to the appellant before issuing the impugned order dated 20.08.2018 which is mandatory as per judgment of the Supreme Court of Pakistan.

G- That the complainant has not been cross examined by the appellant before issuing the impugned order dated 20.08.2020 which necessary as per rule.

H- That the appellant seeks permission to adduce other grounds and proofs at the time of hearing.

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

Dated: 13.05.2020.

**APPELLANT**

*Zia Ur Rehman*  
**ZIA UR REHMAN**

**THROUGH:**

*N.M. Khattak*  
**NOOR MUHAMMAD KHATTAK**

*Mir Zaman Saei*  
**MIR ZAMAN SAEI**

**&**

**AFRASIAB KHAN WAZIR  
ADVOCATES**



# GOVERNMENT DEGREE COLLEGE HANGU

Thall Road, Hangu: 26190, KPK, Pakistan, Phone No: 0925-621517

Email address: mis.gdchangu@gmail.com



No. 1634 Dated Hangu the 15/12/2017

## Appointment Order:

Consequent upon the recommendation submitted by the Departmental Selection Committee, the competent authority is pleased to appoint the following candidate against the vacant post and designation mentioned below in BPS-3 (9610-390-21310) plus other usual allowances as admissible under the rules (Regular Policy) from the taking over charge on the terms and conditions mentioned below

SNO	Name	Father Name	Address	Designation
1	Mr. Zia ur Rehman	Mr. Abdur Rahim	Hayatabad, Hangu	Naib Qasid (Against Vacant Post)

### Terms and Conditions:

1. The candidate shall produce health and age certificate from the Medical Superintendent/ Civil Surgeon
2. He will have all rights/privileges contained in Khyber Pakhtunkhwa Civil Servant Act, 1973 with all amendment Act, 2005 and rules made there under.
3. His service will be liable to termination on one month prior notice or his one month pay and allowances shall be forfeited to the Government treasury.
4. He will be governed by such rules and regulations issued from time to time by the Government.
5. In case of disciplinary matters Khyber Pakhtunkhwa Government Servants (efficiency and disciplinary rules) 2011 shall be applicable.
6. Charge report should be submitted to all concerned.
7. He must join the post within 30 days of the issuance of this notification.

*Prof. Zafullah Khan*

Principal

Government Degree College  
Hangu

Endst. No. \_\_\_\_\_ /P. File Dated Hangu the 15/12/2017

Copy of the above is forwarded to the:

1. Director, Higher Education Department, KPK, Peshawar
2. District Account Officer, Hangu.
3. Official Concerned
4. Office Record

**ATTESTED**

*Prof. Zafullah Khan*

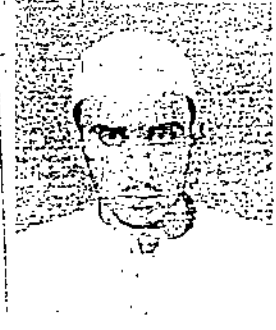
Principal

Government Degree College  
Hangu

B-5

### MEDICAL CERTIFICATE

Name of Official... Zia-ur-Rehman  
 Cast or race... Orakzai  
 Father's Name... Abdus-Rahman  
 Residence... Hajiabad Hangu  
 Date of Birth... 01-10-1999  
 Exact height by measurement... 5' 3"  
 Personal mark of identification.....  
 Signature of the Official... Zia-ur-Rehman  
 Signature of Head of office.....

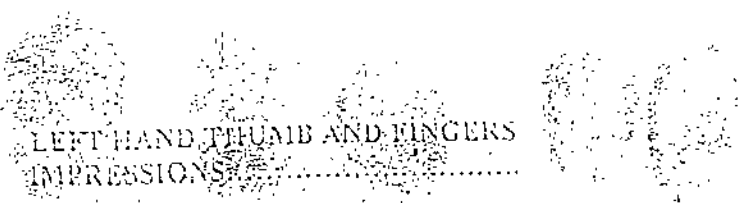


Seal of office.....

I do hereby certify that I examined physically Mr./Miss/Mrs. Zia-ur-Rehman  
 S/D/W/O Abdus-Rahman a candidate for employment in the office of  
 the Govt. Degree College and could not discover that he/she has any disease  
 communicable or other constitutional affection or bodily infirmity except nil

I do not consider this as disqualification for employment in the office of the  
Govt. Degree College

His/her age according to his/her own statement is 18 years & 00 months and by  
 external/physical appearance he/she is about 18 years & 00 months.



LEFT HAND THUMB AND FINGERS IMPRESSIONS.....

Zahid Khan  
 Medical Superintendent  
 Farid Khan Shabbir PHQ  
 Hospital Hangu

19/12/99

**ATTESTED**

*(Handwritten signature)*

6

نمبر 73

# ایڈجسٹڈ رپورٹ

نمبر 5  
نمبر 151  
نمبر 151

ایڈجسٹڈ اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شروع شدہ نمبر 151 مجموعہ مطابق نوپوری

نمبر 648

تاریخ وقت وقوعہ 07/08-7 بجوت شب فاسلم

1	تاریخ و وقت رپورٹ	08/08 بجوت 14:55
2	نام و سکونت اطلاع دہندہ و منیٹ	1-555-971-501
3	مختصر کیفیت جرم (موردہ نمبر) حال اگر کچھ یا گیا ہو	پچھلے سال 2017-18 میں 14 سال تک مسلسل یا آڑاں مسلح ترک خان
4	جائے وقوعہ نام ملہ تقارن سے اور سمیت	کمپیوٹر لیب واقع ٹیڈ ٹیڈ ڈگری کالج سٹیو ریفا ملہ تقارن سے اور سمیت
5	نام و سکونت ملزم	380 PPC
6	کارروائی پوزیشن کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو تو وہ بیان کرو۔	بیر سیرگی رپورٹ پر چھو دیا جاتا ہے
7	تقارن سے روائی کی تاریخ و وقت	بیر سیرگی ڈاک

ایڈجسٹڈ اطلاع نمبر درج کرو جناب عالی! مستند طور پر اطلاع درج  
 بخاری تقارن اور رپورٹ کرتا ہے۔ کہ میں امرہ رخانہ خود میں موجود تھا۔ کہ نام ملزم سے  
 اطلاع ملی کہ کالج میں کمپیوٹر لیب سے چوری ہوئی ہے۔ جو کہ پورا کالج میں  
 ہی رجم اور آڈیشن ہلاک کے عمل کے تحت نام ملزم / ملزمان نے کور کر لیا اور  
 لیب سے لپٹا گیا، پر وہ لیب کے فرائض کا پتہ لگا کر اس پر مشورہ طور پر لیب کے  
 کئے گئے ہیں۔ جزیر میں قسمی کر رہا ہوں۔ لیب کے پتہ پر وہ لیب سے  
 سامان کی تفصیل پچھوانی بنا لیگی۔ وہ کمپیوٹر لیب سے سامان چوری کر لیا  
 میرا نام فاسلم ملزم / ملزمان دیکھا ہوا ہے۔ کہ نام ملزم / ملزمان نے لیب سے  
 ہفت گھنٹہ ساٹھ کی رپورٹ درج ہلا ہوا ہے۔ کہ نام ملزم / ملزمان نے لیب سے سامان چوری کر لیا  
 اور رپورٹ خود دستخط انگریزی میں کی۔ جسکی میں ذمہ دار ہوں۔ کہ نام ملزم / ملزمان نے  
 سے صورت جرم ہلا کی پائی جا کر پوچھ جرم ہلا ہوا ہے۔ کہ نام ملزم / ملزمان نے لیب سے سامان چوری کر لیا  
 151 سٹاف کیا جاتا ہے۔ پوچھ پچھا کر لیا ہے۔

151  
151  
151

ATTESTED

151



**GOVERNMENT DEGREE COLLEGE HANGU**

Thall Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517

Email address: mis.gdchangu@gmail.com



No. 1849 Dated Hangu the 22/08/18

Mr. Zia-ur-Rehman,  
Naib Qasid, GDC Hangu.

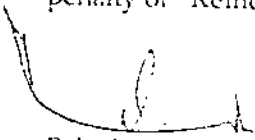
D-7

Subject: REMOVAL FROM SERVICE

Memo:

You being in probation period have committed a heinous crime of stealing various items from computer lab of the college. The inquiry committee recommended the imposition of major penalty of "Removal from Service" upon you. However, the undersigned sent you a show cause notice vide this office letter No. 1838 dated 02/08/2018 whereby you were given one last chance to explain your position in written or communicate to the undersigned a day within the prescribed time (10 days) if you wished personal hearing in front of the undersigned but you neither submitted a written explanation nor opted a day for personal hearing which means that you have no explanation to offer and hence admit the charges leveled/proved against you.

Now, the undersigned being the competent authority, in exercise of powers conferred under the Khyber Pakhtunkhwa Efficiency & Disciplinary Rules 2011, is pleased to impose the major penalty of "Removal from service" upon you w.e.f 17/07/2018.


  
Principal

Government Degree College, Hangu

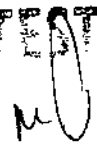
Endst. No. \_\_\_\_\_ Dated Hangu the 22/08/18

Copy forwarded for information to the:

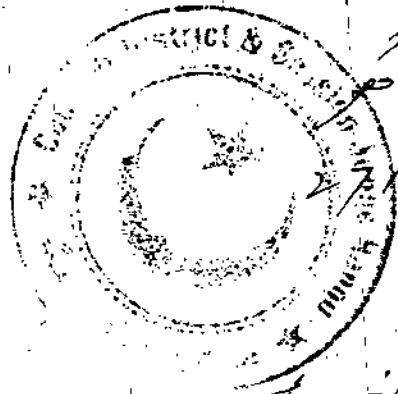
1. P.S. to Secretary Higher Education, Khyber Pakhtunkhwa, Peshawar
2. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar
3. Coordinator JMC/Principal GPCC, Kohat
4. District Accounts Officer, Hangu
5. Office Copy

  
Principal

Government Degree College, Hangu

**ATTESTED**  


E. (8)



لہذا یہ فیصلہ - سیشن جج II ص 3  
27/11/19  
24/9/19  
22 APR 3/19  
648  
8/7/18  
38002

O.....25

27/11/2019

Accused / appellants alongwith counsel and APP for the State present, Arguments heard and record perused.

Vide my detailed judgment, consisting upon (5) pages, separately placed on file. Impugned order and judgment passed by the learned trial court is set aside and the appellants are acquitted of the charge leveled against them. They are on bail, their bail bonds stand cancelled and sureties to them are absolve from the liabilities of bail bonds. Case property be dealt with in accordance with the law.

Record be returned, while this file be consigned to record room after its necessary completion and compilation.

Announced:

27/11/2019

*Muhammad Tayyib*

(Muhammad Tayyib)  
Additional Sessions Judge-II, Hangu

CERTIFIED TO BE TRUE COPY  
5/12/19  
EXAMINED  
COPYING AGENCY HANGU



IN THE COURT OF MUHAMMAD TAYYIB  
ADDITIONAL SESSIONS JUDGE-II, HANGU

Criminal Appeal No.3/19 of 2019

Date of Institution: 24.09.2019

Date of Decision: 27.11.2019

1. Muhammad Qasim s/o Muhammad Hassan,
2. Zia-ur-Rehman s/o Abdur Rahim, and
3. Naimat Ullah s/o Hanif Jan.

(R/o Bypass road, Tehsil & District Hangu).

.....(Appellants/ Accused)

... versus...

1. The State.
2. Roshmali Khan s/o Mir Nawab R/o Moghal Banda, Karak.

... (Respondents)

Criminal Appeal against order and judgment dated 18.09.2019 passed by learned Senior Civil Judge /Judicial Magistrate, Hangu, whereby, accused/ appellants Muhammad Qasim, Zia-ur-Rehman and Naimat Ullah were convicted and sentenced to suffer three years R.I and to pay a fine of Rs.20,000/- each, in default of which to undergo 2 months R.I in case FIR No.648 dated 08.07.2018, u/s 380 PPC PPC, P.S City Hangu.

JUDGMENT:

27.11.2019

By virtue of instant criminal appeal appellants/ accused Muhammad Qasim, Zia-ur-Rehman and Naimat Ullah have questioned the order and judgment of learned Senior Civil Judge/ Judicial Magistrate, Hangu dated 18.09.2019, whereby, appellants/ accused were convicted under section 380 PPC in case FIR No.648 dated 08.07.2018, P.S, City Hangu, and were sentenced to undergo three years Rigorous imprisonment and to pay fine of

Muhammad  
27-11-19

ENTRUSTED TO  
5/12/19  
CLIPPING AGENCY HANGU

Rs.20,000/- each. In default of which, accused shall further undergo two months R.I. It is requested that said impugned judgment may kindly be set aside and accused/ appellants be acquitted from the charges leveled against them, being innocent.

1. Brief facts giving rise to the filing of instant appeal are that complainant lodged FIR No.648 dated 08.07.2018 u/s 380 PPC, P.S City Hangu against accused/ appellants. After registration of the case and completion of investigation, accused were summoned, who put their appearance and after their indictment, prosecution evidence was called upon. The learned trial Court after conclusion of trial vide impugned judgment dated 18.09.2019 convicted & sentenced accused/ appellants to undergo three years R.I and to pay fine of Rs.20,000/- each. Hence, the instant criminal appeal.
2. Arguments already heard and available record gone through.
3. Record transpires that the case of prosecution is entirely based on circumstantial evidence as neither the appellants/accused were charged in the initial report nor the occurrence was witnessed by anyone. Prosecution mainly relies on the identification of accused Zia-ur-Rehman, who was employee of the College, in the CCTV recordings and recovery of stolen property on the pointation of accused.
4. As far as identification of accused through CCTV recordings is concerned, admittedly no expert opinion regarding genuineness thereof was obtained. PW-05 stated that accused Zia-ur-Rehman was identified by complainant (PW-1) and Muhammad Iqbal Lecturer (PW-3), however, both the witnesses did not utter a single word regarding identification of accused Zia-ur-Rehman in their statement. As far as rest of the two accused/appellants namely Muhammad Qasim & Naimat Ullah both of

*Muhammad Qasim*  
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them were admittedly not identified in the CCTV recordings (Ex-P.1). Muhammad Iqbal (PW-3), who was alleged to have identified accused Zia-ur-Rehman, stated in his cross examination that *"It is correct that in CCTV cameras footage, we did not identify all three accused"*. Hence, the very identification was not proved through confidence inspiring evidence.

5. Record further shows that accused Muhammad Qasim & Naimatullah were charged on the basis of statement of accused Zia-ur-Rehman u/s 161 Cr.PC. which is not an admissible evidence in the eye of law in view of Article 38, 39 and Article 129(b) of Qanun-e-Shahadat Order, 1984.

6. So far as recovery of stolen property on the pointation of accused is concerned, perusal of recovery memo Ex.PW-7/8 depicts that the said property was allegedly recovered on joint pointation of all the accused. It is by now settled law that joint pointation carries no evidentiary value and cannot be used against an accused for his conviction. The said recovery memo also shows that all the accused have allegedly made joint pointation as their thumb impressions were jointly obtained while in the custody of police. Likewise, recovery memo Ex.PW-7/8 & Ex.PW-7/9 also shows that no independent private person was associated with the recovery despite that the same could have easily been procured, which factum also makes the recovery doubtful. Wisdom can be taken from the judgment rendered in the case of "Rahid Khan ... Vs... The State" reported as 2019 MLD 675 [Peshawar] and Tariq Hussain ... Vs... The State, reported as 2019 PCrLJ Note 124 [Peshawar]. Also the prosecution could not furnish any plausible reason or explanation for non-associating independent private person with the recovery of stolen article.

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7. Learned Public Prosecutor argued that recovery was effected from the place within the exclusive knowledge of accused, therefore, in view of Article 40 of Q.S.O. 1984, such recovery is admissible. However, Ex.PW-7/8 shows that the recovery was alleged to have been made from the shop of accused Naimat Ullah but the prosecution has failed to bring on record any evidence to establish that the said shop was running by accused Naimat Ullah or that the same was within his exclusive possession. Likewise, recovery memo Ex.PW-7/9 transpires that the recovery was allegedly made from the servant room adjacent to Masjid Siddiqia, however, there is nothing on file to show that the said room was owned by the accused Zia-ur-Rehman. Furthermore, the prosecution also failed to establish that the said room was in the exclusive possession or use of accused Zia-ur-Rehman. Likewise, it was not alleged that the said room was either locked or not accessible to other people. It is also a settled principle of law that where a place accessible to general public then recovery of any stolen property therefrom on the alleged pointation of accused carries no weight. Wisdom can be drawn from **Rashid Khan's Case [2019 MLD 675 (Peshawar)] supra**. The manner in which the recovery was effected was also not explained by the prosecution witnesses which could have enabled the court to determine whether or not it was, in fact, the accused who put the stolen articles therein. Moreover, in order to attract the provision of Article 40 ibid the prosecution has to prove through positive cogent evidence that the information which led to the alleged recovery was furnished by the accused, however, perusal of record transpires that no such evidence was brought on record. Wisdom can be taken from the judgment rendered in the case of *"Askar Jan & others ... Vs... Muhammad Daud & others"* reported as 2010 SCMR 1604.

*Muhammad  
27-11-19*

*17/11/19*

8. Thus, from perusal of record, the recovery of stolen property is doubtful as neither private person were associated with the recovery proceedings nor the joint pointation has any value in the eyes of law. Hence, it is safe to conclude, that the prosecution could not prove its case against the appellants beyond any shadow of doubt and there exists sufficient doubts. benefit whereof must accrue in favour of appellant/accused as matter of right.

9. As a sequel to what has been discussed above, the instant appeal is accepted. Impugned order and judgment passed by the learned trial court is set aside and the appellants are acquitted of the charge leveled against them. They are on bail, their bail bonds stand cancelled and sureties to them are absolve from the liabilities of bail bonds. Case property be dealt with in accordance with the law.

10. Record alongwith copy of this judgment be returned, while this file be consigned to record room after its necessary completion and compilation.

Announced:  
27/11/2019

*Muhammad Tayyib*  
(Muhammad Tayyib)  
Additional Sessions Judge-II,  
Hangu

Certificate:

Certified that this judgment consists of (05) pages. Each page has been read, checked, corrected wherever necessary and signed by me.

*5/11/19*  
*5/11/19*  
*5/11/19*  
*5/11/19*  
*5/11/19*  
*5/11/19*

*Muhammad Tayyib*  
(Muhammad Tayyib)  
Additional Sessions Judge-II,  
Hangu

To,

The Director,  
Higher Education Department,  
Khyber Pakhtunkhwa, Peshawar.

Subject: **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED  
20/08/2018 WHEREBY THE APPELLANT HAS BEEN  
REMOVED FROM SERVICE**

Respected Sir,

It is stated that with great respect that I was appointed as Naib Qasid (BPS-03) vide order dated 15.12.2017. After my appointment I performed my duties with all zeal and zest and with honesty. During service an FIR No.648 dated 08/07/2018 under section 380 PPC in Police Station City (Hangu) was lodged against unknown persons. Later on appellant with 2 others co-accused were falsely charged in the above mention FIR and due to that reason I was arrested by the local police and sent to the prison. That on the basis of mentioned FIR the competent authority was issued the impugned order dated 20.08.2018 whereby I was removed from service without fulfilling the codal formalities and without waiting of the decision of the trial court.

Respected Sir,

That I was tried by the competent Court of law and was acquitted from the charges leveled against me vide judgment dated 27.11.2019. That after acquittal when I visited the concerned quarter for joining of duty the impugned order dated 20.08.2018 was handed over to me. It was worth to mention here that the impugned order is against the law and rules. I am feeling aggrieved from the impugned order dated 20.08.2018 preferred this Departmental appeal before your good self.

It therefore, most humbly prayed that on acceptance of this Departmental appeal the impugned order dated 20.08.2018 may very kindly be set aside and I may be re-instated into service with all back benefits. Any other remedy which your good self deems fit that may also be awarded in favor of me.

Dated: 24.12.2019.

**ATTESTED**

*[Signature]*

SINCERELY YOUR'S

*[Signature]*  
**ZIA-UR-REHMAN** (Naib Qasid),  
Govt; Degree College, Hangu

**VAKALATNAMA**

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

OF 2020

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

(RESPONDENT)  
(DEFENDANT)

I/We \_\_\_\_\_

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

*Ziaulrehman*  
\_\_\_\_\_

CLIENT

*[Signature]*  
**ACCEPTED**

**NOOR MOHAMMAD KHATTAK**

*[Signature]*  
**SHAHZULLAH YOUSAFZAI**

*[Signature]*  
**MIR ZAMAN SAFI**

&

*[Signature]*  
**AFRASIAB KHAN WAZIR**  
**ADVOCATES**

OFFICE:

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

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

SA # 4306/2020

Zir-Ur-Rahman ..... Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa  
Through Chief Secretary, Khyber Pakhtunkhwa  
& Others..... Respondents

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*(Signature)*



①

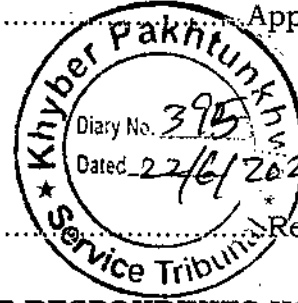
**BEFORE THE HONOURABLE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL  
PESHAWAR**

S.A # 4306/2020  
Zia ur Rehman.....

Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa  
Through Secretary Higher Education, Peshawar  
& others.....



Respondents

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

**Respectfully Sheweth:-**

**Preliminary Objections:-**

1. That the appellant has got neither cause of action nor locus standi to file the instant Service appeal.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant is trying to conceal material facts.
4. That the appellant is estopped by his own conduct to file the instant service appeal.
5. That, the instant Service Appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
6. That the instant Service Appeal is badly time-barred and barred by law.
7. That the instant service Appeal is not maintainable as no departmental appeal is filed by the appellant.

**Reply on Facts:-**

1. Correct to the extent that the petitioner was appointed as Naib Qasid vide order dated: 15.12.2017 (**Annex-A**), rest of the para is incorrect as he has not perform duty efficiently.
2. Correct to the extent that FIR was lodged by the Principal, Govt; Degree College, Hangu u/s 380 PPC (**Annex-B**) It is pertinent to mention here that on 07.07.2018 appellant along with his 2 friends committed theft form computer lab of the college. The appellant and his friends were identified through CCTV footage (**Annex-C**). All the 3 were arrested by the Police. The respondent no. 3 constituted committee to conduct fact finding inquiry on 09-07-2018 and the report was submitted on 16.07.2018 (**Annex-D**). A college council meeting was also called wherein it was decided to terminate the services of the appellant. (**Annex-E**) In light of recommendation of fact finding inquiry the respondent no. 3 constituted inquiry committee vide office order dated: 17-07-2018 to conduct formal inquiry (**Annex-F**). Charge Sheet was served upon the appellant (**Annex-G**) and personal hearing was granted on 21.07.2018 (**Annex-H**) wherein a questioner was served upon the appellant (**Annex-I**) and the appellant also confessed his guilt in his statement (**Annex-J**). The inquiry report was submitted on 30-07-2018 and show

cause was served upon the appellant on 2-8-2018 (**Annex-K**) and after fulfilment of all codal formalities, the appellant was removed from service vide order dated: 20-08-2018 (**Annex-L**) receiving of the appellant is available on order.


3. Incorrect. As already explained in Para 02.
4. The appellant was convicted by the trial court vide judgment dated: 18-09-2019 and later on acquitted by appellate court vide judgment dated: 27-11-2018 (**Annex-M**). As per reported judgment of Supreme Court, criminal and departmental proceedings can go side by side and may vary in result. (**Annex-N**) Moreover, after acquittal the appellant on stamp paper administered an oath and also mentioned before inquiry officer that he accepted his guilt and now he will not challenge his termination before any court. (**Annex-O**)
5. Incorrect. No departmental appeal is available in official record.
6. Incorrect. As already explained, no such departmental appeal is present in official record.
7. Incorrect. As already explained in Preceding paras.

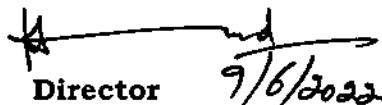
**Reply on Grounds: -**

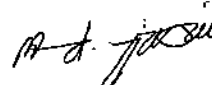
- A. Incorrect. As already explained in preceding paras.
- B. Incorrect. Appellant has been treated as per Law and no violation of Article 4 and 25 of the constitution of Pakistan caused by respondents.
- C. Incorrect. Impugned orders are passed correctly in accordance with Law/rules.
- D. Incorrect. As already explained in Para 02.
- E. Incorrect. As already explained in Para 02.
- F. Incorrect. As already explained in Preceding paras.
- G. Incorrect. As explained above.
- H. That the respondents may be allowed to raise additional grounds at the time of arguments.

**Prayer:-**

It is, therefore, humbly prayed that the instant Service Appeal is based on misconception/misstatements against law and facts/record, hence may graciously be dismissed.

  
**Secretary,**  
Higher Education, Archives  
& Library Department  
Respondent No. 01

  
**Director** 9/6/2022  
Higher Education Department  
Respondent No. 02

  
**Principal,**  
Govt; Degree College, Hangu  
Respondent No. 3

(3)

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

**Service Appeal No: 4306/2020**

Zia ur Rehman..... Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa  
Through Secretary, Higher Education  
& others.....

Respondents

**AFFIDAVIT**

I, Farhan Ahmad, Assistant (Litigation), Higher Education Department do hereby declare and affirm on oath that the contents of "Parawise Comments" are correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

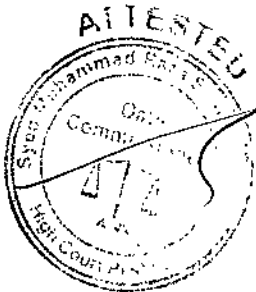
Identified by:



Deponent

CNIC # 12101-1699891-1

Cell # 0331-9802871





# GOVERNMENT DEGREE COLLEGE HANGU

Thall Road, Hangu: 26190, KPK, Pakistan, Phone No: 0925-621517

Email address: mis.gdchangu@gmail.com



Annex-  
11 A

No. 1634 Dated Hangu the 15/12/2017

## Appointment Order:

Consequent upon the recommendation submitted by the Departmental Selection Committee, the competent authority is pleased to appoint the following candidate against the vacant post and designation mentioned below in BPS-3 (9610-390-21310) plus other usual allowances as admissible under the rules (Regular Policy) from the taking over charge on the terms and conditions mentioned below.

SNO	Name	Father Name	Address	Designation
1	Mr. Zia ur Rehman	Mr. Abdur Rahim	Hayatabad, Hangu	Naib Qasid (Against Vacant Post)

### Terms and Conditions:

1. The candidate shall produce health and age certificate from the Medical Superintendent/ Civil Surgeon
2. He will have all rights/privileges contained in Khyber Pakhtunkhwa Civil Servant Act, 1973 with all amendment Act, 2005 and rules made there under
3. His service will be liable to termination on one month prior notice or his one month pay and allowances shall be forfeited to the Government treasury.
4. He will be governed by such rules and regulations issued from time to time by the Government.
5. In case of disciplinary matters Khyber Pakhtunkhwa Government Servants (efficiency and disciplinary rules) 2011 shall be applicable.
6. Charge report should be submitted to all concerned.
7. He must join the post within 30 days of the issuance of this notification

*Prof. Zafrullah Khan*

Principal

Government Degree College  
Hangu

Endst. No. \_\_\_\_\_ /P. File Dated Hangu the 15/12/2017

Copy of the above is forwarded to the:

1. Director, Higher Education Department, KPK, Peshawar
2. District Account Officer, Hangu
3. Official Concerned
4. Office Record

ATTENDED

*Prof. Zafrullah Khan*

Principal

Government Degree College  
Hangu

# ابتدائی اطلاع رپورٹ

کوئٹہ

(فائل) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شروع زیر دفعہ ۱۵۲ مجموعہ ضابطہ نوینوری  
تھانہ سٹی

نمبر 648 تاریخ و وقت وقوعہ ۱۸/۰۷-۲۰۱۸ بوقت شب نام معلوم

1	تاریخ و وقت رپورٹ	۱۸/۰۷-۲۰۱۸ وقت ۱۴:۰۰ بجے چاکیڈی پر جب ۰۷/۰۸-۲۰۱۸ وقت ۱۴:۱۰ بجے
2	نام و سکونت اطلاع دہندہ و منیٹ	۱-۰۳۳۳-۹۷۱۴۸۵۱ / ۱۴۲۰۳-۲۸۹۹۳۵۹ / پرنسپل / پرنسپل گورنمنٹ ڈگری کالج ہنگو (ملازم) / روٹولی خان ولد میر خواجہ بیگم ۵۶ سال سکھ محلہ بانڈہ محلہ کرک مال
3	مختصر کیفیت جرم (موردہ) حال اگر کچھ بنا گیا ہو	PPC 380
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت	کمپوٹر لیب واقع گورنمنٹ ڈگری کالج ہنگو بفاصلہ تقریباً ۱/۲ میل سے جانباً عرب اراخانہ
5	نام و سکونت ملزم	
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو تو وجہ بیان کرو۔	بزرگ سیرگی رپورٹ پر چہ دیا جاتا ہے
7	تھانہ سے روانگی کی تاریخ و وقت	۱۸/۰۷-۲۰۱۸

ابتدائی اطلاع نمبر درج کرو جناب عالی! متعنت مندرجہ خانہ نمبر 2  
بجائے تھانہ آکر رپورٹ کرتا ہے۔ کہ میں امرور خانہ فود میں موجود تھا۔ کہ کالج سے  
اطلاع ملی کہ کالج میں کمپوٹر لیب سے چوری ہوئی ہے۔ واقعہ پراکر کمپوٹر لیب  
کی روم اور آرٹس بلاک کے عملے کے تھے نام معلوم ملزم / ملازمان نے کورٹر کمپوٹر  
لیب سے لپٹ لیا، پرو سیکنڈ، فوٹو کاپیئر، UPS، پرنٹرز وغیرہ چوری کر کے  
لے گئے ہیں۔ فزید میں تسلی کر رہا ہوں۔ لیب باہر کی آمد پر دیگر مسروقہ  
سامان کی تفصیل بخجوانی جائیگی۔ میں کمپوٹر لیب سے سامان چوری کر نیگا  
پر خلاف نام معلوم ملزم / ملازمان دعوایدار ہوں۔ کارروائی پولیس  
ہفت گفٹہ سائل کی رپورٹ درج بالا ہو کر پڑھ کر سنایا، سمجھا یا گیا۔ درست تسلیم کر کے  
ذیہ رپورٹ خود دستخط انگریزی ثبت کی۔ جسکی میں تصدیق کرتا ہوں۔ مہنون رپورٹ  
میں صورت جرم بالائی پائی جا کر پر چہ جرم بال جاک ہو کر بغرض آفیس میں حوالہ  
IBH سٹاف کیا جاتا ہے۔ پر چہ سٹراٹس ہے

Lawson  
5th July  
8.7.18





Annex C  
**GOVERNMENT DEGREE COLLEGE HANGU**

Thall Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517

Email address: mis.gdchangu@gmail.com



No. 1819-1821 Dated Hangu the 09-07-2018

The Director Higher Education,  
Khyber PakhtunKhwa, Peshawar.

Subject: **THEFT OF VARIOUS ITEMS FROM COMPUTER LAB OF THE COLLEGE**

Memo:

It is brought to your kind notice that the computer lab has been looted on Saturday (07/07/2018) night and many items including laptops, printers, and photocopier machine, projector etc. have been stolen. The culprits, including a Naib Qasid of this college, Named Mr.Zia-ur-Rehman have been arrested by the police with the help of CCTV Cameras after lodging an FIR. So, a report is submitted and further guidance from your worthy self is sought in this connection.

Principal,  
Govt Degree College, Hangu

Endst. No \_\_\_\_\_ Dated Hangu the \_\_\_\_\_

Copy for information to:

- The PS to Secretary, HE, Khyber Pakhtunhwa, Peshawar.
- The Coordinator JMC/Principal GPGC, Kohat.

Principal,  
Govt Degree College, Hangu

8/7

بیان منجانب عبدالرحیم (والد عبدالرحمن) بابت چوری ٹیکس پولیس

حسین عبدالرحیم ولد زرار محمد پورے بیٹوں دھواں کے ساتھ اور بقبر  
 کے دباؤ میں اٹھ چلا اقرار کرتا ہوں کہ میرے بیٹے عبدالرحمن  
 نے اپنے ساتھیوں محمد قاسم، لغت اللہ کے ساتھ مل کر مورخہ 27/7/2008ء  
 کو اس پانچ ٹیکس پولیس سے جو اشیاء لیٹی ہوئی تھیں (22 عدد)  
 علی محمد با سرد جیکٹر (3 عدد) لیٹی تھیں (2 عدد) خود کو لیٹی تھیں  
 (10 عدد) وغیرہ چوری کر کے لے گئے تھے۔ اور یہ ساری اشیاء پولیس نے  
 ان کے قبضے سے برآمد کئے ہیں۔ اور انہیں پولیس نے قدفنے میں جس  
 لپیڈا میں چلا اقرار کرتا ہوں کہ اگر ان اشیاء میں اگر کوئی خسرانی  
 پیدا ہوئی ہو یا ٹوٹ چکے ہوں۔ تو ان کی قیمت کا سارا ترم میں برداشت  
 کروں گا یا متبادل نئی اشیاء خرید کر دینے کا پابند ہو گا  
 لپیڈا کے حوالے سے تحریر کئے نام سدر ہے اور بوقت ضرورت کام آدے

عبدالرحیم ولد زرار محمد

مقامی کارڈ نمبر 1-0780399-14101

*(Handwritten signature)*



Annex-D

25

8

P-0



**GOVERNMENT DEGREE COLLEGE HANGU**

Thall Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517

Email address: mis.gdchangu@gmail.com

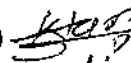
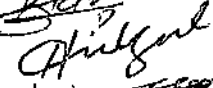



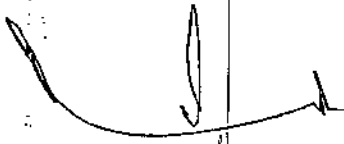
**Office Order:**

Date: 09/07/2018

**PRELIMINARY INQUIRY COMMITTEE**

A preliminary inquiry committee comprising the following faculty members is hereby constituted to probe into the matter of theft of precious items from computer lab of the college. They are directed to submit a detailed report up to Monday (16/07/2018) positively.

1. Mr. Waris Khan, Lecturer (Chairman) 
2. Mr. Nisar Gul, Lecturer (Member) 
3. Mr. Muhammad Naseem, Lecturer (Member) 



Principal

Government Degree College Hangu





(Annex-I) Annex-D 15 9

Date: 16/07/2018

The Principal,  
GDC, Hangu.

Subject: INQUIRY REPORT

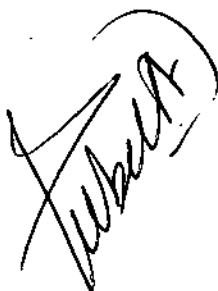
Sir,

Reference your office order dated 09/07/2018. We, the committee, probed into the matter of theft from computer lab on 07/07/2018 and interrogated the chowkidar of this college and many other officials along with the father of Mr. Zia-ur-Rehman. We also looked at the CCTV cameras' recordings. Details are given below.

### **Proceedings of the inquiry:**

The proceedings of the inquiry are as follows:

1. Mr. Qamar Din, chowkidar who was on duty on 07/07/2018 (Saturday) night, said that he had found the locks of grill door of Arts Block and computer lab broken on 08/07/2018 (Sunday) morning. According to him the door of computer lab as well as the door adjacent to lab's door (towards Examination Hall) were left open but he could not guess whether any items had been carried away. He added that after knowing about this incident he called Mr. Arif Ullah, chowkidar, to come to the college and when Arif Ullah reached the college he told him to inform Mr. Iqbal Khan, Lecturer in Computer Science. (Copy of his statement is attached - Annex-I)
2. We called on Mr. Iqbal Khan, Lecturer in Computer Science to inform us about the details stolen items. He said that two printers, one photocopier machine, one UPS, three projectors and two laptops along with a sum of Rs. One lac (donated by Mr. Hashmat, lab assistant of this college for pressure pump) had been carried away by the thieves. (Copy of his statement attached - Annex-II)
3. Next, we played the CCTV cameras' recordings of that night and directed all the three chowkidars to recognize the culprits involved. They all said that one of the thieves was Mr. Zia-ur-Rehman (Naib Qasid of this college). We personally also recognized the said official while he was leading the three-person gang inside the college during this crime. Besides us, a number of employees of the college also recognized the said official in these recordings. (Copy of the statement attached - Annex - III)
4. According to the officials of City Police Station (Hangu), all the stolen items have been recovered from the possession of the above mentioned official/culprit and his friends.
5. Furthermore, we recorded the statement of the father of Mr. Zia-ur-Rehman, Mr. Abdur Rahim (Ex-Naib Qasid of this college). According to him his son was involved in this robbery. (Copy of his statement is attached - Annex -IV)



- 16 10
6. It is worth mentioning that we could not hear to Mr. Zia-ur-Rehman in person because he is in the custody of the police.

### **Findings of the inquiry:**

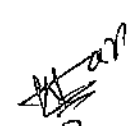

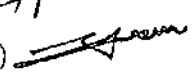
After in-depth discussion on the statements of Police officials and Mr. Abdur Rahim (Father of Zia-ur-Rehman) and analysis the CCTV cameras' recordings we reached the following conclusions:

1. Mr. Zia-ur-Rehman and his friends committed the robbery and stole all the items claimed by Mr. Iqbal Khan (Lecturer in Computer Science) in his statement and the police recovered all the stolen items from their possession.
2. From the camera recordings it is clear that Mr. Zia-ur-Rehman entered the college through the main gate at 08:05 PM and went to the chowkidar's room and then quickly went out. After that he along with his friends entered the college at 08:15 PM by crossing the boundary wall from the bachelor hostel side. And then through Chemistry block they approached the Arts Block and after breaking its lock they accessed computer lab.
3. It is evident that they committed the crime from 8:15 PM to 9:30 PM while during this interval the chowkidar on duty, Mr. Qamar Din, was not vigilant. He has entered into and left the college many times. The recording shows that he went out at 8:39 PM and came back at 9:14 PM while during this interval the culprits' car is clearly seen in the camera recording.

### **Recommendations:**

Strong disciplinary actions should be taken against Mr. Zia-ur-Rehman for committing such a heinous crime and against Qamar Din for showing negligence towards his duties.

### **Committee:**

1. Waris Khan, Lecturer (Chairman) 
2. Nisar Gul, Lecturer (Member) 
3. Muhammad Naseem (Member) 



Amir-E

11

## GOVERNMENT DEGREE COLLEGE HANGU

Thall Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517

Email address: mis.gdchangu@gmail.com

Date: \_\_\_\_\_

### MINUTES OF THE COLLEGE COUNCIL MEETING HELD ON 12/07/2018

An urgent meeting of the College Council was held at 10:00 AM on 12/07/2018 under the chair of the principal Prof. Roshmali Khan (Chairman College Council). The meeting started with the recitation of a few verses from the Holy Qur'an by A/P. Muhammad Naqeeb. After that the principal announced the agenda of the meeting which is as follows:

1. Theft from Computer Lab
2. Negligence in duty in respect of the Chowkidar

Proceedings of the meeting are given below:

1. The principal informed the participants of the meeting about the robbery in computer lab on 07/07/2018 (Saturday) night. He added that it has been proved with the help of CCTV cameras, police investigation and recovery of the stolen items that Mr. Zia-ur-Rehman (Naib Qasid of this college) along with his two friends, have committed the robbery. He further said that his father Mr. Abdur Rahim (Ex-Naib Qasid of this college) has admitted that his son, Mr. Zia-ur-Rehman, was involved in this crime because all the items have been recovered from the possession of his son and his friends.
2. Diverting the attention of the participant towards the role of the chowkidar, Mr. Qamar Din, he said that it all happened just because of the negligence in duty in respect of the mentioned chowkidar. He added that the CCTV cameras' recordings clearly shows that he remained out of the college at the time the crime was being committed. Moreover, the robbery took place from about 8:00 pm to 9:30 pm that night. Also, the locks of the grills and computer lab have been broken and the scars of hammer or whatever are still clearly visible on the associated doors. Furthermore, the said chowkidar reported the incident at about 7:00 am on the next day (Sunday) which is evident that he showed negligence towards his duties.
3. The principal told the participants to look at the CCTV cameras' recordings themselves, analyze the situation and give their suggestions/recommendations in this connection.



**Recommendations of the participants:**

After thorough analysis of the CCTV cameras' recordings and in-depth discussion of the situation the participants strongly condemned this heinous crime and reached to the following recommendations:

- 1. Being in probation period, the said Naib Qasid has not only disappointed the college administration regarding his conduct and services but has also committed a serious crime. Therefore, his services be terminated with immediate effect under the rules because his further services are against the interest of this institution and the Department at large.
- 2. As far as the conduct and behavior of the said chowkidar, Mr. Qamar Din is concerned, it was recommended that a departmental inquiry should be conducted against him for strong disciplinary action under the rules.

**The following attended the meeting:**

- 1. Principal, Prof. Roshmal Khan (Chairman, College Council)
- 2. Prof. Anwar Khan (Member, College Council)
- 3. A/P. Muhammad Naqeeb (Member, College Council)
- 4. A/P. Rafiullah (Member, College Council)
- 5. Lect. Iqbal Khan (Member, College Council)

*(Handwritten signatures and initials)*

*Moh Naqeeb*

*Rafiullah*

*(Handwritten signature)*

Secretary,  
College Council

*(Handwritten signature)*

Chairman,  
College Council

*(Large handwritten signature)*

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F

13



**GOVERNMENT DEGREE COLLEGE HANGU**

Thall Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517

Email address: mis.gdchangu@gmail.com



Date: 17/07/2018

**Office Order:**

**INQUIRY COMMITTEE AGAINST ZIA-UR-REHMAN (NAIB QASID)**

An inquiry committee comprising the following faculty members is hereby constituted to find the facts in connection with Zia-ur-Rehman's involvement in the theft of precious items from computer lab of the college. They are directed to hear in person to the said official and submit a detailed report within ten days of the issuance of this order.

1. Prof. Anwar Khan (Chairman)
2. A/P. Muhammad Naqeeb (Member)
3. A/P. Rafiullah (Member)
4. Lect. Iqbal Khan (Member)

Principal,  
Govt Degree College, Hangu

*J/C*

Annex-67

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GOVERNMENT DEGREE COLLEGE HANGU

Thall Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517  
Email address: mis.gdchangu@gmail.com



No. 1825-27 Dated Hangu the 17-07-2018.

Mr. Zia-ur-Rehman,  
Naib Qasid,  
GDC, Hangu.

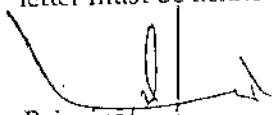
Subject: CHARGE SHEET

In the light of the report of the preliminary inquiry conducted in connection with theft from computer lab of the college on 07/07/2018 night, you along with your friends have committed robbery in computer lab and stolen various items including printers, photocopier machine, multimedia projectors, UPS, laptops etc. It is worth mentioning that all the stolen items have been recovered from your possession.

Accordingly, you are hereby directed to explain your position in written in front of the inquiry committee conducted against you upon the committee's notice as to why you should not be dismissed or otherwise punished.

Should you fail to submit your explanation as required, it will be presumed that you admit the charges and have no explanation to offer and the matter will be disposed off without any further reference to you.


Since the charges proved against you are of grave and serious nature, you are hereby suspended pending further proceedings and final order in the matter. The receipt of this letter must be acknowledged.


  
Principal,  
Govt Degree College, Hangu

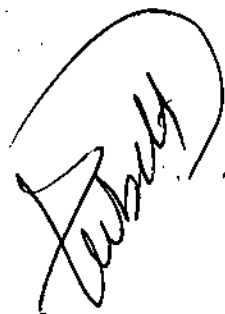
Endst. No. 2 Dated Hangu the 17

Copy forwarded to the:

1. Director Higher Education, Khyber Pakhtunkhwa, Peshawar for information
2. Coordinator JMC/Principal GPCC, Kohat for information

  
Principal,  
Govt Degree College, Hangu

Received  
Date: 19-07-2018.  




Annex - H

Annex-H 15



**GOVERNMENT DEGREE COLLEGE HANGU**

Thall Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517  
Email address: mis.gdchangu@gmail.com

No. 183 Dated Hangu the 19/07/18

**Mr. Zia-ur-Rehman,  
Naib Qasid,  
GDC, Hangu.**

Subject: **PERSONAL HEARING**

In the light of the report of the preliminary inquiry conducted in connection with theft from computer lab of the college on 07/07/2018 night, you along with your friends have committed robbery in computer lab and stolen various items including printers, photocopier machine, multimedia projectors, UPS, laptops etc. It is worth mentioning that all the stolen items have been recovered from your possession.

Accordingly, you are hereby directed to explain your position in written in front of the inquiry committee within seven days of the receipt of this letter as to why you should not be dismissed or otherwise punished.

Should you fail to submit your explanation as required, it will be presumed that you admit the charges and have no explanation to offer and the matter will be disposed off without any further reference to you.

**Prof. Anwar Khan,  
Chairman, Inquiry Committee,  
Govt Degree College, Hangu  
Cell#: 0333-9625508**

Endst. No. 2 Dated Hangu the \_\_\_\_\_

**Copy forwarded to the:**

- Superintendent Jail, Hangu with the request to communicate to us on which day among these seven days and where we can here to the said official in person.
- Principal, GDC Hangu for information

**Prof. Anwar Khan,  
Chairman, Inquiry Committee,  
Govt Degree College, Hangu  
Cell#: 0333-9625508**

*Received*  
*7/19/18*  
*[Signature]*

*[Signature]*

مسوالت نام بنام سپاہی الرحمن (نائب قاضی، فورٹ گڈاڑہ) سبٹ فورس مسلمان کنسٹیبل فورس 2018/07/07 (رات)

I

1. آپ کا نام کیا ہے؟

میرا نام سپاہی الرحمن ہے۔ والد کا نام عبدالرحیم ہے۔

2. کیا آپ ایک نائب قاضی کی حیثیت سے جونی 2018؟

3. آپ واقعہ کی رات کس راستہ (طرف) سے کالج میں داخل ہوئے؟

ان میں سے کوئی ایک سائیڈ سے داخل ہوا۔

4. کالج کے اندر کونسا راستہ اختیار کیا؟

5. فرانس بلاک - آریس بلاک - کنسٹیبل

6. آپ گورنمنٹ ہال کس پہلو سے توڑے؟

7. پلڈ سے اور اس کے بعد گھر سے ہال کو موڑا۔

8. کیا آپ نے واقعہ کے دوران کوکبدر قہر میں کود لیا؟

9. نہیں، بالکل نہیں، لطف اللہ بہرہ دے رہا تھا۔

10. کیا کالج کے ملازمین میں سے کسی نے آپ کی مدد کی یا طریقہ بتایا؟ اگر ہاں تو وہ کون تھا؟

11. نہیں، کسی نے بھی نہیں۔

12. ڈاکٹر ڈالتی وقت آپ لوگ کافی مطمئن رہے، وہ کیا ہے؟

13. کوکبدر دکھان نہیں دیا تھا۔

Abbas  
IN CHARGE JUDICIAL CLERK  
HANGU  
21-7-18  
21/7/18



داخل ہونے کے بعد اس باسٹل سے ہونے والے تھوڑے تھوڑے گولوں کی طرف اشارے کیے گئے۔  
اس وقت اس کی گیسٹری بلاک کی طرف ہانپنے لگی۔  
خاص وجہ نہیں۔

Annex - 7  
Page 21

ابنا کام مکمل کرنے کے بعد کس وقت سے آپ کا لیج سے نکلے؟  
تقریباً 10 بجے۔

11۔ تو بچا 8 بجے (اسی رات) آپ کا لیج میں داخل ہوئے اور جو کچھ آپ نے اس وقت  
ہاٹ کے بعد فوراً باہر نکلے۔ وہاں کوئی تھا اور آپ اس سے کوئی بات نہ کی؟  
فردین کا والد آپ سے جو پوچھا۔ میں نے یہ پوچھا کہ کیا یہی باسٹل سے  
کوئی موجود ہے۔ اس نے کہا کوئی نہیں ہے۔ اس کے علاوہ میں نے اس کے پاس سے  
کوئی اور چیز نہیں دیکھی۔

12۔ کیا آپ کو یہ ظاہر نہیں ہوا کہ آپ کے پاس سے اس کے پاس سے  
کچھ چیزیں بھی لے کر گئے ہوں؟

13۔ آپ لوگوں نے کس بنیاد پر اسے اس میں تقسیم کیا؟  
میں نے اسے تقسیم نہیں کیا تھا اس لیے اس سے یہ سوال لگتا ہے۔

14۔ آپ نے اس دن (مفتی) کا ایشیا کیوں کیا؟  
میں نے اس سے کہا کہ اس وقت اس کے پاس سے کوئی اور چیز نہیں لے گئی۔

15۔ آپ نے اس شخص کو دورانہ (8 بجے) تو تھوڑا بھول آیا؟  
جی ہاں۔

Attested  
Date  
RECHARGE JUDICIAL LOCKUP  
NANNI

8/11/2018

16) کیا آپ کو معلوم ہے کہ آپ کو اس جرم کی کیا سزا ہو سکتی ہے؟  
نہیں ہے۔

17) آپ نے یہاں سے اللہ کے جرم کی کیا سزا ہوئی ہے؟  
ان سب چیزوں میں اللہ کے شخص سے بیان کرنے پر اقرار کیا جاتا ہے اور اس سے عفو کیا جاتا ہے۔

18) آپ نے تو ان لوگوں تک سے بہ فتنو بہنایا تھا؟  
ہاں، دو، تین سے (واقعے سے)

19) آپ کو یہ سب کرنے کی وجہ کیا تھی؟  
ان چیزوں کی لالچ تھی جو ہو رہی تھی۔

20) سوالات میں آپ سے کسی بہرہ کی دولت کی ملاقات ہوئی؟ انہیں کہاں تو اس سے  
کیا گفتگو ہوئی؟  
ہاں، میرا دوست صاحب (شاہجوہار) آپ سے عفو اس کے لئے کہ وہ فتنو بہنایا کر رہا تھا

21) کیا وہ لوگوں سے آپ کو پتہ چلا ہے ان کو جس کا ٹیڈ کیا گیا ہے، یا سب ایک  
میں زمین والا تھا؟

Attested  
22) یہاں سے مل کر پتہ پورا کیا گیا۔  
[Signature]

[Signature]  
21/7/2018

IN CHARGE JUDICIAL LOCKUP  
RANCH  
21-7-18

[Signature]

1. [Signature]  
2. [Signature]  
3. [Signature]  
4. [Signature]

مفتی صاحب  
مفتی صاحب  
مفتی صاحب

عنوان

بیانی خلصی بابت ذاتی سماعت رو برو آنکوٹری کمیٹی  
بھوالہ لیٹر نمبر 31-1830 مورثہ 19/7/2018  
گورنمنٹ ڈگری کالج منٹلو

میں بہاء الدین ولد عبد الرحیم نائب قاضی گورنمنٹ ڈگری کالج منٹلو  
جلدہ اقرار کرتا ہوں کہ میں نے اپنے ساتھیوں محمد قاسم  
ولد محمد حسن اور نعمت اللہ ولد حکیم جان (سندہ تمنا حیات آباد بائی پاس  
رود منٹلو) سے سائب مل کر 18/7/2018 کی رات بوقت رات تقریباً  
8 بجے سے لیکر تقریباً 10:00 بجے تک کالج ٹرڈا میں چار دیواری  
سے گھس کر فنر کس بلاک سے بیوئے بیوئے آرنس بلاک آئے  
جنگلے کا ٹالا ٹورنے سے بعد ہسپتالوں سے الزکر کمپوٹ لیب  
کا ٹالہ ٹورنا اور لیب سے مختلف اشیاء بشمول پرنٹرز بعد  
لیب ٹاپ (2 عدد) بوبی ایس (1 عدد) ملٹی عدیا پرنٹرز اور  
(3 عدد) فولڈر کا بیئر مشین (1 عدد) اور مبلغ ایک لاکھ روپے اٹھانے  
کا لچ کی چار دیواری سے بیوئے بیوئے باہر آئے مسلمان لے جانے  
کیلئے 4- فوٹر سائیکل (نمبر 5058 کوٹا) جو کہ میرا ذاتی ہے، کا استعمال  
کر کے مسلمان مذکورہ کو نعمت اللہ کی دکان اور ہمارے

Page 182  
19/7/2018  
گورنمنٹ ڈگری کالج منٹلو

ممبران کے مجلس فقہاء کرب سے شلف میں سنبھال لیا۔

پنتاری پولیس نے تمام مذکورہ بالا مسروقہ سامان

کے نشان دہی پر مذکورہ جگہوں سے برآمد کیا

اور اپنی اس غلط حرکت پر انڈیا نادم و ایشیماں بیوں

اور اپنی غلطی کا اعتراف کرنے ہوئے کالج انتظامیہ سے

مصافی کی درخواست کرنا بیوں اور یہ عہد کرنا بیوں

کہ آئندہ ایسی غلطی نہیں دہرائوں گا۔

العارض

مورخہ: 21/7/2018

آپ کا فرمانبردار مہیا دالہ جٹ (نائب فاضل) گورنمنٹ ڈگری کالج سگلو۔

21/7/2018

17/01-9680788-1

Attest.

hi

INSURANCE JUDICIAL LOCKUP  
MARGU

21-7-18

1. [Signature]

2. [Signature]

3. [Signature]

4. [Signature]

Annex - 1c

13

19

Date: 30/07/2018

The Principal,  
GDC, Hangu.

Subject: INQUIRY REPORT

Sir,

Reference your office order dated 17/07/2018. We, the committee, conducted the inquiry to find facts about theft from computer lab. Details of the inquiry are given below:

#### Proceedings of the inquiry:

The proceedings of the inquiry are as follows:

1. First of all we analyzed the report submitted by the preliminary inquiry committee. In the light of this report we reached to the conclusion that i) Mr. Zia-ur-Rehman and his friends have committed the crime and all the stolen items have been recovered by the police from their possession and ii) Mr. Qamar Din (Chowkidar) was on duty on the night (07/07/2018) the incident happened. (Copy of the preliminary inquiry report attached - Annex - I)
2. We, the inquiry committee, considered it enough to record the statements of and interrogate only Mr. Zia-ur-Rehman (Naib Qasid) and Mr. Qamar Din (Chowkidar) and to inquire anyone else if found necessary in the light of their statements.
3. We issued a notice to Mr. Zia-ur-Rehman for personal hearing vide letter No. 1830-31 dated 19/07/2018 (with its copy to the Superintendent Jail, Hangu). (Copy of the letter attached - Annex - II). We also directed Mr. Qamar Din vide letter No. nil dated 19/07/2018 to appear before the committee for personal hearing. (Copy of the letter attached - Annex - III).
4. We recorded the statement of Mr. Qamar Din on 20/07/2018. According to him he was on duty on 07/07/2018 night. On 08/07/2018 morning he found the locks of Arts block grill and computer lab broken and the doors were left open. He added that after that he called Mr. Arifullah (Chowkidar) to come to the college. When we asked him whether he himself had recognized Mr. Zia-ur-Rehman in the CCTV camera recordings near the lab, he said that he personally had recognized Mr. Zia-ur-Rehman and one of his friends in those recordings. (Copy of his statement is attached - Annex-IV)
5. We personally watched the CCTV camera recordings and thoroughly analyzed the videos.
6. On 21/07/2018 we proceeded to Judicial Lock up (Jail) Hangu in order to inquire Mr. Zia-ur-Rehman as he was in the custody of the police. We recorded his statement (Annex - V) and cross examined him in the light of his statement via a questionnaire (Annex - VI).



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### Findings of the inquiry:

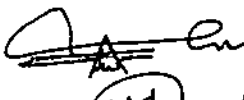
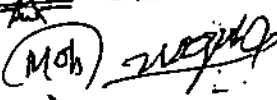
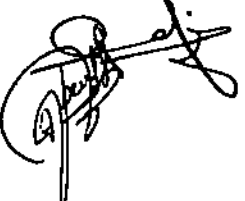
From the above proceedings we reach the following conclusions:

1. The incident happened because Mr. Qamar Din was not vigilant. It can be clearly seen in the CCTV camera recordings that at the time the crime was being committed he was out of the college vicinity. Moreover, it is worth mentioning that the robbery was committed too early that night (8:15 pm to about 10:00 pm). Had he been vigilant no such incident would have happened.
2. In the CCTV camera recordings we ourselves recognized Mr. Zia-ur-Rehman while entering in the college and approaching towards computer lab for the said robbery.
3. From Annex - V and VI it is clear that Mr. Zia-ur-Rehman admits that he and his friends have planned for and committed the crime. He also confesses that the stolen items have been recovered from his and his friends' possession. According to him he committed the crime just because of greed for money and that nobody else among the college employees has helped him in this regard.
4. We also reach the conclusion that no one else among the college employees was involved in this crime.
5. From his personal file we came to know that Mr. Zia-ur-Rehman is still in probation period.

### Recommendations:

1. Strong disciplinary action under the rules should be taken against Mr. Qamar Din for showing negligence towards his duties.
2. Major penalty of "Removal from Service" under the rules should be imposed upon Mr. Zia-ur-Rehman for committing such a heinous crime. His further services are against the interest of this institution and the department at large.

### Committee:

1. Prof. Anwar Khan (Chairman) 
2. A/P. Muhammad Naqeeb (Member) 
3. A/P. Rafiullah (Member)
4. Lect. Iqbal Khan (Member) 



Annex-K1 21  
30/05

**GOVERNMENT DEGREE COLLEGE HANGU** Thail

Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517 Email  
address: mis.gdchangu@gmail.com



No: 1838

Date: 02/08/2018

Mr. Zia-Ur-Rehman,

Naib Qasid,

GDC, Hangu.

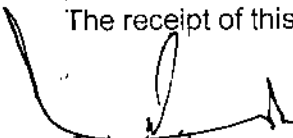
Subject: SHOW CAUSE NOTICE

In the light of the report of the inquiry conducted against you in connection with theft from computer lab of the college on 07/07/2018 night, you along with your friends have committed robbery in computer lab and stolen various items including printers, photocopier machine, multimedia projectors, UPS, laptops etc. and all the stolen items have been recovered from your possession. Moreover, the committee heard to you in person in the judicial lock up, Hangu whereby you confessed in written the charge leveled against you.

The inquiry committee has recommended imposition of major penalty of "Removal from Service" upon you accordingly, however, the undersigned being the competent authority gives you one more fair chance via this show cause notice. You are hereby directed to submit your written explanation to the undersigned within ten (10) days of the receipt of this notice as to why the recommended penalty should not be imposed upon you. Also, if you want to be heard again in person then select and communicate to the undersigned a day among the specified days so that the undersigned may visit you for your personal hearing since you are in the central jail, Kohat.

Should you fail to submit your explanation as required or specify and communicate a day for personal hearing it will be presumed that you once again admit the charges and have no explanation to offer and the matter will be disposed off without any further reference to you.

The receipt of this letter must be acknowledged.


  
Principal

Government Degree College,  
Hangu

Endst. No. X Dated Hangu the \_\_\_\_\_

Copy forwarded to the:

1. Director Higher Education, Khyber Pakhtunkhwa, Peshawar for information
2. Coordinator JMC/Principal GPGC, Kohat for information

  
Principal

Government Degree College,



Annex L

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**GOVERNMENT DEGREE COLLEGE HANGU**

Thall Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517

Email address: mis.gdchangu@gmail.com



No 1849 Dated Hangu the 25/08/18

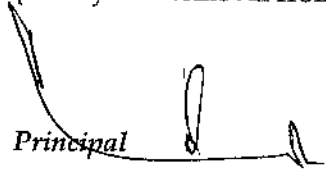
✓ Mr. Zia-ur-Rehman,  
Naib Qasid, GDC Hangu.

Subject: REMOVAL FROM SERVICE

Memo:

You being in probation period have committed a heinous crime of stealing various items from computer lab of the college. The inquiry committee recommended the imposition of major penalty of "Removal from Service" upon you. However, the undersigned sent you a show cause notice vide this office letter No. 1838 dated 02/08/2018 whereby you were given one last chance to explain your position in written or communicate to the undersigned a day within the prescribed time (10 days) if you wished personal hearing in front of the undersigned but you neither submitted a written explanation nor opted a day for personal hearing which means that you have no explanation to offer and hence admit the charges leveled/proved against you.

Now, the undersigned being the competent authority, in exercise of powers conferred under the Khyber Pakhtunkhwa Efficiency & Disciplinary Rules 2011, is pleased to impose the major penalty of "Removal from service" upon you w.e.f 17/07/2018.


  
Principal  
Government Degree College, Hangu

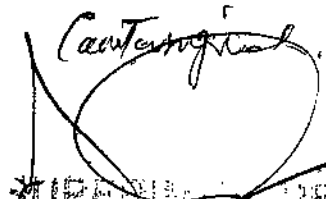
میں نے ایک ہی بار اس کی تصدیق کی ہے۔  
اس کے بعد اسے کوئی اور سزا نہیں دی جائے گی۔  
مفتی اعظم

Endst. No. 2 Dated Hangu the 25/8/18

Copy forwarded for information to the:

1. P.S. to Secretary Higher Education, Khyber Pakhtunkhwa, Peshawar
2. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar
3. Coordinator JMC/Principal GPGC, Kohat
4. District Accounts Officer, Hangu
5. Office Copy

  
Principal  
Government Degree College, Hangu

  
SUPERINTENDENT  
DISTRICT OFFICE, KOHAT  
24/08/18

Attested  
  
ssst, Superintendent  
District Office Kohat  
24/8/18





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**GOVERNMENT DEGREE COLLEGE HANGU**

Thall Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517

Email address: mis.gdchangu@gmail.com



No. 1854 Dated Hangu the 25/8/18

*The Superintendent District Jail,  
Kohat.*

Subject: HANDING OVER OF LETTER TO THE UNDER TRIAL PRISONER  
MR. ZIA-UR-REHMAN S/O ABDUR RAHIM (HANGU)

Memo:

Enclosed herewith please find two copies of letter of "Removal from Service" in respect of the said prisoner (Naib Qasid of this college).

One of the copies may please be handed over to him and his signature and thumb impression may be obtained on the other copy for our office use. Furthermore, the office copy may please be attested by your good self.

Principal

Government Degree College, Hangu

o/c

7 Annex-M 24

IN THE COURT OF MUHAMMAD TAYYIB  
ADDITIONAL SESSIONS JUDGE-II, HANGU

Criminal Appeal No.3/19 of 2019

Date of Institution:

24.09.2019

Date of Decision:

27.11.2019

1. Muhammad Qasim s/o Muhammad Hassan,
2. Zia-ur-Rehman s/o Abdur Rahim, and
3. Naimat Ullah s/o Hanif Jan.

(R/o Bypass road, Tehsil & District Hangu).

.....(Appellants/ Accused)

... versus...

1. The State.
2. Roshmali Khan s/o Mir Nawab R/o Moghal Banda, Karak.

... (Respondents)

Criminal Appeal against order and judgment dated 18.09.2019 passed by learned Senior Civil Judge /Judicial Magistrate, Hangu, whereby, accused/ appellants Muhammad Qasim, Zia-ur-Rehman and Naimat Ullah were convicted and sentenced to suffer three years R.I and to pay a fine of Rs.20,000/- each, in default of which to undergo 2 months R.I in case FIR No.648 dated 08.07.2018, u/s 380 PPC PPC, P.S City Hangu.

**JUDGMENT:**

27.11.2019

By virtue of instant criminal appeal appellants/ accused Muhammad Qasim, Zia-ur-Rehman and Naimat Ullah have questioned the order and judgment of learned Senior Civil Judge/ Judicial Magistrate, Hangu dated 18.09.2019, whereby, appellants/ accused were convicted under section 380 PPC in case FIR No.648 dated 08.07.2018, P.S City Hangu, and were sentenced to undergo three years Rigorous imprisonment and to pay fine of

Muhammad Tayyib  
27-11-19



27/11/19

Rs.20,000/- each. In default of which, accused shall further undergo two months R.I. It is requested that said impugned judgment may kindly be set aside and accused/ appellants be acquitted from the charges leveled against them, being innocent. (6)

1. Brief facts giving rise to the filing of instant appeal are that complainant lodged FIR No.648 dated 08.07.2018 u/s 380 PPC, P.S City Hangu against accused/ appellants. After registration of the case and completion of investigation, accused were summoned, who put their appearance and after their indictment, prosecution evidence was called upon. The learned trial Court after conclusion of trial vide impugned judgment dated 18.09.2019 convicted & sentenced accused/ appellants to undergo three years R.I and to pay fine of Rs.20,000/- each. Hence, the instant criminal appeal.
2. Arguments already heard and available record gone through.
3. Record transpires that the case of prosecution is entirely based on circumstantial evidence as neither the appellants/accused were charged in the initial report nor the occurrence was witnessed by anyone. Prosecution mainly relies on the identification of accused Zia-ur-Rehman, who was employee of the College, in the CCTV recordings and recovery of stolen property on the pointation of accused.
4. As far as identification of accused through CCTV recordings is concerned, admittedly no expert opinion regarding genuineness thereof was obtained. PW-05 stated that accused Zia-ur-Rehman was identified by complainant (PW-1) and Muhammad Iqbal Lecturer (PW-3), however, both the witnesses did not utter a single word regarding identification of accused Zia-ur-Rehman in their statement. As far as rest of the two accused/appellants namely Muhammad Qasim & Naimat Ullah both of

*Muhammad  
27-11-19*

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them were admittedly not identified in the CCTV recordings (Ex-P.1). Muhammad Iqbal (PW-3), who was alleged to have identified accused Zia-ur-Rehman, stated in his cross examination that *"It is correct that in CCTV cameras footage, we did not identify all three accused"*. Hence, the very identification was not proved through confidence inspiring evidence.

5. Record further shows that accused Muhammad Qasim & Naimatullah were charged on the basis of statement of accused Zia-ur-Rehman u/s 161 Cr.PC, which is not an admissible evidence in the eye of law in view of Article 38, 39 and Article 129(b) of Qanun-e-Shahadat Order, 1984.

6. So far as recovery of stolen property on the pointation of accused is concerned, perusal of recovery memo Ex.PW-7/8 depicts that the said property was allegedly recovered on joint pointation of all the accused. It is by now settled law that joint pointation carries no evidentiary value and cannot be used against an accused for his conviction. The said recovery memo also shows that all the accused have allegedly made joint pointation as their thumb impressions were jointly obtained while in the custody of police. Likewise, recovery memo Ex.PW-7/8 & Ex.PW-7/9 also shows that no independent private person was associated with the recovery despite that the same could have easily been procured, which factum also makes the recovery doubtful. Wisdom can be taken from the judgment rendered in the case of **"Rahid Khan ... Vs... The State"** reported as 2019 MLD 675 [Peshawar] and **Tariq Hussain ... Vs... The State**, reported as 2019 PCrLJ Note 124 [Peshawar]. Also the prosecution could not furnish any plausible reason or explanation for non-associating independent private person with the recovery of stolen article.

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Learned Public Prosecutor argued that recovery was effected from the place within the exclusive knowledge of accused, therefore, in view of Article 40 of Q.S.O, 1984, such recovery is admissible. However, Ex.PW-7/8 shows that the recovery was alleged to have been made from the shop of accused Naitmat Ullah but the prosecution has failed to bring on record any evidence to establish that the said shop was running by accused Naimat Ullah or that the same was within his exclusive possession. Likewise, recovery memo Ex.PW-7/9 transpires that the recovery was allegedly made from the servant room adjacent to Masjid Siddiqia, however, there is nothing on file to show that the said room was owned by the accused Zia-ur-Rehman. Furthermore, the prosecution also failed to establish that the said room was in the exclusive possession or use of accused Zia-ur-Rehman. Likewise, it was not alleged that the said room was either locked or not accessible to other people. It is also a settled principle of law that where a place accessible to general public then recovery of any stolen property therefrom on the alleged pointation of accused carries no weight. Wisdom can be drawn from **Rashid Khan's Case [2019 MLD 675 (Peshawar)] supra**. The manner in which the recovery was effected was also not explained by the prosecution witnesses which could have enabled the court to determine whether or not it was, in fact, the accused who put the stolen articles therein. Moreover, in order to attract the provision of Article 40 ibid the prosecution has to prove through positive cogent evidence that the information which led to the alleged recovery was furnished by the accused, however, perusal of record transpires that no such evidence was brought on record. Wisdom can be taken from the judgment rendered in the case of "*Askar Jan & others ... Vs... Muhammad Daud & others*" reported as 2010 SCMR 1604.

(8)

*Muhammad  
27-11-19*

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8. Thus, from perusal of record, the recovery of stolen property is doubtful as neither private person were associated with the recovery proceedings nor the joint pointation has any value in the eyes of law. Hence, it is safe to conclude, that the prosecution could not prove its case against the appellants beyond any shadow of doubt and there exists sufficient doubts, benefit whereof must accrue in favour of appellant/accused as matter of right. (9)

9. As a sequel to what has been discussed above, the instant appeal is accepted. Impugned order and judgment passed by the learned trial court is set aside and the appellants are acquitted of the charge leveled against them. They are on bail, their bail bonds stand cancelled and sureties to them are absolve from the liabilities of bail bonds. Case property be dealt with in accordance with the law.

10. Record alongwith copy of this judgment be returned, while this file be consigned to record room after its necessary completion and compilation.

Announced:  
27.11.2019

*Muhammad Tayyib*  
(Muhammad Tayyib)  
Additional Sessions Judge-II,  
Hangu

Certificate:

Certified that this judgment consists of (05) pages. Each page has been read, checked, corrected wherever necessary and signed by me.

*Muhammad Tayyib*  
20/12/19

*Muhammad Tayyib*  
(Muhammad Tayyib)  
Additional Sessions Judge-II,  
Hangu

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20/12/19  
20/12/19

case to competent authority to decide matter on basis of available evidence without conducting fresh inquiry. 2005 SCMR 824

Criminal and departmental proceedings. Scope. Regular inquiry, non-holding of. Effect. After issuing show-cause notice and reply by civil servant, penalty of reduction in rank and recovery of embezzled amount was imposed by Authorities and the same was maintained by Service Tribunal. Plea raised by civil servant was that criminal proceedings were also initiated against him and no regular inquiry was held. Validity. Service Tribunal rightly observed that sufficient documentary evidence was available on record to dispense with regular inquiry. Civil servant was accounts clerk who drew huge amount from bank and kept the same in chest in violation of security rules. Civil servant was afforded opportunity to defend himself before the Inquiry Committee but he absconded. Departmental as well as criminal proceedings could be taken against delinquent official simultaneously and independently of each other. Recovery of huge amount could not have been planted against civil servant by police. Departmental Authorities had already dealt with the civil servant with leniency. Judgment passed by Service Tribunal did not suffer from any legal infirmity so as to warrant interference by Supreme Court. No substantial question of law of public importance within the contemplation of Art.212(3) of the Constitution was involved. Leave to appeal was refused. 2005 SCMR 1901

Criminal proceedings and departmental action against Civil servant can go on side by side and may even end in varying results. Reasons stated. 1993 SCMR 2177

service Rules did not debar a person charged in a criminal case from performing his duty till his acquittal. Department was not bound to accept application for grant of leave for period after 7-7-1997, when civil servant had, already been treated absent and removed from service on 25-2-1997. Tribunal had dismissed appeal for reason that departmental appeal was found to be barred by time. Tribunal had not non-suited Civil servant for reason that he had no leave in his account or Department might have granted leave in his favour during period of his absence without applying formally for same. Impugned judgment not suffering from any legal, discrepancy nor any question of public importance being involved therein in terms of Art.212(3) of the Constitution, Supreme Court dismissed petition for grant of leave to appeal. 2003 SCMR 678

Acquittal from criminal charge. Effect. Leave to appeal was granted by Supreme Court to consider; whether dismissal of civil servant from service on the basis of allegations contained in show-cause notice, without a regular inquiry, was proper and legal; and whether the acquittal of civil servant from criminal charge on the same allegations for want of evidence, would not reflect upon the charge of misconduct and departmental action, without detailed scrutiny of matter, would be justified. 2005 SCMR 1827

Civil servant was charged with the offence of abduction and kidnapping on the basis of a press report. During criminal trial, the prosecution failed to produce any evidence against the Civil servant, resultantly, he was acquitted of the charge. Departmental proceedings were also initiated against the Civil servant. Authorized officer did not find the Civil servant guilty of the charges but recommended penalty of reduction to lower post in Basic Pay Scale-17 for a period of two years without any material and justification. Services Tribunal reduced the penalty to reduction to lower grade for one year. Services Tribunal did not record any express findings against the Civil servant justifying the penalty. Reporter, publisher or editor of the newspaper were neither examined in the inquiry proceedings nor in the criminal case. Effect. Charges of abduction, kidnapping etc. ultimately culminated in honourable acquittal of the Civil servant by competent Court of law in the criminal case. Non-examining of reporter, publisher or editor of the newspaper led to believe that the entire proceedings were initiated falsely with certain motive against the Civil servant. Judgment passed by Services Tribunal was set aside and the Civil servant was reinstated in original grade in Basic Pay Scale-18 with all back benefits. 2003 SCMR 215

Civil servant was promoted as Sub-Inspector on ad hoc basis, Authorities reverted him to Assistant Sub-Inspector, on the charge of involvement in criminal case. Appeal before Service Tribunal was dismissed. Plea raised by the civil servant was that once he was promoted, he could not be reverted

*Handwritten signature*

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بیان حلفی

میں ضیاء الرحمن والد عبد الرحیم سکنہ حیات آباد، بابائیں ہنگو سابقہ نائب تاحمد گورنمنٹ ڈگری کالج ہنگو حلفی اقرار کرتا ہوں:

1. کہ پرنسپل گورنمنٹ ڈگری کالج ہنگو نے میرے اور میرے ساتھیوں نعمت اللہ اور محمد قاسم کے خلاف مورخہ 08/07/2018 کو اس کالج کے کیمپوز میں سے مختلف اشیاء چوری کرنے کے الزام میں تھانہ سٹی ہنگو میں ایف آئی آر (No. 648) درج کی تھی۔
2. یہ کہ مجھے اس کالج کی اندرونی انکوائری کمیٹی نے اس جرم کا مرتکب ثابت کیا تھا۔
3. یہ کہ اس کیس (علت 648 مورخہ 08/07/2018) میں ہمیں سینئر سول جج / جڈیشنل ججمنٹ صاحب ہنگو کی عدالت نے 18/09/2019 کو تین سال قید اور بیس ہزار روپے فی کس جرمانے کی سزا سنائی تھی۔
4. یہ کہ میں نے سزا اپنے ساتھیوں اس فیصلے کے خلاف 24/09/2019 کو عدالت جناب ایڈیشنل سیشن جج صاحب سیکنڈ ہنگو اہل دائرگی اور 27/11/2019 کو اس عدالت نے ہمارے حق میں فیصلہ سناتے ہوئے ایس بری کر دیا۔
5. یہ کہ چونکہ میں نے بذات خود کالج کی داغ بیل انکوائری کمیٹی کے سامنے اپنے مندرجہ بالا جرم کا اعتراف کیا تھا جس کی بنا پر مجھے terminate کیا گیا تھا اس لئے میں حلفی اقرار کرتا ہوں کہ اب عدالت کی طرف سے بری کرنے پر میں اس کالج میں اپنی نوکری بحال کرانے کیلئے کسی بھی عدالت / ادارے سے رجوع نہیں کروں گا۔

تاریخ: 23/12/19



نام و دستخط اقرار کنندہ: ضیاء الرحمن

میں عبد الرحیم والد ضیاء الرحمن اپنے بیٹے کی طرف سے دیئے گئے بیان / اقرارنامے کو درست تسلیم کرتا ہوں اور یہ عہد کرتا ہوں کہ اگر ہم نے اس معاہدے کی خلاف ورزی کی تو ہم پر جو بھی جرمانہ عائد کیا جائے گا، ہم دینے کے پابند ہوں گے۔



نام و دستخط والد اقرار کنندہ: محمد سید

تاریخ: 23/12/19

ہم مندرجہ ذیل خاصاں حلفی اقرار کرتے ہیں کہ یہ معاہدہ ہمارے موجودگی میں ضیاء الرحمن اور اس کے والد عبد الرحیم اور پروفیسر دو شکی خان پرنسپل گورنمنٹ ڈگری کالج ہنگو کے درمیان دونوں فریقوں کی موجودگی میں مورخہ 23/12/19 طے پایا۔ ہم ضیاء الرحمن والد کی طرف سے اس بات کی ضمانت دیتے ہیں کہ وہ اس معاہدے کی پوری طرح پاسداری کریں گے اور نوکری بحال کرانے کی خاطر کسی بھی عدالت / ادارے سے رجوع نہیں کریں گے۔ اگر انہیں اس معاہدے کی خلاف ورزی کا مرتکب پایا گیا تو ہم دونوں مبلغ ایک لاکھ روپے فی کس کے حساب سے جرمانہ دینے کے پابند ہوں گے اور ساتھ ساتھ ضیاء الرحمن والد کے خلاف اس معاہدے کی خلاف ورزی کی گواہی بھی دیں گے۔

خاص نمبر: 2

خاص نمبر: 1

ATTESTED  
SHAH HUSSAIN KHAN ADVOCATE  
Notary Public, District Courts Hangu

78%

نام: محمد ضیاء نام: عبدی محمد  
 والد کا نام: ضیاء الرحمن والد کا نام: محمد سید  
 قومی شناختی کارڈ نمبر: 1401-3668870-7 قومی شناختی کارڈ نمبر: 90406-017699-9



حکومت پاکستان

قومی شناختی کارڈ

90406-0177099-9



نام: عثمان یوسف حسین  
جنس: مذکر  
تاریخ پیدائش: 01/10/1955

عثمان یوسف حسین  
تاریخ پیدائش: 01/10/1955

دستخط مالدار

دستخط سرپرست

U62X8L 90406-0177099

قومی شناختی کارڈ

مستند پتہ: کراچی، تحصیل و ضلع

تاریخ اجراء: 20/10/2015  
گمشدہ کارڈ ملنے پر قریبی لیو ایکس میں ڈال دیں



23/12/2019

حکومت پاکستان

قومی شناختی کارڈ

14101-0780399-1



نام: عثمان یوسف حسین  
جنس: مذکر  
تاریخ پیدائش: 13/11/1955

عثمان یوسف حسین  
تاریخ پیدائش: 13/11/1955

دستخط مالدار

دستخط سرپرست

TW115W 14101-0780399-1

قومی شناختی کارڈ

مستند پتہ: ایف اے

تاریخ اجراء: 11/04/2018  
گمشدہ کارڈ ملنے پر قریبی لیو ایکس میں ڈال دیں



14457099828

PAKISTAN National Identity Card

Zia Ur Rehman

Father Name  
Abdur Rahim

Gender: M Country of Stay: Pakistan

Identity Number: 14101-9680788-1

Date of Birth: 11.10.1999

Date of Issue: 24.10.2018

Date of Expiry: 24.10.2028



Holder's Signature

14101-9680788-1



101181117993

Uman Y. Memon  
Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیو ایکس میں ڈال دیں

PAKISTAN National Identity Card

Muhammad Haya Khan

Father Name  
Muhammad

Gender: M Country of Stay: Pakistan

Identity Number: 14101-3603870-7

Date of Birth: 27.12.1978

Date of Issue: 25.02.2019

Date of Expiry: 25.02.2029



Holder's Signature

14101-3603870-7



11181122457  
132 16 10777

گمشدہ کارڈ ملنے پر قریبی لیو ایکس میں ڈال دیں

ABDUL MANAN  
STAMP VENDOR  
MAIN BAZAR HANGU

23/12/19