

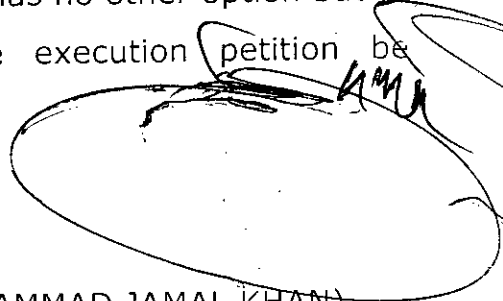
14.01.2021

Neither petitioner nor his counsel is present. Mr. Noor Zaman Khattak, District Attorney, for the respondent is present.

The case was called time and again but none appeared on behalf of appellant till 3:30 P.M. The court time is about to over. At this junction, it will be relevant to mention here that on previous four dates, neither petitioner nor his counsel was present and the case was adjourned again and again with the hope that someone may pursue the case and put appearance on behalf of petitioner but no positive sign.

The Execution Petition pertains to the year 2019 and this conduct of the petitioner clearly manifest he is not interested in pursuing his case. Hence, this Tribunal has no other option but to dismiss the petition in default. The execution petition be consigned to record room.

ANNOUNCED
14.01.2021



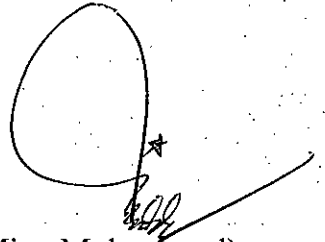
(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

17.08.2020

None for the petitioner present. Mr. Ziaullah, DDA for respondents present.

Fresh notices be issued to the petitioner and counsel for appearance and to the respondents for submission of implementation report.

Adjourned to 01.10.2020 before S.B.



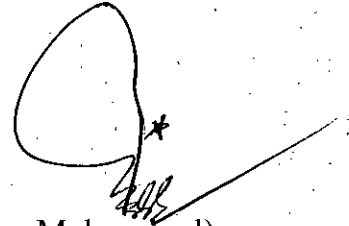
(Mian Muhammad)
Member(E)

01.10.2020

None for the petitioner present.

Mr. Kabirullah, Khattak, Additional Advocate General for respondents present.

Adjourned to 25.11.2020 for further proceedings before S.B.

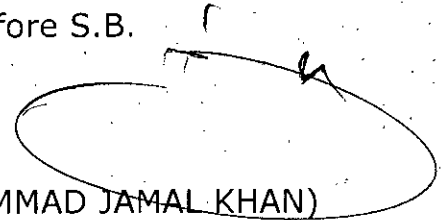


(Mian Muhammad)
Member (E)

25.11.2020

None for the petitioner is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondent is present.

Implementation report on behalf of respondents No. 1 & 2 submitted. Its copy has to be delivered to petitioner for perusal and appropriate order. Neither petitioner nor his counsel has forth come, they be noticed for 14.01.2021. File to come up for further proceedings before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

27.02.2020

Counsel for the petitioner present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Israr Litigation Officer for the respondents present.

Representative of the respondent department submitted copy of inquiry report alongwith notification dated 24.12.2019 which are placed on file. Adjourned. To come up for further proceedings/implementation report on 07.04.2020 before S.B.



(Hussain Shah)
Member

07.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 30.06.2020 for the same. To come up for the same as before S.B.



Reader

30.06.2020

Nemo for the petitioner.

Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

Notice be issued to the petitioner and his counsel for 17.08.2020 with direction to respondents to positively submit implementation report on the date fixed before S.B.



Member (J)

EP 256/2019

31.10.2019

Counsel for the petitioner and Addl. AG alongwith Abid Khan, Junior Clerk for the respondents present.

Learned counsel for the petitioner states that he is under instructions to request for adjournment as the matter is under consideration at the departmental level and will hopefully be decided in the near future.

Adjourned to 04.12.2019 for further proceedings.

Chairman 

04.12.2019

Counsel for the petitioner and Addl. AG alongwith Abid Khan, Assistant for the respondents present.

The representative of respondents requests for time to produce the record pertaining to denovo enquiry conducted in pursuance to the judgment under implementation.

Adjourned to 15.01.2020 on which date the requisite record shall positively be produced.

Chairman 

15.01.2020

Nemo for petitioner. Addl. AG alongwith Qazi Muhammad Ayaz, Litigation Officer for the respondents present.

Representative of respondents states that the denovo enquiry is in process, record whereof shall positively be produced on next date of hearing.

Adjourned to 27.02.2020 for further proceedings before S.B.

Chairman 

E.P. No. 256/19
Amanullah vs Govt

05.09.2019

Counsel for the petitioner present. Mr. Usman Ghan

District Attorney alongwith Mr. Qazi Muhammad Ayaz, Litigation Officer for respondents present. Learned counsel for the petitioner informed that he has been reinstated in service for the purpose of conducting de-novo enquiry vide order dated 04.04.2019. However, as per judgment of this Tribunal dated 09.01.2019 salary is not being paid to the appellant. Perhaps order referred to above is not in accordance with the spirit of the judgment referred to above. He is entitled for monthly salaries whereas issue of back benefits shall be decided in the light of de-novo enquiry. The respondents should not mix both the issues. They are directed forthwith to release the monthly salary and submit compliance report. To come up for further proceedings on 03.10.2019 before S.B.


(Ahmad Hassan)
Member

03.10.2019

Nemo for the petitioner. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Irfan, Assistant Director for the respondents present.




The representative of respondents has produced copy of letter dated 02.10.2019 addressed to the Principal Government Degree College Palai (Malakand) which is placed on record. Due to absence of petitioner instant matter is adjourned to 31.10.2019 for further proceeding before S.B.


CHAIRMAN

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 256/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26.06.2019	<p>The execution petition of Mr. Amanullah submitted today by Mr. Yasir Saleem Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 26/6/19</p>
2-		<p>This execution petition be put up before S. Bench on <u>29/07/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	29.07.2019	<p>Counsel for the petitioner, Mr. Usman Ghani, District Attorney for respondents present.</p> <p>Notices for the next date of hearing be issued to respondents.</p> <p>Adjourned to 05.09.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 256/2019

In the matter of
Appeal No. 439/2017
Decided on 09.01.2019

**Aman ullah, Ex-Senior Clerk Government Degree College
Kabal District Swat.**

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary Higher
Education Department, Peshawar and others.

(Respondents)

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S. No.	Description of documents	Annexure	Page No.
1.	Memo of Appeal & Affidavit		1 - 2
2.	Copies of the judgment and order dated 09.01.2019	A	3 - 8
3.	Copy of Order dated 04.04.2019	B	9
3.	Vakalatnama		10

[Handwritten Signature]

Applicant

Through

YASIR SALEEM

Advocate High Court
Office FR, 4 Forth Floor
Bilour Plaza Peshawar Cantt.
Cell: 0331-8892589

Email: yasirsaleemadvocate@gmail.com

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No-256/2017



In the matter of
Appeal No. 439/2017
Decided on 09.01.2019

Aman ullah, Ex-Senior Clerk Government Degree College
Kabal District Swat.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Higher Education Department, Peshawar.
2. The Director Higher Education (Colleges), Khyber Pakhtunkhwa Peshawar.
3. The Principal Government Degree College, kabal, Swat.

(Respondents)

Application for the implementation of the Judgment and Order dated 09.01.2019 of this Honourable Tribunal.

Respectfully Submitted:

1. That the above noted service appeal was pending adjudication in this Honourable Tribunal and was decided vide judgment and order dated 09.01.2019.
2. That vide judgment and order dated 09.01.2019 this Honourable Tribunal accepted appeal of the appellant in the following terms:

“7. As sequel to above, the appeal is accepted, the impugned order is set aside and the appellant is reinstated in service. the respondents are directed to conduct formal inquiry under the E & D Rules 2011 strictly in accordance with the directions of the Peshawar High Court Peshawar, Mingora Bench Swat referred to above within a period of ninety days from the receipt of this judgment. The issue of back benefits shall be subject to the outcome of the formal inquiry.”

(Copy of the Judgment and order dated 09.01.2019, is Attached as Annexure A)

3. That the judgment of this Honourable Tribunal was duly communicated to the respondents, and the applicant has been posted at DGC Palae Sawat however his salary has been stopped vide order dated 04.04.2019. (*Copy of the order dated 04.04.2019 is Attached as Annexure B*)
4. That the applicant is continuously approaching the respondents and submitted that stoppage of salary is against the spirit of the judgment of the Honorable Tribunal, however they are reluctant to implement the judgment in spirit.
5. That the respondents are legally bound to implement the judgment of this Honourable Tribunal in its true letter and sprit without any further delay and are bound to release the salary of the applicant.

It is, therefore, prayed that on acceptance of this application the respondents may please be directed to implement the judgment and order dated 09.01.2019 of this Honourable Tribunal in its true letter and spirit.

Through

Applicant

YASIR SALEEM
Advocate High Court

AFFIDAVIT

It is hereby solemnly affirm and declare on oath that the contents of the above implementation petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

Deponent

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Ameed A³
**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 395

Dated 18/4/2017

Appeal No. 439/2017

Aman ullah, Ex-Senior Clerk Government Degree College
Kabal District Swat.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Higher Education Department, Peshawar.
2. The Director Higher Education (Colleges), Khyber Pakhtunkhwa Peshawar.
3. The Principal Government Degree College, kabal, Swat.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 02-05-2014, communicated to the appellant on 22-11-2016, whereby the appellant has been awarded the major Punishment of Removal from Service, against which his departmental appeal dated 20-12-2016 has not been responded within the statutory period of 90 days.

Prayer in Appeal: -

Filed to-day

Registrar
18/4/17

On acceptance of this appeal the impugned order dated 02.05.2014, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.

Re-submitted to -day
and filed.

Registrar
8/5/17

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CAMP COURT SWAT.

Service Appeal No.439/2017

Date of Institution ... 18.04.2017

Date of Decision ... 09.01.2019



Aman Ullah, Ex-Senior Clerk Government Degree College Kabal District Swat.
... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Higher Education
Department Peshawar and two others. (Respondents)

MR. YASIR SALEEM,
Advocate

For appellant.

MIAN AMIR QADAR,
District Attorney

For respondents

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI

MEMBER(Executive)
MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS.

2. Learned counsel for the appellant argued that the appellant joined the Education Department as Junior Clerk on 01.11.1984. While in service, he was transferred to the Higher Education Department vide order dated 04.11.2006 and posted at Govt: Degree College, Kabal Swat on 01.12.2006. During posting at the above college, he was charged in FIR no. 3 dated 05.05.2018 under Section 409,468,471 PPC/5(2) P.S Kabal, Swat. After trial by the Special Judge Anti Corruption, Khyber Pakhtunkhwa punishment of imprisonment alongwith recovery of embezzled amount to the tune of Rs. 1913786/- was awarded to him. The appellant assailed the said judgment through an appeal in Peshawar High Court,


 Ahmad Hassan
 MEMBER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

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Mingora Bench (Daar-UI-Qaza) Swat and vide judgment dated 29.04.2014, he was acquitted of the charges and released from jail on 14.05.2014. The Peshawar High Court, Mingora Bench had also given directions for constituting an enquiry committee to probe the issue of embezzled government funds. However, the respondents conducted a partial enquiry after removing him from service. The issue of his removal from service ~~from service~~ was not brought to the notice of the inquiry committee. He preferred an application dated 22.05.2014 for release of salary but without any response from the respondents. The respondents challenged the judgment of the Peshawar High Court, Mingora Bench, Swat in the august Supreme Court of Pakistan, which was dismissed vide judgment dated 24.11.2015. As a sequel to the aforementioned judgment he again approached the department for adjustment and release of salary but to no avail. Learned counsel for the appellant further argued that circumstances compelled him to again knock the door of High Court/Daar-UI-Qaza, Swat through constitution petition no. 195-M/2016. When the respondents filed comments the appellant came to know that he had already been removed from service vide order dated 02.05.2014, which was never communicated to him. After obtaining a copy of the parawise comments filed by the respondents he submitted an application before the Peshawar High Court, Mingora Bench for withdrawal of his writ petition, so as to agitate his grievances at an appropriate forum. Vide order dated 13.12.2016 his writ petition was dismissed as withdrawn. Thereafter he preferred departmental appeal on 20.12.2016 which failed to evoke any response from the respondents, hence, the instant service appeal.

3. Learned counsel for the appellant further contended that major penalty was awarded to the appellant without conducting regular enquiry so action on the part of the respondents lacked legal backing. In support of his arguments, he relied on case

ATTORNEY


 Service Tribunal,
 Peshawar



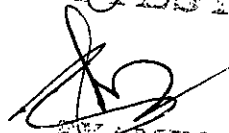
law reported as 2002 SCMR 57, 2001 SCMR 566, 2000 SCMR 1321, 1994 PLC(CS) 1717 and 1993 SCMR 603.

4. Learned District Attorney argued that the then Principal, Govt: Degree College, Kabal, Swat had assigned duties pertaining to the financial/accounts matters to the applicant. When internal audit was conducted in 2008, it unearthed misappropriation/embezzlement in college funds. On the complaint of Principal, Director Higher Education lodged FIR against the appellant and was subsequently arrested by the police. The matter was referred to the Director Anti Corruption Establishment, Khyber Pakhtunkhwa for investigation. During investigation, it came to light that Rs. 1913786/- had been embezzled/misappropriated by the appellant. The case was referred to the Special Judge Anti Corruption and after trial the appellant was awarded punishment of imprisonment and fine. In pursuance of the above judgment he was removed from service with effect from 04.09.2013 vide order dated 02.05.2014. He was further directed to deposit the misappropriated funds. Though he was acquitted by the Peshawar High Court, Mingora Bench but directions for holding inquiry were also contained in the said judgment. In pursuance of the said judgment fact finding enquiry was conducted by the respondents. All codal formalities were observed before passing the impugned order. The appellant has treated according to law and rules.

CONCLUSION.

5. It is not disputed that the appellant was found guilty of embezzlement of the government funds to the tune of Rs. 1913786/- and awarded punishment of imprisonment/fine by Special Judge Anti Corruption vide judgment dated 05.09.2013. On the strength of Section-8(a) of E&D Rules 2011, the appellant was removed from service w.e.f 04.09.2013 vide order dated 02.05.2013. For the sake of transparency and fairness, we observed that the appellant was acquitted by the

ATTESTE


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Peshawar High Court, Mingora Bench on 29.04.2014, while order of removal from service was issued on 02.05.2014. It clearly manifested malafide, ill will and bias of respondents against the appellant. We could not get any satisfactory response from the official respondents that why judgment of Special Judge Anti Corruption dated 05.09.2013 was implemented after a lapse of seven months? The record further revealed that after his acquittal, time and again he approached the respondents for adjustment and release of salary but did not get any positive response. We were unable to comprehend as to what stopped the respondents from communicating the impugned removal order to the appellant? The only justification we inferred was that they were hell bent to get rid of him by hook or crook.

6. The Peshawar High Court, Mingora Bench in concluding para of the judgment gave directions to the respondents to constitute an enquiry committee for recovery of embezzled funds from all those responsible including the appellant, complainant, employee of the college and concerned Bank within a period of two months. Here again we noticed that instead of conducting formal enquiry under E&D Rules 2011 a fact finding enquiry was conducted by the respondents for the reasons best known to them. The record was silent whether any action was taken by the respondents on the findings of the above enquiry or otherwise? It is worth mentioning that the respondents were cognizant of the fact that no action could be taken on the findings of the fact finding enquiry. Our stance is further substantiated by para-4 of the specific recommendations of the fact finding enquiry report which is reproduced below:-

"The competent authority to initiate proper formal disciplinary proceedings against the responsible persons i.e Mr. Amanulllah, the then dealing clerk of accounts, under the clause of misconduct, the then audit party of the Directorate of Higher Education for negligence and"

yjh
ATTESTED


Service Tribunal,
Peshawar

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Whatever has been stated above is sufficient to proof inefficiency, indifference criminal negligence on the part of the respondents in sorting out sensitive and important issue in accordance with law and rules. The respondents owe an explanation for lapses/blunders.

7. As a sequel to above, the appeal is accepted, the impugned order dated 02.05.2014 is set aside and the appellant is reinstated in service. The respondents are directed to conduct formal enquiry under E&D Rules 2011 strictly in accordance with the directions of the Peshawar High Court, Mingora Bench, Swat referred to above within a period of ninety days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the formal enquiry. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
Member
Camp court Swat

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
Member

ANNOUNCED
09/01.2019

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 16-01-19
Number of Pages 2400
Copies of Application 14
Urgent 2
Total 16
Name of Applicant [Signature]
Date of Receipt of Copy 16-01-19
Date of Delivery of Copy 16-01-19



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR**

Tel # 091-9210242 / 9211025

Fax # 091-9211803

E-mail:- dhekpkesh@gmail.com

Facebook.com/dhekpkeshwar

Twitter.com/dhekpkeshwar1

Dated Peshawar the 4/4/2019

REINSTATEMENT ORDER:

In pursuance of the judgment passed by Khyber Pakhtunkhwa, Service Tribunal, Peshawar on 09-01-2019 in Service Appeal No. 439/2017, the Competent Authority is pleased to reinstate Mr. Aman Ullah, Senior Clerk, Govt; Degree College, Kabal, District Swat, at Government Degree College, Palai against the vacant post with immediate effect. However financial benefits shall be subject to the outcome of the formal enquiry as per the direction of the Honorable Service Tribunal.

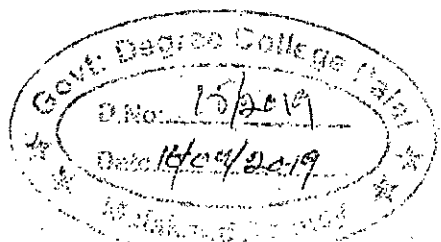
DIRECTOR HIGHER EDUCATION

Endst. No 6005-12 AD (Lit)/HED/SA (439/2017)

Copy of the above is forwarded for information/necessary action to the:-

1. Registrar, Khyber Pakhtunkhwa, Service Tribunal, Camp Court Swat.
2. Principal, Govt; Degree College Kabal, Swat
- ✓ 3. Principal, Govt; Degree College Palai, Malakand.
4. Section Officer (Litigation), Higher Education Department, Khyber Pakhtunkhwa Peshawar.
5. District Account Officer, Malakand.
6. District Account Officer, Swat
7. PA to Director Higher Education Khyber Pakhtunkhwa Peshawar.
8. Official concerned.

*Ms. Haryat-526
file this orders
in 1/1 file
of date
of Mr. Aman Ullah*



M. Muhammad Iqbal
DEPUTY DIRECTOR

yh
Attested

10

POWER OF ATTORNEY

In the Court of Service Tribunal Peshawar

_____ } For
_____ } Plaintiff
Aman ullah } Appellant
_____ } Petitioner
_____ } Complainant

VERSUS

Government KPK } Defendant
_____ } Respondent
_____ } Accused
_____ }

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/W, the undersigned, do hereby nominate and appoint

YASIR SALEEM ADVOCATE HIGH COURT

,my true and lawful attorney, for me in my same and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

JAWAD-UR-REHMAN
Advocate, Peshawar

YASIR SALEEM
Advocate High Court

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0331-9399185



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
RANO GHARI NEAR CHAMKANI MOR, PESHAWAR**

E-mail:- dhekpkes@pesh@gmail.com Facebook.com/dhekpkes Peshawar Twitter.com/dhekpkes Peshawar1

No. _____ / CA-VII/Estt: Branch/A-167/Litigation file Dated Peshawar the 21/10/2019

To

The Principal,
Government Degree College,
Palai (Malakand).

Subject: - RELEASE OF SALARY

Respected Sir, السلام عليكم

I am directed to refer to the subject noted above and to state that in the light of Khyber Pakhtunkhwa, Service Tribunal Peshawar judgment, announced on 09-01-2019, the salaries of the Mr. Aman Ullah, Senior Clerk, presently working at Government Degree College, Palai (Malakand), may be released from the date of reinstatement in compliance with order of honorable tribunal, please..

—scd—
(Muhammad Iftikhar)
DEPUTY DIRECTOR

Endst; No 22074-80 / Estt: Branch/Litigation file

Copy of the above is forwarded to the:-

1. Registrar Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
2. Deputy Director (IT), Local Directorate with the remarks to circulate the same electronically.
3. District Accounts Officer, Malakand.
4. Section Officer (Litigation), Higher Education Department, Khyber Pakhtunkhwa.
5. Assistant Director (Litigation), Local Directorate.
6. CA-VII (Establishment branch), Local Directorate.
7. Official Concerned.

~~(Muhammad Iftikhar)~~
DEPUTY DIRECTOR
Jan

Mansoor.

Process immediately 13
23/4/19

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RECEIVED ON
23 APR 2019
Diary # 5858 Page # 206
D/Clerk

Ref Page 12

The Director
Higher Education
Khyber Pakhtunkhwa, Peshawar.

Subject: INQUIRY AGAINST MR. AMANULLAH SENIOR CLERK GOVT. DEGREE COLLEGE KBAL, SWAT.

DATE OF INQUIRY: 08-04-2019
PLACE OF INQUIRY: GOVT DEGREE COLLEGE KABAL, SWAT.
INQUIRY OFFICERS:
(i). Prof Irfan Ullah
Principal Govt. College Mathra, Peshawar
(ii). Prof. Bakhtiar
Principal Govt College Lahore, Swabi

Terms of Reference: Appointment Letter + Statement Allegation + Charge Sheet.
Procedure: Interview in Person and Examination of Accounts record.

BRIEF HISTROY OF THE CASE:

Govt Degree College Kabal, Swat was established in the year 2006 and Mr. Aman Ullah was transferred to this college on 17/11/2006 and posted against the vacant post of Senior Clerk. Mr Muhmmad Iqbal (The then Principal Govt Collge Kabal, Swat) assigned responsibilities of all kinds of Account matters pertaining to the college to Mr. Amanullah(The accused Senior Clerk) through an office order dated 07/12/2006. In 2008, the then Principal realized that college funds were not properly maintained and utilized. The then Principal immediately constitute an internal audit committee of the college Professor who digged out misappropriation/embezzlement in the college funds. The matter of embezzlement was reported to the Director Higher Education, Khyber Pakhtunkhwa Peshawar who directed the then Principal to lodge FIR against Mr. Amanullah. Mr. Amanullah was arrested by the local Police by lodging FIR against him on 19/04/2008. After preliminary investigations, the Police referred the case to Anti-Corruption department. The Anti-corruption Department carried out audit of the college Account and found that huge amount of Rs. 1913786/- had been misappropriated/embezzled by the then senior clerk, Mr. Amamnullah. The anti-corruption department referred the embezzlement case to the court of special Judge Anti-corruption Khyber Pakhtunkhwa at Swat. The Honorable special judge anti-corruption decided the case against Mr. Amanulah. Mr. Amanullah filed appeal in Honorable Peshawar High Court Bench. Dar -Ul-Qaza at Mingora, Swat against the Judgment passed by special judge Anti-corruption. The Honorable Peshawar High Court Bench. Dar -Ul- Qaza, Swat directed the secretary Higher Education Department Govt: of Khyber Pakhtunkhwa to prob ino the matter and recover the embezzled amount from Mr. Amanullah (The accused Senior Clerk). In light of the directives, issued by honorable Peshawar High Court Bench Swat. The fact finding inquiry was conducted by the then special Secretary Higher Education Archives & Library Department along with Director, Directorate of Archives & Libraries and deputy dorector (colleges) Directorate of Higher Education.

PROCEEDINGS:

In Compliance With The Directives Of The Director Higher Education Khyber Pakhtunkhwa, Peshawar vide the letter No:6502-3/Ad-lit/DHE/SA(43a/2017) dated 04/04/2019, the inquiry committee comprising of Professor Irfan Ullah (Principal Govt. College Mathra Peshawar) and Professor Bakhtiar (Principal Govt. College Lahor Swabi) visited Govt. Degree Collge Kabal Swat on 8/4/2019 in order to dig out the factual position about the illegation level against Mr. Amanullah, the then senior Clerk of the Govt Degree College kabal Swat.

Mr. Muhammad Iqbal (The Then Principal) and Mr. Amanullah (The Accused Senior Clerk) were contacted telephonically to appear before the inquiry committee at Govt. Degree College Kabal Swat on 8/4/2019. Mr. Amanullah (the accused Clerk) was also served with charge sheet and was given full liberty and ample opportunity to offer his defence. The afore mentioned officer /official were also provided opportunity of personal hearing and cross examination and recorded their statement.

A. Mr. Muhammad Iqbal (Retired) , the then Principal GDC kabal (Swat).

Mr. Muhammad Iqbal took charge of the office of Principal at Govt. College Kabal swat on 1/9/2006 and got retirement on 3/8/2011on superannuation. Mr. Muhammad iqbal told the inquiry committee that he assigned responsibilities of all kinds of accounts matter pertaining to the college to Mr. Amanullah through on office order dated 7/12/2006.

Mr. Muhammad Iqbal told the committee that in early 2008, he sensed misappropriation/Embezzlement in the college funds, Therefore he constituted an audit committee of the local college Professors, who digged out misappropriation/embezzlement amount of Rs. 1574089/-. The Principal told the committee that when Amanullah was informed about the embezzlement amount, he come to the collage and signed a pardon deed on Judicial stamp paper in presence of witness and promise in written that he will return the embezzled amount upto 01/05/2008(Annex-A).

When asked about the cheque book of Private funds, Mr. Muhammad Iqbal replied that it was under the custody of Mr. Amanullah. Mr. Muhammad Iqbal informed the inquiry committee that Mr. Amanullah had drawn Rs.30,5000/- from the National Bank Kabal Branch under fake signature of the D.D.O (The Then Principal Mr. Muhammad Iqbal) through various cheques bearing No:686641 date 11/3/2007 for Rs. 40,000/- bearing no: 686642 Dated: 05/11/2007 for Rs. 15000/- and bearing No: 686643 dated: 11/12/2007 for Rs. 250,000/- (Records of cheques were in custody of the Anti-corruption department). The entire amount was misappropriated.

It was also brought into the notice of the inquiry committee that amount of Rs.400,000/- had been granted to the collage in ADP Scheme during the Year 2006-2007 for Purchase of the furniture but the entire amount was misappropriated by the then senior clerk, Mr. Amanullah. The committee was informed that bank draft of Rs.20,000/- bearing No:742966 dated 05/07/2007 issued in the name of National Book foundation. Mr. Amanullah after tempering, produced the same Bank draft bearing No.742966 for a payment of Rs.400,000/- to Pak- Ger man wood working Timergara. The tempered bank draft was duly verified by the Manger National bank of Pakistan main branch Saidu Sharif, Swat. (Copy of Bank Draft Also in custody of Anti-corruption deptt).

The Committee was also informed that soon after the establishment of Govt Degree Collge Kabal Swat, the admission in first year and 3rd Year classes were carried out by Govt Post Graduate Jehanzeb Collge, Swat. The admissions in first year & 3rd Year class for the next session 2007-2008 were carried out by Govt Degree Collge Kabal. The amount of Rs. 70700/- realized from the sale of prospectus were not deposited in the college account and thus misappropriated/ embezzled by Mr.Amanullah.

B. Mr..Amanullah, The Accused Senior Clerk, G.D.C Kabl, Swat.

Mr. Amanullah took charge on 6/11/2006 at Govt Degree Collge Kabal, Swat against the vacant post of senior clerk. Mr. Amullah assured the inquiry committee that he had been shouldered responsibilities of all kind of accounts matters pertaining to the college through an office order dated 7/12/2006 and since then he was performing his duties honestly and efficiently. He replied that in early 2008, the then Principal conducted an audit of college accounts through college professors and they charged me for embezzlement of Rs.1574089/-. The Anti-corruption establishment also held me responsible for embezzlement Rs.1913786/-. He also told the committee that record of the relevant account was in his custody.

On inquiring about the cheque for Rs.400,000/- issued in the name of Pak-German wood working Timergara, he replied that the drawl of the aforementioned amount was made through AC bill and cheque sent to Pak-German Timergara, but he failed to produced AC bill and copy of the said cheque.

When aske about the pardon deed, Mr. Amanullah replied that he signed pardon deed on 16/04/2008 under pressure in the custody of Police. The officers/official who signed the pardon deed as witness are also summoned by the inquiry committee and obtained written statement from them(Annex - B)

It is important to mention that pardon deed was signed by Mr. Amanullah on 16/4/2008 while FIR was lodged against him on 19/04/2008(Annex- C)

When asked to produce the approval of the Principal for Rs.40,000/- for Rs.15000/- and for Rs. 250,000/- that had been drawn through cheques bearing No.686641,686642 and 686643 ,Mr.Amanullah denied that he had no record.

C. Calculation of Realized Amount from Students, Expenditure Incurred and Misappropriated/Embezzled Amount.

The inquiry committee checked admission withdrawal register, Private funds register, Govt funds register and cash book register for the Period 2006-2007 & 2007-2008 and found significant shortcomings on these registers. The cash book register for the period Oct 2006 to

[Handwritten signatures and notes on the left margin]

No 4268
16/4/08

1200066
16/4/08

دوریا سرحد

گوان

Sher Alam Asstt. Professor
Govt. Degree College
G.D.C. Kabal

محمد رفیق
گوان

Mohammad
Govt. Degree College
G.D.C. Kabal Swat

Muhammad Rasool
Lect. in Zoology
G.D.C. Kabal Swat

Fazli Rehman
Govt. Degree College
G.D.C. Kabal Swat

Counter Signature
Principal
Govt. Degree College
Kabal Swat

گوان



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
RANO GHARI NEAR CHAMKANI MOR, PESHAWAR**

E-mail:- dhekpkeshe@gmail.com Facebook.com/dhekpkeshe Twitter.com/dhekpkeshe1

No. _____ / CA-VII/Estt: Branch/A-167/SA#439/2017, Ammanullah Dated Peshawar the 24/12/2019

NOTIFICATION

Whereas Mr. Amanullah. Sr.Clerk (BPS -14) of Higher Education Department was proceeded against, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheets and statement of Allegations.

1. **AND WHEREAS**, an inquiry committee comprising Mr. Irfan Ullah, Principal Govt: Degree College Mathra and Mr. Bakhtiar Khan Principal Govt: Degree College Lahor, Swabi was constituted to conduct inquiry into the allegations.

2. **AND WHEREAS**, the inquiry Committee after having examined the charges, evidence on record and explanation of accused officers, submitted report.

3. **NOW THEREFORE**, the competent authority after having considered the charges, evidence on record, the explanation of the accused officers, and after affording the opportunity of personal hearing while exercising the powers conferred upon him under Rule-14 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules 2011, has been pleased to impose minor penalties upon the accused officer as under:

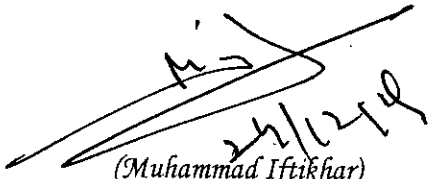
Name & Designation	Penalty Imposed
Mr. Amanullah. Sr.Clerk (BPS -14) of Higher Education Department.	1. Withholding of two annual increments. 2. Recovery of embezzled amount of Rs. 1,602,609/-

DIRECTOR, HIGHER EDUCATION

Endst; No 30705-9 / Estt: Branch/ SA#439/2017, Ammanullah

Copy of the above is forwarded to the following:

1. Principal Govt: Degree College, Pallai Malakand with request to recover the embezzled amount from the official concerned under intimation to the Directorate Higher Education along with original receipt.
2. Principal Govt: Degree College Kabal Swat.
3. District Account Officer Swat.
4. District Account Officer Malakand.
5. Official Concerned.

o/c

(Muhammad Iftikhar)
DEPUTY DIRECTOR
ga

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

S.A # 439/2017

Aman Ullah.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa Through:

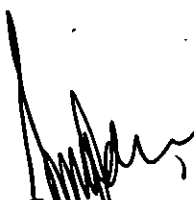
1. Secretary Higher Education Department, Peshawar
2. Director, Higher Education, (Colleges) Peshawar..... Respondents


SUBJECT: IMPLEMENTATION REPORT ON BEHALF OF RESPONDENT NO. 1 & 2

The appellant filed Service Appeal which was accepted on 09/01/2019 and the operating part is read as under:

“The impugned order dated 02/05/2014 is set aside and the appellant is reinstated in service. The respondents are directed to conduct formal enquiry under E&D Rules, 2011 strictly in accordance with the directions of the Peshawar High Court, Mingora Bench Swat referred to above within a period of ninety days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of formal enquiry.” **(Annex-A)**

In light of court order dated 09/01/2019, the appellant was reinstated into service vide order dated 04/04/2019 **(Annex-B)**. Principal, Govt. Degree College, Mathra and Principal, Govt. Degree College, Lahor (Swabi) were nominated as inquiry officers to conduct a formal inquiry **(Annex-C)**. Charge Sheet and Statement of Allegations were served upon the appellant **(Annex-D & E)**. The appellant submitted a reply to Charge Sheet served upon him on 15/04/2019 **(Annex-F)**. In the meanwhile, in light of the order dated 05/09/2019 of the Hon'ble Tribunal in Execution Petition, the salary of the appellant was released vide letter dated 02/10/2019 from the date of reinstatement of the appellant **(Annex-G)** show-cause notice was served upon the appellant on 28/05/2019 **(Annex-H)** and offered an opportunity of personal hearing on 04/09/2019 **(Annex-I)** and the competent authority imposed minor penalty of withholding of two increments and recovery of embezzlement amount of Rs. 16,026,091/- upon the appellant vide order dated 24/12/2019 **(Annex J)**. As the appellant was not in service from 05/09/2013 till 04/03/2019 and has not performed any work, therefore, he is not entitled for back benefits on the basis of “no work no pay”.


Secretary,
Higher Education, Archives &
Library Department,
Respondent No. 1


Director,
Directorate of Higher Education
Respondent No. 2

Annex - A

Aman

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

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 395

Dated 18/4/2017

Appeal No. 439/2017

Aman ullah, Ex-Senior Clerk Government Degree College
Kabal District Swat.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Higher Education Department, Peshawar.
2. The Director Higher Education (Colleges), Khyber Pakhtunkhwa Peshawar.
3. The Principal Government Degree College, kabal, Swat.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 02-05-2014, communicated to the appellant on 22-11-2016, whereby the appellant has been awarded the major Punishment of Removal from Service, against which his departmental appeal dated 20-12-2016 has not been responded within the statutory period of 90 days.

Prayer in Appeal: -

Filed to-day

Registrar
18/4/17

On acceptance of this appeal the impugned order dated 02.05.2014, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.

Re-submitted to -day
and filed.

Registrar
8/5/17

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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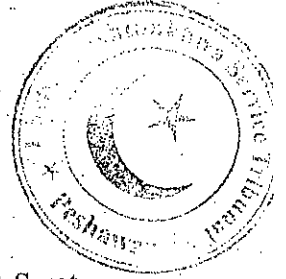
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
CAMP COURT SWAT

Service Appeal No.439/2017

Date of Institution ... 18.04.2017

Date of Decision ... 09.01.2019



Aman Ullah, Ex-Senior Clerk Government Degree College Kabal District Swat.
... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Higher Education
Department Peshawar and two others. ... (Respondents)

MR. YASIR SALEEM,
Advocate

For appellant.

MIAN AMIR QADAR,
District Attorney

For respondents

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI

MEMBER (Executive)
MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS.

2. Learned counsel for the appellant argued that the appellant joined the Education Department as Junior Clerk on 01.11.1984. While in service, he was transferred to the Higher Education Department vide order dated 04.11.2006 and posted at Govt: Degree College, Kabal Swat on 01.12.2006. During posting at the above college, he was charged in FIR no. 3 dated 05.05.2018 under Section 409, 468, 471 PPC/5(2) P.S Kabal, Swat. After trial by the Special Judge Anti Corruption, Khyber Pakhtunkhwa punishment of imprisonment alongwith recovery of embezzled amount to the tune of Rs. 1913786/- was awarded to him. The appellant assailed the said judgment through an appeal in Peshawar High Court,

ATTEST

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Mingora Bench (Daar-UI-Qaza) Swat and vide judgment dated 29.04.2014, he was acquitted of the charges and released from jail on 14.05.2014. The Peshawar High Court, Mingora Bench had also given directions for constituting an enquiry committee to probe the issue of embezzled government funds. However, the respondents conducted a partial enquiry after removing him from service. The issue of his removal from service ~~from service~~ was not brought to the notice of the inquiry committee. He preferred an application dated 22.05.2014 for release of salary but without any response from the respondents. The respondents challenged the judgment of the Peshawar High Court, Mingora Bench, Swat in the august Supreme Court of Pakistan, which was dismissed vide judgment dated 24.11.2015. As a sequel to the aforementioned judgment he again approached the department for adjustment and release of salary but to no avail. Learned counsel for the appellant further argued that circumstances compelled him to again knock the door of High Court/Daar-UI-Qaza, Swat through constitution petition no. 195-M/2016. When the respondents filed comments the appellant came to know that he had already been removed from service vide order dated 02.05.2014, which was never communicated to him. After obtaining a copy of the parawise comments filed by the respondents he submitted an application before the Peshawar High Court, Mingora Bench for withdrawal of his writ petition, so as to agitate his grievances at an appropriate forum. Vide order dated 13.12.2016 his writ petition was dismissed as withdrawn. Thereafter he preferred departmental appeal on 20.12.2016 which failed to evoke any response from the respondents, hence, the instant service appeal.

3. Learned counsel for the appellant further contended that major penalty was awarded to the appellant without conducting regular enquiry so action on the part of the respondents lacked legal backing. In support of his arguments, he relied on case

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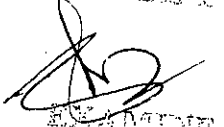
law reported as 2002 SCMR 57, 2001 SCMR 566, 2000 SCMR 1321, 1994 PLC(CS) 1717 and 1993 SCMR 603.

4. Learned District Attorney argued that the then Principal, Govt: Degree College, Kabal, Swat had assigned duties pertaining to the financial/accounts matters to the applicant. When internal audit was conducted in 2008, it unearthed misappropriation/embezzlement in college funds. On the complaint of Principal, Director Higher Education lodged FIR against the appellant and was subsequently arrested by the police. The matter was referred to the Director Anti Corruption Establishment, Khyber Pakhtunkhwa for investigation. During investigation, it came to light that Rs. 1913786/- had been embezzled/misappropriated by the appellant. The case was referred to the Special Judge Anti Corruption and after trial the appellant was awarded punishment of imprisonment and fine. In pursuance of the above judgment he was removed from service with effect from 04.09.2013 vide order dated 02.05.2014. He was further directed to deposit the misappropriated funds. Though he was acquitted by the Peshawar High Court, Mingora Bench but directions for holding inquiry were also contained in the said judgment. In pursuance of the said judgment fact finding enquiry was conducted by the respondents. All codal formalities were observed before passing the impugned order. The appellant has treated according to law and rules.

CONCLUSION.

5. It is not disputed that the appellant was found guilty of embezzlement of the government funds to the tune of Rs. 1913786/- and awarded punishment of imprisonment/fine by Special Judge Anti Corruption vide judgment dated 05.09.2013. On the strength of Section-8(a) of E&D Rules 2011, the appellant was removed from service w.e.f 04.09.2013 vide order dated 02.05.2013. For the sake of transparency and fairness, we observed that the appellant was acquitted by the

ATTEST


 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

7

Peshawar High Court, Mingora Bench on 29.04.2014, while order of removal from service was issued on 02.05.2014. It clearly manifested malafide, ill will and bias of respondents against the appellant. We could not get any satisfactory response from the official respondents that why judgment of Special Judge Anti Corruption dated 05.09.2013 was implemented after a lapse of seven months? The record further revealed that after his acquittal, time and again he approached the respondents for adjustment and release of salary but did not get any positive response. We were unable to comprehend as to what stopped the respondents from communicating the impugned removal order to the appellant? The only justification we inferred was that they were hell bent to get rid of him by hook or crook.

6. The Peshawar High Court, Mingora Bench in concluding para of the judgment gave directions to the respondents to constitute an enquiry committee for recovery of embezzled funds from all those responsible including the appellant, complainant, employee of the college and concerned Bank within a period of two months. Here again we noticed that instead of conducting formal enquiry under E&D Rules 2011 a fact finding enquiry was conducted by the respondents for the reasons best known to them. The record was silent whether any action was taken by the respondents on the findings of the above enquiry or otherwise? It is worth mentioning that the respondents were cognizant of the fact that no action could be taken on the findings of the fact finding enquiry. Our stance is further substantiated by para-4 of the specific recommendations of the fact finding enquiry report which is reproduced below:-

"The competent authority to initiate proper formal disciplinary proceedings against the responsible persons i.e Mr. Amanullah, the then dealing clerk of accounts, under the clause of misconduct, the then audit party of the Directorate of Higher Education for negligence and"

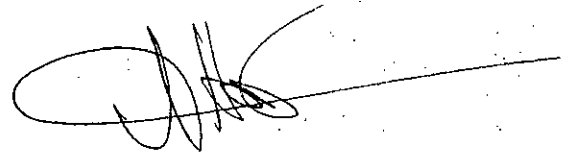
ATTESTED


 Officer
 Services Branch
 Peshawar

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Whatever has been stated above is sufficient to proof inefficiency, indifference criminal negligence on the part of the respondents in sorting out sensitive and important issue in accordance with law and rules. The respondents owe an explanation for lapses/blunders.

7. As a sequel to above, the appeal is accepted, the impugned order dated 02.05.2014 is set aside and the appellant is reinstated in service. The respondents are directed to conduct formal enquiry under E&D Rules 2011 strictly in accordance with the directions of the Peshawar High Court, Mingora Bench, Swat referred to above within a period of ninety days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the formal enquiry. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
Member
Camp court Swat

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
Member

ANNOUNCED
09:01.2019

Certified to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of	16-01-19
Number of	2400
Copying	14
Urgency	2
Total	16
Name of	<i>[Signature]</i>
Date of	16-01-19
Date of Delivery of Copy	16-01-19



Annex - B
DIRECTOR

K
KI

123
HIGHER EDUCATION

AKHTUNKHWA

DAD, PESHAWAR

Tel # 091-9210242/0211025

Fax # 091-9211803

E-mail:- dhekpkesh@gmail.com Facebook.com/dhekpkeshwar Twitter.com/dhekpkeshwar1

Dated Peshawar the 6/6/2019

REINSTATEMENT ORDER:

In pursuance of the judgment passed by Khyber Pakhtunkhwa, Service Tribunal, Peshawar on 09-01-2019 in Service Appeal No. 439/2017, the Competent Authority is pleased to reinstate Mr. Aman Ullah, Senior Clerk, Govt; Degree College, Kabal, District Swat, at Government Degree College, Palai against the vacant post with immediate effect. However financial benefits shall be subject to the outcome of the formal enquiry as per the direction of the Honorable Service Tribunal.

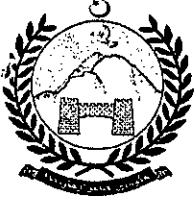
DIRECTOR HIGHER EDUCATION

Endst. No. 6005-12 /AD (Lit)/HED/SA (439/2017)

Copy of the above is forwarded for information/necessary action to the:-

1. Registrar, Khyber Pakhtunkhwa, Service Tribunal, Camp Court Swat.
2. Principal, Govt; Degree College Kabal, Swat
3. Principal, Govt; Degree College Palai, Malakand.
4. Section Officer (Litigation), Higher Education Department, Khyber Pakhtunkhwa Peshawar.
5. District Account Officer, Malakand.
6. District Account Officer, Swat
7. PA to Director Higher Education Khyber Pakhtunkhwa Peshawar.
8. Official concerned.


(Muhammad Akbar)
DEPUTY DIRECTOR



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR**

Tel # 091-9210242 / 9211025 Fax # 091-9210215
E-mail:- dhekpkesh@gmail.com Facebook.com/dhekpkeshwar Twitter.com/dhekpkeshwar1

No. 6002-3 AD Lit/DHE/ S.A (439/2017),

Dated Peshawar the 4 / 4 /2019

To

- The Principal,
1. Govt: Degree College, Mathra (Peshawar)
2. Govt: Degree College Lahor, (Swabi)

SUBJECT: INQUIRY AGAINST MR. AMAN ULLAH, SENIOR CLERK GDC KABAL SWAT.

Memo:-

I am directed to refer to the subject cited above and to state that Director Higher Education Khyber Pakhtunkhwa is pleased to appoint you as Inquiry Officer in the case of the above named official & conduct an inquiry under E&D Rules 2011 in the light of attached statement of allegation and charge sheet and point out factual position with recommendation/opinion within 15 days positively for the perusal of Director Higher Education Khyber Pakhtunkhwa.

(Muhammad Iftikhar)
DEPUTY DIRECTOR

Endst.No 6004-5 / AD Lit/DHE/ S.A (439/2017)

Copy of the above is forwarded for information to the

1. Principal, Govt. Degree College Kabal Swat with the remarks to direct the accused official to appear before the inquiry Officer on the date, time and place fixed by the inquiry Officer for the purpose of Inquiry proceedings with further direction to extend all possible assistance to the Inquiry officer by deputing an Officer/official who is well conversant with the case.
2. Section Officer (Litigation), Higher Education Department, Khyber Pakhtunkhwa, Peshawar.

(Muhammad Iftikhar)
DEPUTY DIRECTOR

o/c

CHARGE SHEET

I, Mr. Zahoor Ul Haq Shah, Director, Higher Education, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Aman Ullah, Senior Clerk, Government Degree College, Kabal Swat as follows:

That you, while posted as Senior Clerk at Government Degree College, Kabal Swat committed the following irregularities:

- i. That you were posted against the vacant post snior clerk at Government Degree College Kabal, Swat on 17-11-2006.
 - ii. That, the then Principal of the college, Professor (Retired) Muhammad Iqbal made you in charge of all kinds of account matters in the college.
 - iii. That, the college Principal noticed huge embezzlements in the college fund after performing internal audit.
 - iv. That, a committee comprising Principal, GC, Daggar and Principal Govt: Postgraduate College, Saidu Sharif conducted an enquiry and held you responsible for the embezzlement of the amount Rs 15,36,403/-.
 - v. In light of the above you appear to be guilty of misconduct under Rule 3 (b) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any penalties specified in rule 04 of the Rule ibid.
 - vi. You are, therefore, required to submit your written defence within 07 days of the receipt of this charge sheet to the inquiry officer, as the case may be.
2. Your written defense, if any, should reach the inquiry officer/committee within the specific period, failing which it shall be deemed that you have no defense to put in and you shall be proceeded exparte.
 3. Intimate whether you desire to be heard in person.
 4. A statement of allegations is enclosed.

(ZAHOOR UL HAQ)
DIRECTOR, HIGHER EDUCATION
KHYBER PAKHTUNKHWA

AC

DISCIPLINARY ACTION

I, Mr. Zahoor Ul Haq, Director, Higher Education, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Aman Ullah, Senior Clerk, Government Degree College, Kabal Swat has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning/Specified in Section-03 of the Government Servant (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS.

- i. That you were posted against the vacant post Senior Clerk at Government Degree College Kabal, Swat on 17-11-2006.
 - ii. That, the then Principal of the college, Professor (Retired) Muhammad Iqbal put you in charge of all kinds of account matters in the college.
 - iii. That, the college Principal noticed huge embezzlements in the college fund after performing internal audit.
 - iv. That, a committee comprising Principal, GC, Daggar and Principal Govt: Postgraduate College Saidu Sharif conducted a fact finding enquiry and held you responsible for the embezzlement of amount Rs 15,36,403/-.
2. For the purpose of Inquiry against the said accused with reference to the above allegations, a formal inquiry committee consisting of the following, is constituted under rule 10(1)(a) of the ibid rules.
 - a. Irfan Ullah Government Degree College, Mathra (Peshawar)
 - b. Bakhtiar Muhammad, Government Degree College Lahor.
 3. The inquiry officer/Inquiry Committee shall, in accordance with the provisions of the Rules, ibid provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
 4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/inquiry committee.


(ZAHOOR UL HAQ)
DIRECTOR, HIGHER EDUCATION
KHYBER PAKHTUNKHWA

To,
The inquiry committee,

Subject: REPLY TO THE CHARGE SHEET DATED NIL
COMMUNICATED TO THE UNDERSIGNED ON
08.04.2019

Respected Sir,

Reference you charge sheet dated NIL, the undersigned submits my reply for your kind and sympathetic consideration as under:

1. That the undersigned was initially appointed as junior clerk on 01.11.1984 in education department was posted at Government High School Besham Mera in the then District Shangla.
2. That ever since my appointment, I had performed my duties as assigned with zeal and devotion and has never given any chance of complaint whatsoever regarding my performance.
3. That I at the very outset deny the allegations leveled against me as false, and baseless. The charges so leveled against me are based on mis-conception and are liable to be struck down.
4. That it has been alleged that I was given control by the then Principal over the account matters, is not true. With great respect it is submitted that I was mere clerk in the accounts department while the Principal was the controlling authority and the drawing and disbursing officer for all intents and purposes.
5. That it has also been alleged that some embezzlement was committed in the college fund, however I was not aware of any such embezzlement. The alleged incident took place on 05.07.2007 while the letter has been issued on 19.04.2008 after nine months. The principal was the DDO and being DDO he used to check the accounts every month. Had there been any such embezzlement on the part of the undersigned, the principal would have brought it in the knowledge of the high ups. If there were any embezzlement why he kept mum for nine long months. In-fact if at all there were any embezzlement, it would be committed by the Principal and the undersigned was made a scapegoat as was mentioned by the August Supreme Court of Pakistan.

anti corruption/ trial court. When the drawing and disbursing officer was the principal then how can the undersigned be responsible for any embezzlement. Accounts maintaining, fund raising and most importantly, the supervising of expenditure was the responsibility of the principal. The principal used to check the cash book from time to time and after each check he used to endorse his signature on the same. The undersigned had no authority from the principle to withdraw money from bank. So, for the reasons cited above, the allegations regarding the involvement of the undersigned in embezzlement is strongly denied.

7. That so far the constitution of fact finding inquiry is concern, it did not adopted the procedure which was required under the law to be followed, the statement of the principal was not recorded, and if recorded I was not allowed to cross examine him. The inquiry committee conducted a partial inquiry, I do not know whom else recorded their statement before the inquiry committee what record was brought and presented before the committee which could connect the undersigned with the embezzlement. Both the inquiry members conducted separate inquiries on different dates which was also illegal. It is also pertinent to mention here that the report of fact finding inquiry was also not provided to me so that I could know on what grounds I was held responsible for the alleged embezzlement.
8. That although later on I was convicted by the special judge anti corruption vide order dated 05.09.2013, however the same was setaside by the Honorable judge Darul Qaza Swat vide order and judgment dated 29.04.2014. The Honorable Court very minutely discussed the issues and exonerated the undersigned from the charges of embezzlement leveled against him and acquitted him vide the said order.
9. This fact was also observed by *the August Supreme Court of Pakistan* that *"it is evident from the record that the accounts of the relevant institution were regularly checked by the Principal of the said institution him self and he never found any embezzlement in the accounts"*. The Apex courts further observed that *"the FIR in this case had been registered after about 8/9 months of unearthing of the alleged embezzlement which indicates that the respondent No. 1 (the undersigned) could well have been made a scapegoat"*. The August Supreme Court also dismissed the appeal and upheld the order and judgment dated 29.04.2014 of the Honorable Dar ul Qaza Swat whereby the undersigned was acquitted.
10. I have performed my duties through out my service career with punctuality and honesty. My whole service record which was more than 25 years would reflect that there was not a single complaint regarding the embezzlement.

11. That I had a spotless service career at my credit, during my entire service I have performed my duties with zeal, devotion and sincerity and have always kept the interest and integrity of my department.

12. That I also desire to be heard in person.

It is, therefore, humbly prayed that on acceptance of this reply, the subject charge sheet may kindly be dropped and I may be exonerated of the charges leveled against me.

Received on
20/4/2019
[Signature]
20/4/19

Dated: 15/4/2019

Yours obediently,

[Signature]

Aman ullah
Senior Clerk
presently posted at GDC Pallae
Malakand

Annex

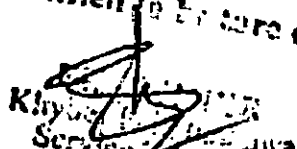
05.09.2019

Amrullah vs Govt



Counsel for the petitioner present Mr. Usman Khan
 District Attorney alongwith Mr. Qazi Muhammad Ayaz
 Litigation Officer for respondents present. Learned counsel for
 the petitioner informed that he has been reinstated in service for
 the purpose of conducting de-novo enquiry vide order dated
 04.04.2019. However, as per judgment of this Tribunal dated
 09.01.2019 salary is not being paid to the appellant. Perhaps
 order referred to above is not in accordance with the spirit of
 the judgment referred to above. He is entitled for monthly
 salaries whereas issue of back benefits shall be decided in the
 light of de-novo enquiry. The respondents should not mix both
 the issues. They are directed forthwith to release the monthly
 salary and submit compliance report. To come up for further
 proceedings on 03.10.2019 before S.B.

Certified to be true copy


 Khayyatullah
 Service Tribunal
 Peshawar


 (Ahmad Hassan)
 Member

Date of Presentation of Appeal 5-9-19
 Number of Words 800
 Copying For 12
 Urgent
 Total 12
 Name of C
 Date of Copying 11-9-19
 Date of Delivery of C 11-9-19

Annex - H

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DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR

Tel # 091-9210242 / 9211025

Fax # 091-9210215

E-mail:- dhepkpesh@gmail.com

[Facebook.com/dhepkpeshawar](https://www.facebook.com/dhepkpeshawar)

[Twitter.com/dhepkpeshawar1](https://twitter.com/dhepkpeshawar1)

No. 11815-16/AD (Litigation)/SA# 439/2017 (Aman Ullah)

Dated Peshawar the 28/5/2019

To

1. The Principal,
Government Degree College,
Palai (Malakand).
2. The Principal,
Government Degree College,
Kabal (Swat).

SUBJECT: SHOW CAUSE NOTICE.

Memo:

I am directed to enclose herewith a copy of Show Cause Notice duly signed by the Director, Higher Education, Khyber Pakhtunkhwa in respect of Mr. Aman Ullah, Senior Clerk of your college with the request that the same may be served upon the accused official and return one copy after obtaining his signature as token of receipt to this office at an early date.

Encl: As above:

M.S.
28/5/19
(Muhammad Istikhar)
DEPUTY DIRECTOR
(M)

Endst.No 11817-20 / AD (Litigation)/SA# 439/2017 (Aman Ullah)

Copy of the above is forwarded to the:-

1. Section Officer (Litigation), Higher Education Department, Khyber Pakhtunkhwa.
2. Deputy Director (IT), Local Directorate with the remarks to electronically circulate the letter to concerned.
3. CA-VII (Establishment Branch), Local Directorate.
4. Mr. Aman Ullah, Senior Clerk, Government Degree College, Palai (Malakand).

M.S.
28/5/19
(Muhammad Istikhar)
DEPUTY DIRECTOR
(M)

o/c

SHOW CAUSE NOTICE


I, Zahoor Ul Haq, Director Higher Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Aman Ullah, Senior Clerk Government Degree College, Kabal, Swat, as follows:-

- (i) That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said inquiry Committee.

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

- a) Mis-conduct.
- b) In-Efficiency.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of REMOVAL FROM SERVICE ALONG WITH RECOVERY OF RS 1602609/- under rule 4(b) (iii) of the said Rules.
3. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case, an ex-parte action shall be taken against you.
5. A copy of the findings of the inquiry Officer is enclosed.


(ZAHOOR UL HAQ)
DIRECTOR HIGHER EDUCATION



Annex - I

**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
RANO GHARI NEAR CHAMKANI MOR, PESHAWAR**

E-mail:- dhekpkesh@gmail.com Facebook.com/dhekpkeshwar Twitter.com/dhekpkeshwar1

No. _____ /AD (Litigation)/SA#439/2017 (Aman Ullah) Dated Peshawar the 23/8/2019

OFFICE ORDER:

Consequent upon the charges of embezzlement amounting to Rs 1602609/- in the light of inquiry against you (Mr. Aman Ullah), Senior Clerk Government Degree College, Kabal (Swat) now posted at Government Degree College, Palai (Malakand), resulting into a showcase notice served upon you, and your subsequent reply to the showcase notice, the Director Higher Education Khyber Pakhtunkhwa, is pleased to give you an opportunity for personal hearing on 04-09-2019 at 10:00 AM in his office to defend your reply to the showcase notice served upon you.

DIRECTOR HIGHER EDUCATION

Endst; No. 18174-76 /AD (Litigation)/SA#439/2017 (Aman Ullah)

Copy of the above is forwarded for information/necessary action to the:

1. Principal, Government Degree College, Palai (Malakand), with the request to inform Mr. Aman Ullah Khan, Senior Clerk to ensure his presence on the date and venue as mentioned above.
2. Principal, Government Degree College, Kabal (Swat).
3. Deputy Director (IT), with the request to circulate the same electronically, please.
4. PA to Director Higher Education Department, Khyber Pakhtunkhwa.
5. Official concerned.

o/c

Muhammad Istikhhar
23/08/19
DEPUTY DIRECTOR

Mansoor

Process immediately 13
23/4/19

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RECEIVED CA
23 APR 2019
Diary # 5858 Page # 206
D/Clerk

Page 1 of 4

Ref Page 122

The Director
Higher Education
Khyber Pakhtunkhwa, Peshawar.

Subject:

INQUIRY AGAINST MR. AMANULLAH SENIOR CLERK GOVT. DEGREE COLLEGE KBAL, SWAT.

DATE OF INQUIRY: 08-04-2019
PLACE OF INQUIRY: GOVT DEGREE COLLEGE KABAL, SWAT
INQUIRY OFFICERS: (i). Prof Irfan Ullah
Principal Govt. College Mathra, Peshawar
(ii). Prof. Bakhtiar
Principal Govt College Lahore, Swabi

Terms of Reference: Appointment Letter + Statement Allegation + Charge Sheet.
Procedure: Interview in Person and Examination of Accounts record.

BRIEF HISTROY OF THE CASE:

Govt Degree College Kabal, Swat was established in the year 2006 and Mr. Aman Ullah was transferred to this college on 17/11/2006 and posted against the vacant post of Senior Clerk. Mr Muhmmad Iqbal (The then Principal Govt Collge Kabal, Swat) assigned responsibilities of all kinds of Account matters pertaining to the college to Mr. Amanullah(The accused Senior Clerk) through an office order dated 07/12/2006. In 2008, the then Principal realized that college funds were not properly maintained and utilized. The then Principal immediately constitute an internal audit committee of the college Professor who digged out misappropriation/embezzlement in the college funds. The matter of embezzlement was reported to the Director Higher Education, Khyber Pakhtunkhwa Peshawar who directed the then Principal to lodge FIR against Mr. Amanullah. Mr. Amanullah was arrested by the local Police by lodging FIR against him on 19/04/2008. After preliminary investigations, the Police referred the case to Anti-Corruption department. The Anti- corruption Department carried out audit of the college Account and found that huge amount of Rs. 1913786/- had been misappropriated/embezzled by the then senior clerk, Mr. Amamnullah. The anti-corruption department referred the embezzlement case to the court of special Judge Anti-corruption Khyber Pakhtunkhwa at Swat. The Honorable special judge anti-corruption decided the case against Mr. Amanulah. Mr.Amanullah filed appeal in Honorable Peshaw ar High Court Bench. Dar -Ul- Qaza at Mingora, Swat against the Judgment passed by special judge Anti-corruption. The Honorable Peshawar High Court Bench. Dar -Ul- Qaza, Swat directed the secretary Higher Education Department Govt: of Khyber Pakhtunkhwa to prob ino the matter and recover the embezzled amount from Mr. Amanullah (The accused Senior Clerk). In light of the directives, issued by honorable Peshawar High Court Bench Swat. The fact finding inquiry was conducted by the then special Secretary Higher Education Archives & Library Department along with Director, Directorate of Archives & Libraries and deputy dorector (colleges) Directorate of Higher Education.

PROCEEDINGS:

In Compliance With The Directives Of The Director Higher Education Khyber Pakhtunkhwa, Peshawar vide the letter No:6502-3/Ad-lit/DHE/SA(43a/2017) dated 04/04/2019, the inquiry committee comprising of Professor Irfan Ullah (Principal Govt. College Mathra Peshawar) and Professor Bakhtiar (Principal Govt. College Lahor Swabi) visited Govt. Degree Collge Kabal Swat on 8/4/2019 in order to dig out the factual position about the illegation level against Mr. Amanullah, the then senior Clerk of the Govt Degree College kabal Swat.

Mr. Muhammad Iqbal (The Then Principal) and Mr. Amanullah (The Accused Senior Clerk) were contacted telephonically to appear before the inquiry committee at Govt. Degree College Kabal Swat on 8/4/2019. Mr. Amanullah (the accused Clerk) was also served with charge sheet and was given full liberty and ample opportunity to offer his defence. The afore mentioned officer /official were also provided opportunity of personal hearing and cross examination and recorded their statement.

A. Mr. Muhammad Iqbal (Retired), the then Principal GDC kabal (Swat).

Mr. Muhammad Iqbal took charge of the office of Principal at Govt. College Kabal swat on 1/9/2006 and got retirement on 3/8/2011on superannuation. Mr. Muhammad iqbal told the inquiry committee that he assigned responsibilities of all kinds of accounts matter pertaining to the college to Mr. Amanullah through on office order dated 7/12/2006.

Handwritten notes and signatures on the left margin.

Mr. Muhammad Iqbal told the committee that in early 2008, he sensed misappropriation/Embezzlement in the college funds, Therefore he constituted an audit committee of the local college Professors, who digged out misappropriation/embezzlement amount of Rs. 1574089/-. The Principal told the committee that when Amanullah was informed about the embezzlement amount, he come to the collge and signed a pardon deed on Judicial stamp paper in presence of witness and promise in written that he will return the embezzled amount upto 01/05/2008(Annex-A).

When asked about the cheque book of Private funds, Mr. Muhammad Iqbal replied that it was under the custody of Mr. Amanullah, Mr. Muhammad Iqbal informed the inquiry committee that Mr. Amanullah had drawn Rs.30,5000/- from the National Bank Kabal Branch under fake signature of the D.D.O (The Then Principal Mr. Muhammad Iqbal) through various cheques bearing No:686641 date 11/3/2007 for Rs. 40,000/- bearing no: 686642 Dated: 05/11/2007 for Rs. 15000/- and bearing No: 686643 dated: 11/12/2007 for Rs. 250,000/- (Records of cheques were in custody of the Anti-corruption department). The entire amount was misappropriated.

It was also brought into the notice of the inquiry committee that amount of Rs.400,000/- had been granted to the collge in ADP Scheme during the Year 2006-2007 for Purchase of the furniture but the entire amount was misappropriated by the then senior clerk, Mr. Amanullah. The committee was informed that bank draft of Rs.20,000/- bearing No:742966 dated 05/07/2007 issued in the name of National Book foundation. Mr. Amanullah after tempering, produced the same Bank draft bearing No.742966 for a payment of Rs.400,000/- to Pak- German wood working Timergara. The tempered bank draft was duly verified by the Manger National bank of Pakistan main branch Saidu Sharif, Swat. (Copy of Bank Draft Also in custody of Anti-corruption deptt).

The Committee was also informed that soon after the establishment of Govt Degree Collge Kabal Swat, the admission in first year and 3rd Year classes were carried out by Govt Post Graduate Jehanzeb Collge, Swat. The admissions in first year & 3rd Year class for the next session 2007-2008 were carried out by Govt Degree College Kabal. The amount of Rs. 70700/- realized from the sale of prospectus were not deposited in the college account and thus misappropriated/ embezzled by Mr.Amanullah.

B. Mr..Amanullah, The Accused Senior Clerk, G.D.C Kabl, Swat.

Mr. Amanullah took charge on 6/11/2006 at Govt Degree College Kabal, Swat against the vacant post of senior clerk. Mr. Amullah assured the inquiry committee that he had been shouldered responsibilities of all kind of accounts matters pertaining to the college through an office order dated 7/12/2006 and since then he was performing his duties honestly and efficiently. He replied that in early 2008, the then Principal conducted an audit of college accounts through college professors and they charged me for embezzlement of Rs.1574089/-. The Anti-corruption establishment also held me responsible for embezzlement Rs.1913786/-. He also told the committee that record of the relevant account was in his custody.

On inquiring about the cheque for Rs.400,000/- issued in the name of Pak-German wood working Timergara, he replied that the drawl of the aforementioned amount was made through AC bill and cheque sent to Pak-German Timergara, but he failed to produced AC bill and copy of the said cheque.

When aske about the pardon deed, Mr. Amanullah replied that he signed pardon deed on 16/04/2008 under pressure in the custody of Police. The officers/official who signed the pardon deed as witness are also summoned by the inquiry committee and obtained written statement from them(Annex - B)

It is important to mention that pardon deed was signed by Mr. Amanullah on 16/4/2008 while FIR was lodged against him on 19/04/2008(Annex- C)

When asked to produce the approval of the Principal for Rs.40,000/- for Rs.15000/- and for Rs. 250,000/- that had been drawn through cheques bearing No.686641,686642 and 686643 ,Mr.Amanullah denied that he had no record.

C. Calculation of Realized Amount from Students, Expenditure Incurred and Misappropriated/Embezzled Amount.

The inquiry committee checked admission withdrawal register, Private funds register, Govt funds register and cash book register for the Period 2006-2007 & 2007-2008 and found significant shortcomings on these registers. The cash book register for the period Oct 2006 to

May 2008 was thoroughly checked and found no entry of Challan/Pay of establishment/AC Bills/TA Bills/Electricity Bills/Telephone Bills and newspaper bills etc.

Discrepancy between the amount realized from the students at the time of admission & the amount deposited in the college account was also noticed by the inquiry committee.

The following table shows the amount realized from the students under the heading Private funds & Govt funds.

Realized amount in Private/Govt funds for Session 2006-2007

Class	Faculty	No. of students admitted	PRIVATE FUND		GOVT FUND	
			Rate of deduction of private funds	Total Amount realized	Rate of Deduction of Govt Funds	Total Amount Realized
First Year	Science	219	219x840=Rs183960/-	Rs321720/-	219x530=Rs116070/-	Rs 194790/-
	Arts	164	164x840=Rs137769/-		164x480=Rs78720/-	
3 rd Year	Science	75	75x1250=Rs93750/-	Rs306750/-	75x690=Rs51750/-	Rs143700/-
	C/Science	30	30x2350=50Rs70500/-		30x690=Rs20700/-	
	Arts	14	114x1250=Rs142500/-		114x625=Rs71250/-	
Total				Rs628470/-		Rs338490/-

Realized Amount in Private funds/Govt funds for session 2007-2008

Class	Faculty	No. of students admitted	PRIVATE FUND		GOVT FUND	
			Rate of deduction of private funds	Total Amount realized	Rate of Deduction of Govt Funds	Total Amount Realized
1 st Year	Science	156	156x910=Rs141960/-	Rs458340	156x530=Rs82680/-	Rs209070/-
	C/Science	51	51x2510=Rs128010/-		51x530=Rs27030/-	
	Arts	207	207x910=Rs188370/-		207x480=Rs99360/-	
2 nd Year	Science	179	179x300=Rs53700/-	Rs85800/-	179x530=Rs94870/-	Rs146230/-
	Arts	107	107x300=Rs32100/-		107x480=Rs51360/-	
3 rd Year	Science	84	84x1250=Rs105000/-	Rs295400/-	84x690=Rs57960/-	Rs139195/-
	C/Science	19	19x2850=Rs54150/-		16x690=Rs13110/-	
	Arts	109	109x1250=Rs136250/-		109x625=Rs68125/-	
4 th Year	Science	57	57x300=Rs17100/-	Rs46200/-	57x690=Rs39330/-	Rs100995/-
	C/Science	16	16x300=Rs4800/-		16x690=Rs11040/-	
	Arts	81	81x300=Rs24300/-		81x625=Rs50625	
Total				Rs885740/-		Rs595490/-

SUMMARY OF EMBEZZLEMENT

a. Private (Pupil) Funds:

Total Amount realized during the session 2006-7/2007-8	Rs: 1514210/-
Amount realized from the sale of prospectus	= (+) Rs 70700/-
Total realized Amount	=Rs: 1584910/-

Registration of students (Board/University) and other Miscellaneous expenditure

Amount available in college Account on 1/11/2000	=(-) Rs 405533/-
Embezzled Amount	=(-) Rs 345948/-
	= Rs 833429/-

b. Govt. Funds

Total realized amount during the session 2006-7/2007-8=Rs933980/-	
Amount deposited in treasury	= Rs564800/-
Embezzled Amount	=Rs: 369180/-

c. Total Embezzled Amount in ADP Scheme

-Rs: 400,000/-

The Gross Embezzled amount is calculated as follows:

i. Embezzlement in pupil funds	=Rs 833429/-
ii. Embezzlement in Govt funds	=Rs 369180/-
iii. Embezzlement in ADP Scheme	=Rs 400,000/-
Gross Embezzlement	

Findings:

Consequent upon examining the entire relevant available record of the instant case, facts and findings report, charge sheets and arguments made by the accused Senior Clerk, Mr. Aman ullah and the then Principal (retired) Mr Mohammad iqbal including Personal hearing, the following facts were noticed

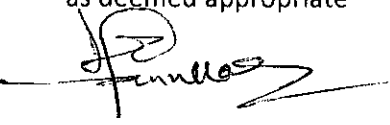
1. The Incident is not only the case of embezzlement but also a case of negligence on the Part of the then Principal, Mr Mohammad iqbal as he failed to check the college account on regular basis and failed to check the activities of the accused clerk Mr. Aman Ullah with vigilant eye.
2. The Incident took Place due to the fact that the then Principal did not bother to appoint college bursar, who is bound to check the Income and expenditure of the college account on monthly basis.
3. It was found that cheque book of Private funds was in custody of Mr. Aman Ullah who made drawls of Rs: 305000/- from the college account through various cheques bearing no 686641 dated 11/3/2007 for Rs: 40,000/-, no 686642 dated 05/11/2007 for Rs: 15000/- and no 686643 dated 11/12/2007 for 250,000/- by inserting fake signatures of the then Principal, Mr Mohammad: Iqbal.
4. The Involvement of the concerned staff of National Bank of Pakistan, Kabal branch who Processed and verified the signature of the Principal on the cheques bearing no 686641 dated 3/11/2007, no 686642 dated 5/11/2007 and no: 686643 dated 11/12/2007. Cannot be ignored.
5. It was also found that Govt degree college Kabal was granted Rs 400,000 /- in ADP Scheme during the Year 2006 – 2007 for Purchase of furniture. The entire amount was embezzled by the then Senior Clerk, Mr Aman ullah, by Producing a Photo copy of a tempered Bank Draft bearing no 742966 dated 05/07/2007 in the name of Pak-German wood working, timergara. It is important to mention that the aforementioned Bank Draft bearing no 742966 had already been issued in the name of National Book foundation for Rs: 20,000 /- which was verified by the Manager National Bank of Pakistan main branch saidusharif Swat.
6. The actual loss of amount could be more than Rs: 1602609 /- because some relevant record of accounts was found missing. Since Mr Aman ullah was the dealing Clerk, therefore he was duty bound to keep the record in his custody/ under lock. Mr Aman ullah is fully held responsible for missing of the relevant record.
7. It was found that Rs: 70700 /- realized from the sale of college Prospectus at the time of admission in the college, but the Said amount was not deposited in the college account and thus misappropriated by the then Senior Clerk, Mr Aman Ullah.
8. Mr, Aman Ullah, the accused senior Clerk confessed the embezzlement as is evident from the Parden deed duly. Signed by him in presence of witnesses.


Recommendations:

After thoroughly examining the instant case of Mr Aman Ullah, the inquiry committee reached to the conclusion that.

1. Mr Aman Ullah, was the custodian of the cheque book of private funds and all other relevant records of the college account, therefore he is held responsible for the entire embezzlement.
2. Release of back benefit to Mr Aman Ullah is subject to the condition that embezzled amount of Rs 1602609/- may be recovered from him.
3. The inquiry committee also recommends imposition of minor penalty of stoppage of two increments for 2 years upon Mr Aman Ullah.

The competent authority / Director Higher Education Khyber pakhtunkhwa may like to Pass or as deemed appropriate


Irfan Ullah
(Inquiry Officer)
Principal
Govt. Degree College Mathra
Peshawar


Bakhtiyar Khan
(Inquiry Officer)
Principal
Govt Degree College Lahor



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
RANO GHARI NEAR CHAMKANI MOR, PESHAWAR**

E-mail:- dhekpkeshe@gmail.com Facebook.com/dhekpkesheawar Twitter.com/dhekpkesheawar1

No. _____ / CA-VII/Estt: Branch/A-167/SA#439/2017, Ammanullah Dated Peshawar the 24/12/2019

NOTIFICATION

Whereas Mr. Amanullah. Sr.Clerk (BPS -14) of Higher Education Department was proceeded against, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheets and statement of Allegations.

1. **AND WHEREAS**, an inquiry committee comprising Mr. Irfan Ullah, Principal Govt: Degree College Mathra and Mr. Bakhtiar Khan Principal Govt: Degree College Lahor, Swabi was constituted to conduct inquiry into the allegations.

2. **AND WHEREAS**, the inquiry Committee after having examined the charges, evidence on record and explanation of accused officers, submitted report.

3. **NOW THEREFORE**, the competent authority after having considered the charges, evidence on record, the explanation of the accused officers, and after affording the opportunity of personal hearing while exercising the powers conferred upon him under Rule-14 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules 2011, has been pleased to impose minor penalties upon the accused officer as under:

Name & Designation	Penalty Imposed
Mr. Amanullah. Sr.Clerk (BPS -14) of Higher Education Department.	1. Withholding of two annual increments. 2. Recovery of embezzled amount of Rs. 1,602,609/-

DIRECTOR, HIGHER EDUCATION

Endst; No 30705-9 / Estt: Branch/ SA#439/2017, Ammanullah

Copy of the above is forwarded to the following:

1. Principal Govt: Degree College, Pallai Malakand with request to recover the embezzled amount from the official concerned under intimation to the Directorate Higher Education along with original receipt.
2. Principal Govt: Degree College Kabal Swat.
3. District Account Officer Swat.
4. District Account Officer Malakand.
5. Official Concerned.

o/c

(Muhammad Iftikhar)
DEPUTY DIRECTOR