



16.11.2022

Junior to counsel for the appellant present.

Muhammad Jan learned District Attorney for respondents present.

Former requested for adjournment on the ground that his senior counsel is not available today. Adjourned. To come up for arguments on 10.01.2023 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

10.01.2023

Appellant present in person. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Sajid Anwar Assistant for the respondents present.

Learned Member Executive (Miss Fareeha Paul) left the court at 11.00 A.M in order to attend a meeting in the Law Department, Government of Khyber Pakhtunkhwa, therefore, this case is adjourned to 06.04.2023 for arguments before the D.B.


(Rozina Rehman)
Member(J)

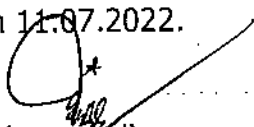
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07.04.2022

Clerk for the counsel of appellant present. Mr. Kabirullah Khattak for respondents present.


Clerk for the counsel for the appellant request for adjournment. Request accepted. To come up for arguments before D.B on 11.07.2022.


(Mian Muhammad)
Member(E)


(Kalim Arshad Khan)
Chairman


11-7-2022

*Due to Holidays of Eid Ul Azha
the case is adjourned to 4-8-2022*


Reader

4-8-2022

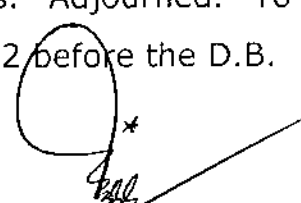
*Proper DB not available the case is
adjourned to 13-9-2022*

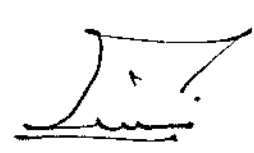

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13.09.2022

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

Learned counsel for the appellant sought adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 16.11.2022 before the D.B.


(Mian Muhammad)
Member (Executive)


(Salah-Ud-Din)
Member (Judicial)

02.06.2021

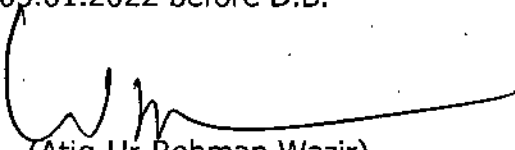
Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Muhammad Iqbal, Superintendent for the respondents present.

Representative of the respondents seeks further time to furnish reply/comments. The respondents are directed to submit written reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 11.10.2021 before the D.B.

11.10.2021

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Learned Members of the DBA are observing Sogh over the demise of Dr. Abdul Qadeer Khan (Scientist) and in this regard request for adjournment was made; allowed. To come up for arguments on 05.01.2022 before D.B.

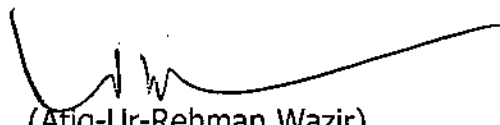

(Atiq-Ur-Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

05.01.2022

Junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Former made a request for adjournment as senior counsel for the appellant is not available today. Adjourned. To come up for arguments before the D.B on 07.04.2022.


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


Chairman

24.02.2021

Junior to senior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Muhammad Iqbal, Superintendent, for the respondents are also present.

Written reply on behalf of respondents not submitted. Representative of the department is seeking further time for submission of written reply/comments. Adjourned to 31.03.2021 on which date file to come up for written reply/comments before S.B.


(Muhammad Jamal Khan)
Member

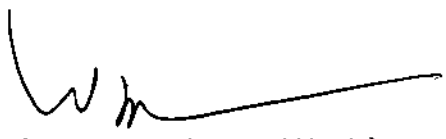
31.03.2021

Junior to counsel for the appellant present.

Addl: AG alongwith Mr. Iqbal, Supdt for respondents present.

Written reply/comments not submitted. Representative of the respondents seeks time to submit written reply/comments. Granted but as a last chance.

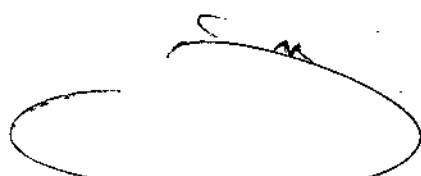
Adjourned to 02.06.2021 before S.B.


(Atiq Ur Rehman Wazir)
Member(E)

23.11.2020

Appellant is present in person and requests for adjournment that his counsel is not available today. Adjourned to 21.12.2020 on which date file to come up for preliminary hearing before S.B.


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(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

21.12.2020

Appellant present through counsel. Preliminary arguments heard. File perused.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 21.01.2021 before S.B.


Appellant Deposited
Security & Process Fee



(Rozina Rehman)
Member (J)

21.01.2021

Junior to counsel for appellant.

Noor Zaman Khattak learned District Attorney alongwith Muhammad Iqbal Superintendent for respondents present.

Written reply was not submitted. Representative of respondents made a request for time to furnish reply/comments; granted. To come up for written reply/comments on 24.02.2021 before S.B.

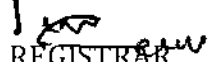
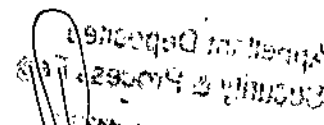
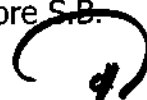

(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 11149 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/09/2020	<p>The appeal of Mr. Muhammad Qasim Jamal presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28/10/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>28.10.2020</p> <p>Appellant in person present.</p> <p>Lawyers are on general strike, therefore, case is adjourned to 23.11.2020 for preliminary hearing, before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>
2-		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 11149 /2020

MUHAMMAD QASIM *JAMAL* VS

GOVT: OF KP

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 3.
2	Charge assumption report	A	4.
3	Charge assumption report	B	5.
4	Suspension order	C	6.
5	Enquiry report & show cause	D & E	7- 13.
6	Impugned order	F	14.
7	Departmental appeal	G	15- 19.
8	Appellate order	H	20.
9	Vakalat nama	21.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2020

Mr. Muhammad Qasim Jamal, Assistant Director Technical (BPS 17),
Directorate General Mines and Minerals, Khyber Pakhtunkhwa,
Peshawar..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Mines and Minerals Development Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Mines and Minerals Development Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 04-03-2020 WHEREBY MINOR PENALTY OF STOPPAGE OF THREE ANNUAL INCREMENTS FOR THREE YEARS HAS BEEN IMPOSED ON THE APPELLANT AND AGAINST THE APPELLATE ORDER DATED 24-08-2020, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN FILED/REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned orders dated 04-03-2020 and dated 24-08-2020 may very kindly be set aside and the three annual increments of the appellant may kindly be restored with all back benefits. 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 the appellant while performing his duty was posted as Assistant Director Mineral Development Department Abbottabad vide notification dated 07-11-2018 and accordingly the appellant assumed the charge on 14-11-2018. Copy of the charge assumption repost is attached as annexure **A.**

2. That vide notification dated 27-02-2019 an additional charge of Assistant Director Mineral Development Mansehra was assigned to the appellant and the appellant in addition to his own duties assume the charge on 04-03-2019. Copy of the charge assumption report dated 04-03-2019 is attached as annexure.....**B.**
3. That astonishingly the appellant was suspended from his service vide order dated 26-07-2019 despite of extraordinary performance of the appellant and the period of suspension was extended for another period of ninety days vide order dated 05-11-2019 on the allegation that "**appellant failed to curb illegal excavation and transportation of minor minerals in his jurisdiction**". Copy of the suspension order dated 05-11-2019 is attached as annexure **C.**
4. That an enquiry was conducted and the appellant was recommended to be proceeded under the Khyber Pakhtunkhwa E&D rules, 2011 for not controlling the illegal mining in Mansehra and Abbottabad but all this has been done in camera and no justifiable reason has been assigned for initiating action against the appellant. Moreover the suspension period of the appellant has illegally been extended for more than eleven months. Copies of the enquiry report along with the show cause notice are attached as annexure.....**D&E.**
5. That astonishingly the appellant was awarded minor penalty of stoppage of annual increments for three years with accumulative effect vide impugned order dated 04-03-2020. Copy of the impugned order dated 04-03-2020 is attached as annexure.....**F.**
6. That feeling aggrieved from the impugned order dated 04-03-2020, the appellant preferred departmental appeal before the appellate authority. Copy of the Departmental Appeal is attached as annexure.....**G.**
7. That appellate authority rejected/ regretted departmental appeal vide order dated 24-08-2020 with no speaking order. Copy of the appellate order dated 24-08-2020 is attached as annexure.....**H.**
8. That having no other remedies the appellant preferred present service appeal on the following grounds amongst others.

GROUND:

- A- That the impugned orders dated 04-03-2020 and 24-08-2020 are against the law, facts, norms of natural justice and materials on the 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 the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That no charge sheet and statement of allegation has been served on the appellant, hence the whole procedure adopted by the respondents is doubtful and void, therefore, the same is to be vitiated and the impugned orders dated 04-03-2020 and 24-08-2020 be kindly be set aside.
- D- That the respondents acted in arbitrary and malafide manner while issuing the impugned orders 04-03-2020 and 24-08-2020.
- E- That the impugned orders dated 04-03-2020 and 24-08-2020 are against the spirit of F.R-29 and rule 3 of the E&D Rules, 2011, therefore, is liable to be set aside.
- F- That no chance of personal hearing and personal defense has been provided to the appellant and as such the appellant has been condemned un heard.
- G- That no regular inquiry has been conducted by the respondents which is as per Supreme Court judgments is necessary in punitive action against the civil servant.
- H- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 18-09-2020

APPELLANT

MUHAMMAD QASIM JAMAL

THROUGH:

NOOR MUHAMMAD KHATTAK

&

**KAMRAN KHAN
ADVOCATES**



Registered

**OFFICE OF THE ASSISTANT DIRECTOR
MINERAL DEVELOPMENT ABBOTTABAD.**

Shah Zaman Town, near Khan Khel Plaza, Jhangi, Abbottabad Tel: 0992408251

A-4

CHARGE ASSUMPTION REPORT

In pursuance of Government of Khyber Pakhtunkhwa Peshawar Notification
Ends: No. 10588/SOE(MDD)3-12/Vol1/2018 dated 07-11-2018. I Muhammad Qasim Jamal,
Assistant Director Mineral Development Abbottabad, hereby assumed the charge of the
post of Assistant Director Mineral today on 14-11-2018 (F.N).

(Muhammad Qasim Jamal)
Assistant Director
Mineral Dev: Abbottabad

Endst: No 5165-67/MDW/AD/Estt: Vol-III

Dated. 14/11/2018

Copy to.

- 1. The Director General Mines & Minerals KPK, Peshawar w.r.t notification mentioned above for information please.
- 2. P.S to Secretary Mineral Development Department Khyber Pakhtunkhwa Peshawar for information please.
- 3. The District Account Officer Abbottabad for information please.



(Muhammad Qasim Jamal)
Assistant Director
Mineral Dev: Abbottabad

Supra

19-11-2018

15/11/18

ATTESTED



B S

Registered



GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE ASSISTANT DIRECTOR
MINERAL Near New Tehsil Mohallah Nogazi Sufaida Road Mansehra.
Tel:0997300270

CHARGE ASSUMPTION REPORT

In compliance with Govt. of Khyber Pakhtunkhwa Mineral Development Department Notification No. SO (E)/MDD/2-12/Vol:II/2018 dated 27/02/2019. I, Muhammad Qasim Jamal (Assistant Director Mineral Development, Abbottabad), hereby assumed the charge of the vacant post of Assistant Director Mineral Development Mansehra, today on 04/03/2019 (A.N) in addition to my own duties.

Sd/-

(MUHAMMAD QASIM JAMAL)
Assistant Director
Mineral Dev: Mansehra

Endst: No 387 - 97 /MDW/MA/Office Order

Dated: 04 /03/2019

Copy to:

1. The Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w.r.t office order dated 27.02.2019, please.
2. PS to Minister Mineral Development Department Khyber Pakhtunkhwa, Peshawar for information please.
3. P.S to Secretary Mineral Development Khyber Pakhtunkhwa, Peshawar, for information please.
4. The District Accounts Officer Mansehra for information please.
5. The District Accounts Officer Abbottabad for information please.
6. Section officer (Establishment) Mineral Development Deptt: Govt: Khyber Pakhtunkhwa with reference to notification referred above
7. The Deputy Commissioner Abbottabad for information please.
8. The Deputy Commissioner Mansehra for information please.
9. The Assistant Director (Admin) Directorate General Mines & Mineral Khyber Pakhtunkhwa, Peshawar for information please.
10. The Assistant Director (Accounts) Directorate General Mines & Mineral Khyber Pakhtunkhwa, Peshawar for information please.
11. Personal File.

(MUHAMMAD QASIM JAMAL)
Assistant Director
Mineral Dev: Mansehra

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07/04/19



Government of
Khyber Pakhtunkhwa
Minerals Development Department

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C-6

Dated Peshawar, November 05, 2019

12809-17

NOTIFICATION

No. SO (E)/MDD/4-1/Vol-IV/2018:

In continuation of this Department's Notification of even number dated 03-04-2019 and in exercise of the powers conferred under Rule-6, of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, read with sub rule(1) (b) of Rule-4 of the Khyber Pakhtunkhwa Government Servants (Appointment Promotion & Transfer) Rules 1989, the Competent Authority is pleased to extend the period of suspension from service of the following officers / officials of Minerals Development Department due to their failure to curb illegal excavation and transportation of minor minerals in their jurisdiction, for a further period of ninety (90) days, with effect from the date of expiry of the initial period of suspension

- i. Mr. Qasim Jamal, Ex-Assistant Director Minerals (BS-17), Abbottabad, (now under suspension).
- ii. Mr. Kamran Ahmad, Ex-Assistant Director Minerals (BPS-17), Shangla, (now under suspension).
- iii. Muhammad Atif, Ex-Royalty Sub-inspector (BS-12), District Mansehra, (now under suspension).
- iv. Mr. Majid Nawaz, Ex-Mineral Guard, District Shangla, (now under suspension).

-sd-

Chief Secretary, Khyber Pakhtunkhwa

No. SO (E)/MDD/4-1/Vol-IV/2018:

Dated Peshawar, November 05, 2019

Copy is forwarded to:-

1. The Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar.
2. PS to Minister for Mines & Minerals Development Department.
3. P.S to Secretary Minerals Development Department.
4. The District Accounts Officer, Abbottabad, Shangla and Mansehra.
5. Officers/ officials concerned.
6. Master File.



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Section Officer (Estt :)

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Minerals Development Department

No. SO (E)/MDD/4-1/Vol-III/2018
Dated Peshawar, December 18, 2019

15182-93

To

- i. Mr. Kamran Ahmed; Assistant Director Minerals (BS-17),
- ii. Mr. Qasim Jamal, Assistant Director Minerals (BS-17),
- iii. Muhammad Atif, Royalty Sub-Inspector (BS-10),
- iv. Mr. Majid Nawaz, Mineral Guard (BS-03),

C/O Director General, Mines & Minerals,
Khyber Pakhtunkhwa, Peshawar.

Subject: SHOW CAUSE NOTICE.

I am directed to refer to the subject noted above and to enclose herewith copies of the Show Cause Notices (in each case) alongwith Inquiry Report with the directions that replies of the Show Cause Notices may be submitted through Director General Mines & Minerals being Head of Attached Department within the stipulated period of seven (07) days of its delivery, failing which 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 under the Khyber Pakhtunkhwa, E&D Rules 2011.

Kindly furnish acknowledgement receipt.

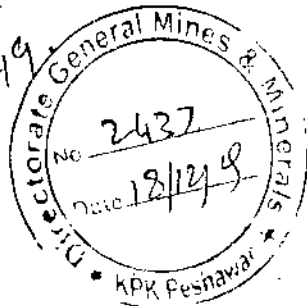
Encl: As Above.

Endst: No & Date even:

ATTESTED (Hafiz Abdul Jalil)
SECTION OFFICER (ESTT:)

Copy is forwarded to:

i. Director General Mines & Minerals, Khyber Pakhtunkhwa, Peshawar, with the request to ensure submission of consolidated replies of Show Cause Notices of the above named accused officers/officials to this department within stipulated period for onward submission to the Competent Authority for final orders.
ii. P.S to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.



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Section Officer (Estt.)

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ENQUIRY REPORT

The Chief Secretary Khyber Pakhtunkhawa constituted an enquiry Committee vide Government of Khyber Pakhtunkhawa Mineral Development Department Notification No. SO(E)/MDD/4-1/2019 dated 6th September, 2019 to conduct inquiry against the staff of Mineral Development Department, namely Mr. Muhammad Qasim Jamal Ex. Assistant Director Mineral Abbottabad, Mr. Kamran Khan Ex. Assistant Director Mineral Shangla Mr. Muhammad Atif Royalty Sub-Inspector Mansehra and Majid Nawaz Mineral Guard Shangla, in the charges level against them. The inquiry committee is composed of the following members.

- (1). Mr. Fazal Hussain Chief Inspector Mines (BPS-20)
- (2). Mr. Izaz Ullah (PMS-18) Settlement Officer Mansehra.

PROCEEDINGS:

The accused namely Mr. Muhammad Qasim Jamal Ex. Assistant Director Mineral Abbottabad, Mr. Kamran Khan Ex. Assistant Director Mineral Shangla, Mr. Muhammad Atif Ex. Royalty Sub-Inspector Mansehra and Mr. Majid Nawaz Ex. Mineral Guards Shangla were called vide letter No. CIM/Enquiry /2019 to submit reply of the charges leveled against them in the charge sheets up to 19th September 2019 and appear before the Enquiry Committee on 23/9/2019 in the office of the Chief Inspector Mines Khyber Pakhtunkhawa for personal hearing (Flag/A). The accused submitted their replies to the Enquiry committee which may be pursued at Flag/B, Flag/C, Flag/D. and Flag/E. After personal hearing of the accused separate questionnaires were issued to them vide letters No. 2853 SO(M), 2849 SO(M), 2857 SO(M) and 2876 SO(M) dated 27/09/2019, which are annexed at Flag/F. Accordingly they submitted replies of the questionnaires which are annexed at Flag/G, Flag/H, Flag/I and Flag/J.

FINDINGS:- The replies of the accused to the charge sheets and questionnaires were thoroughly examined by the Enquiry Committee and the following facts were founded from the replies of each accused, the detail of which is mentioned below.

1. MR. MUHAMMAD QASIM JAMAL EX. ASSISTANT DIRECTOR MINERAL ABBOTTABAD (Now Under Suspension).

Plot No; 1, i.e. from Baffa to Parhena District-Mansehra was auctioned and work order was issued to the highest bidder on 15/06/2017. However the land owners filed a Writ petition No. 672-A/2017 in Peshawar High Court Abbottabad Bench, which was dismissed on 16/01/2018 and then the landowners filed CMA No.1277/2018 in Supreme Court of Pakistan and the Apex Court has granted status quo against the auction in favour of land owners which is still intact. Since assuming the charge of Assistant Director Mining Mansehra on 04/03/2019, Mr. Muhammad Qasim Jamal has lodged four murasillas/FIR against the illegal minerals excavators. Since assuming the

Chief Inspector of Mines
K.P.K. Peshawar

Settlement Officer
Mansehra

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Assistant Director Mining Mansehra he has visit about's Mineral's

on 09/03/2019, 01/04/2019, 09/04/2019, 17/06/2019 and 04/07/2019. It is further added that Mr. Muhammad Qasim Jamal Assistant Director Mineral has visited 27 mineral sites from 19/04/2018 to 20/07/2019 in Abbottabad. In connection with Batagram and Torghar he has paid no visit of the area. He had posted about 5 numbers of field staff in Abbottabad and Mansehra, but seems that he had no administrative control over them as evident from the number of FIRs registered against illegal miners. Though he has conducted meetings with District Administrators in the District Abbottabad and Mansehra but without any progress in practical. Both in the reply of charge sheet and questionnaires he has stated that controlling of illegal mining is the responsibility of Monitoring & Surveillance wing, though he is the focal person for official and administrative business in mineral sector in the District. In Baffa-Perhena Mansehra and in Havelian Abbottabad the Peshawar High Court Abbottabad Bench and the Apex Court has granted status quo against the auction of mines; but the Assistant Director Mineral has registered only a few murasillas against them and is excusing that there is stay order from the Court but the stay order is against the auction of mineral not against the illegal minerals. He has established no check post in Mansehra for controlling transportation of illegal minerals. About illegal crushing plants the Assistant Director Mineral has only forwarded a murasillas to DPO Abbottabad for directing the SHO concerned to lodge FIR against the culprits and action on these murasillas are not clear. In Mansehra the Assistant Director Mineral has recommended the name of Amjid Salar for blacklisting him and he has turn a deaf ear to the minor violations. Though the Assistant Director Mineral has registered murasillas /FIR, but no violator has been punished by court nor fine has been imposed by any court on the offenders. However, the assessment made by Assistant Director Mineral in Abbottabad against the violator and an amount of Rs: 402100/- has been deposited by the violators in NBP Abbottabad. In Mansehra, Batagram and Abbottabad, the Assistant Director Mineral has made assessment against illegal mines which range in million but no recovery has been made from the culprits.

2. MR. KAMRAN AHMAD EX. ASSISTANT DIRECTOR MINERALS DEVELOPMENT SHANGLA/KOHISTAN.

Mr. Kamran Ahmed was posted as Assistant Director Mineral Shangla on 28/5/2019 and he assumed his charge on 3/6/2019. A committee was constituted in pursuance of cabinet decision through a notification dated 26/5/2016 to resolve the issues of miner minerals in Malakand Division and the committee imposed ban on the lease of minor minerals due to which no auction was made. The ban was lifted on 14/5/2019. The Assistant Director Mineral Shangla has admitted that the murasillas mentioned in the reply of charge sheet is of previous time, but he has made assessment of the losses mentioned in murasillas, which was made initially by monitoring unit and has forwarded the same to HQ for approval. The District Administration and Police are non-cooperative and stress on Jirgas with locals on illegal mining to avoid untoward situation. Being head of the regional office

Chief Inspector of Mines
K. P. K. Peshawar

Sub-Divisional Officer
Mansehra
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he was supposed to take action against the absconder mineral guard, but he has asked HQ for disciplinary proceeding against the absent mineral guard. (Due to problematic nature of locals and advice of District Administration to resolve the issue through Jirgas, neither regular visits have been made by the Assistant Director Mineral, nor any murasila/FIR have been lodged by the accused in his service period, however he has corresponded the police for provision of security to carry regular visits of the mineral sites but in vain, moreover no vehicle available for official duty with Assistant Director Mineral Shangla. Ban on auction of minor minerals was lifted on 14/5/2019 and the Assistant Director Mineral Shangla has initiated correspondence with Deputy Commissioner Shangla for preceding the auction process of minor minerals, 5/8/2019 was fixed as auction date and the same has been forwarded to Information Department for publishing in the leading newspapers. Auction has been made and work order was issued on 21/8/2019 to the highest bidder. Only a single mineral guard is posted in Shangla and is not an efficient one and even has written against him for disciplinary Proceedings. As there is no staff with Assistant Director Mineral Shangla, hence no check post was been established by him for controlling transportation of illegal minerals, if he wanted he would have established mineral check post in coordination with the monitoring unit working in his area of jurisdiction.

3. MR. MUHAMMAD ATIF ROYALTY SUB-INSPECTOR MINERAL DEVELOPMENT MANSEHRA (Under Suspension).

While posted as Royalty Sub-inspector in Mineral Development Mansehra Mr. Muhammad Atif has submitted only three murasillas to the SHO of Phulra Police station, i.e. two against Mr. Raheel S/O Muhammad Sadiq and one against Mr. Ahmad Khan S/O Banu Firdos on 23/03/2019 and 18/05/2019 respectively. He further submits that his duty is to identify the illegal mining and controlling of illegal mining is the duty of surveillance wing. He has visited Parhena mineral site on 25/02/2019, 26/03/2019, 23/05/2019, 04/07/2019 and 08/07/2019 along with Waseem Sajawal (RI) and Awais (MG). The status quo granted by the Apex Court is against the auction/lease of the mineral site, but the staff failed to initiate legal action against illegal mining of minerals under the shade of status quo for protecting their skin. On his request the Mineral Development Officer Mansehra has wrote to SHO Phulra for registering FIR against the culprits on murasillas submitted by Royalty Sub-Inspector on 22/07/2017. He is of the view that crush plants are not under the domain of Mineral Development Department. He has reported the violation of section 35 of Khyber Pakhtunkhawa Mineral Government Act 2017 to the Additional Director Mineral for registering murasillas /FIR after joint visit with AC Oghi and others. In the months of March, April, June & August he remains engaged in different issues related to the department, but totally ignored the illegal excavation and transportation of minor minerals in Parhena area within his jurisdiction.

Chief Inspector of Mines
K.P.K. Peshawar

Settlement Officer

ATTACHED

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4. MR. MAJID NAWAZ MINERAL GUARD SHANGLA.

In Shangla, there is only one mineral guard also mentioned by Assistant Director Mineral in his reply and the area is hilly one. At the time of the visit of Secretary Mineral Development Department, he was on duty at Amnawai in compliance of the office order No: 1825/MDW/ADT/SNA/office order (01)/2018-2019 dated 16/7/2019. The official has made only one visit of Dandai as per record of the office on 24/1/2019 and has signed a murasilla as witness registered by monitoring unit as mentioned in his reply. According to his statement he has visited the area but no FIR/murasilla has been registered in the police station as no illegal mining was found throughout his service period of more than 1.5 years in Dandhai area, which is totally unbelievable. He never submitted any daily, weekly or monthly report to his boss throughout his service period which was mandatory according to his office order.

RECOMMENDATIONS:

After thorough analysis of the replies to the charge sheets and questionnaires submitted by the accused officers/officials of the Mineral Development Department and facts founded against each accused, the following recommendations are proposed.

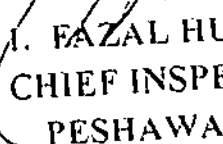
1. While posted as Assistant Director Mineral Abbottabad, with Additional charge of Assistant Director Mineral Mansehra, Mr. Muhammad Qasim Jamal failed to show his consistent efforts to control the illegal mining in Mansehra and at Abbottabad. Therefore it is recommended that appropriate action may be taken against him under rule-4(a) of the Government of Khyber Pakhtunkhwa Efficiency and Discipline Rules (E&D) 2011,
2. Mr. Kamran Assistant Director Mineral Shangla has conducted sufficient correspondence with the district administration but failed to register a single murasilla/FIR while posted in Shangla against the culprits involved in illegal mining of minor minerals in Dandhai area. Therefore he is also recommended for taking action against him under rule 4(a) by the competent authority under E & D rules 2011.
3. While posted as Royalty Sub-Inspector Mansehra, Mr. Muhammad Atif failed to show his efforts especially in the months of March, April and June for controlling the illegal mining in District Mansehra, especially Parhena site, therefore he is also recommended to be acted upon under rule 4(a) of the Government of Khyber Pakhtunkhwa Efficiency & Discipline Rules 2011.
4. Mr. Majid Nawaz Mineral Guard Shangla may also be panalised under rule 4(a) mentioned above for his long absence without approval of the competent authority and his least interest in controlling illegal mining in his area of jurisdiction. In general it is proposed that a proper mechanism on the analogy of Forest Department may be adopted to control the illegal mining of minerals

Chief Inspector of Mines
K.P.K. Peshawar

Secretary of Mines
Mansehra

ATTESTED

and penalize the culprits in future. Moreover proper training should be arranged for the employee of Mineral Development Department in field as they are even not aware of their job descriptions.


1. FAZAL HUSSAIN
CHIEF INSPECTOR MINES,
PESHAWAR.

2. IZAZ ULLAH
SETTLEMENT OFFICER,
MANSEHRA.

ATTESTED


Settlement Officer
Mansehra

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(12)

E-13

SHOW CAUSE NOTICE.

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve you, Mr. Qasim Jamal, Ex-Assistant Director (Minerals), BPS-17, Abbottabad (now under suspension), as follows:

1. (i) That consequent upon the completion of inquiry conducted against you by the Inquiry Officer/Inquiry Committee for which you were given opportunity of hearing vide communication No.GIM/Enquiry/2019, dated 17.09.2019; and
- (ii) On going through the findings and recommendations of the inquiry officer/inquiry committee, the material on record and other connected papers including your defense before the inquiry officer/inquiry committee,-

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

- (a). Inefficiency
- (b). _____
- (c). _____


2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from Service under Rule 4 of the said rules.

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

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no 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/inquiry committee is enclosed.

ATTESTED


(Dr. Kazim Niaz)
Chief Secretary, Khyber Pakhtunkhwa
(COMPETENT AUTHORITY)



Government of
Khyber Pakhtunkhwa
Minerals Development Department

Dated Peshawar, March 04, 2020

F- (4)

NOTIFICATION

No. SOE (MDD)/4-1/2019:

3561-67

WHEREAS, Mr. Qasim Jamal, Ex-Assistant Director (Minerals) BPS-17, Abbottabad (now under suspension), Directorate General Mines & Minerals, Khyber Pakhtunkhwa, was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on the charges of failure to stop / curb illegal excavation and transportation of minor minerals in the area of his jurisdiction.

2. AND WHEREAS, an Inquiry Committee comprising M/S Fazal Hussain, Chief Inspector of Mines (BS-20), Inspectorate of Mines, Khyber Pakhtunkhwa and Izaz Ullah (PMS BS-18), Settlement Officer, Mansehra was constituted to conduct formal inquiry against the accused officer.

3. AND WHEREAS, the Inquiry Committee, after having examined the charges, evidence on record and explanation of the accused officer, submitted its report.

4. AND WHEREAS, the Competent Authority himself afforded the opportunity of personal hearing to the accused officer.

5. NOW THEREFORE, the Chief Secretary, Khyber Pakhtunkhwa, being competent authority, has been pleased to impose minor penalty of "Stoppage of Increment for Three Years" upon Mr. Qasim Jamal, Assistant Director (Minerals) BPS-17, Abbottabad (now under suspension), Directorate General Mines & Minerals, Khyber Pakhtunkhwa, under Rule-4 (1) (a) (ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, with immediate effect.

Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Dev: Department

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06/3/20
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Endst: No & Date even:

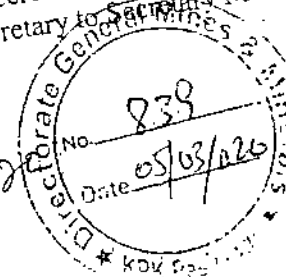
Copy forwarded to:

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director General, Mines & Minerals, Khyber Pakhtunkhwa.
3. Mr. Qasim Jamal, Ex-Assistant Director (Minerals) BPS-17, Abbottabad (now under suspension), Directorate General Mines & Minerals, Khyber Pakhtunkhwa.
4. District Accounts Officer, Abbottabad.
5. CSO to Chief Secretary, Khyber Pakhtunkhwa.
6. The Private Secretary to Secretary Minerals Development Department.
7. Master File.

DDC(Admin)

05/03/20

03/3/20



ATTESTED

SECTION OFFICER (ESTT)

(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT)

To

The Director General,
Mines and Minerals Khyber Pakhtunkhwa,
Peshawar.

G-5

Subject: APPEAL AGAINST STOPPAGE OF INCREMENT FOR THREE YEARS

With reference to the Notification No. SOE (MDD)/4-1/2019/3561-67 dated March 04, 2020 on the subject noted above.

The appeal under rule 17 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 against the subject minor penalty is enclosed herewith to be kindly submitted to the appellant authority through proper channel please.

Syama-I/D A-T
Copy to: 17/06/2020
17/6/2020

[Handwritten Signature]

Muhammad Qasim Jamal
Assistant Director Technical (BPS-17)
Directorate General Mines and Minerals
Khyber Pakhtunkhwa, Peshawar.

- 1. PS to The Chief Minister Khyber Pakhtunkhwa, Peshawar for information please.
- 2. PS to Secretary Mineral Development Khyber Pakhtunkhwa, Peshawar for information please.

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21-5-20

ATTESTED
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Dated: 29/04/2020

The appeal couldn't be submitted earlier due to lockdown and public holidays in current scenario of COVID-19 pandemic situation.

Part copy
03 09/06/20
A.D. (A)

To

The Chief Minister.
Khyber Pakhtunkhwa, Peshawar

Through: Proper Channel

Subject: APPEAL AGAINST STOPPAGE OF INCREMENT FOR THREE YEARS

Respected Sir

I have honour to state and submit the following facts before your generous honours for your kind consideration.

1. That the appellant being Assistant Director Technical was transferred from Buner to Abbottabad vide notification dated 07/11/2018 & assumed the charge on 14/11/2018.
2. That the appellant was given additional charge of Manshira vide notification dated 27/02/2019 and I assumed the charge on 04/03/2019. Manshira office deals three districts Manshira, Battagram and Torghar, so in total I have to look after four huge districts single handedly including the official work, concession work, court matters, coordination with district administration, field visits with technical teams, to prepare parawise comments for appeals and writ petitions, to attend meetings at HQ level Peshawar and to provide instant information for four districts and most importantly to take action against illegal mining over vast area of about more than 8000 square kilometers at the same time.
3. Even then I performed my duty whole heartedly at two heavy stations simultaneously and cleared the pendency and resultantly due to my efficiency the DGMM appreciated my performance along with two other regional ADs i.e. AD Haripur and AD Kohat during meeting held on 15/05/2019 & Minister Mineral visited Hazara Division and appreciated the performance and actions taken against illegal mining in Public gathering held on 24/06/2019.
4. That the appellant has always taken stern action against illegal mining, more than 70 FIRs lodged against offenders, about an assessment of 260 million has been made against violators, several crushers were sealed, 4 minor mineral plots auctioned successfully, 4 new plots of minor mineral were discovered adding about more than 60 million of revenue to government exchequer during a short tenure of 8 months only under the head of minor minerals only.
5. Then suddenly appellant had been suspended from service stating in the reason to failure to control illegal excavation and transportation of minor mineral in his jurisdiction vide notification 26/07/2019 without given a single chance of explanation.
6. It is pertinent to mention here that a separate project of Monitoring and Surveillance having budget in millions is running in Mineral Department whose only responsibility is to control illegal mining and is not burdened with other official work as compared to Assistant Director Technical and had separate officer for each district but astonishingly was not burdened with any responsibility.

ATTESTED



7. Mr. Fazal Hussain Chief Inspector of Mines (BPS-20) and Mr. Izzatullah (PMS BS-18) settlement officer Mansehra were nominated as enquiry committee vide notification dated 06/09/2019 with the directions to submit findings/enquiry report within 30 days and along with statement of allegations that appellant has been failed to stop illegal mining of minor mineral one site in District Mansehra and at two sites in District Abbottabad and failed to visit these sites and auction the areas to provide opportunity to the illegal miners, which is totally wrong.

8. Appellant submitted the written reply to the charge sheet explaining in all the facts

a. Appellant have taken all possible measures/steps to stop/control illegal excavation and transportation of minor mineral from Siran, Mansehra which is Plot No 01 Baffa to Parhana of minor mineral in District Mansehra. Appellant have successfully auctioned the Plot No 01 i.e. from Baffa to Parhana, District Mansehra during my previous tenure and work order was issued to highest bidder on 15/06/2017, but local landowners resisted the auction and did not allowed the leaseholder to start excavation of minor mineral in said plot. FIR was registered against the offenders who created hindrance. Landowners (85 members) filed the writ petition No 672-A/2017 in Peshawar high court Abbottabad bench against the auction and obtained stay order. Writ petition was dismissed vide order dated 16/01/2018 against which the landowners filed CMA No 1277/2018 in supreme court of Pakistan and obtained stay order against auction of their landed property, which is still subjudised in Supreme Court of Pakistan. Appellant has posted field staff to keep vigilant watch over the area and take stern action against illegal miners as per law, requested the district administration and police authorities for stoppage of illegal mining of minor mineral and recovery of outstanding assessment amount. Several Muraslas/FIRs lodged against illegal miners. Persistent violator has been recommended for blacklisting, which was blacklisted by licensing authority. These facts are admitted by enquiry committee in its report.

b. I have taken all possible measures/steps to stop/control illegal excavation and transportation of minor mineral from Doar near Havelian which is consisted of Plot No 04 & 05 of minor mineral in District Abbottabad. Plot no 04 and 05 along with other plots have been advertised for auction vide letter dated 19/12/18. No one applied to participate in auction of both plots. Plot no 04 and 05 along with other plots have been re-advertised for auction vide letter dated 09/05/19 and requested the appellate authority through section officer appeal to dispose-off the appeal on early date to save provincial exchequer from losses but still the appeal has not been disposed by the appellate authority till date. No one applied to participate in auction of plot no 04 due to resistance from local landowners. But after hectic efforts the plot No 05 was successfully auctioned on 30/05/19 and approved by HQ on 25/07/19 & work order was issued on 06/09/19.

ATTESTED

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c. FWO contractors have started illegal mining of minor mineral & utilized it for construction of Havelian-Dhamtor By-Pass near Banda Said Khan/Rajoia. Appellant has deputed the Royalty inspector to take action against the offenders and Murasla dated 22/07/19 was submitted in Police station Havelian. Appellant has forwarded the copy of Murasla to the DPO Abbottabad with request to direct concerned SHO to covert Murasla into FIR and stop illegal excavation of mineral from said area. Also undersigned processed the said area to make new minor mineral plot, reserve price was fixed by requesting Deputy Commissioner Abbottabad to convene meeting of district auction committee, advertised in newspaper. Plot no 07 has been successfully auctioned by appellant on 17/07/19 & got approval from HQ vide letter dated 19/08/2019 and accordingly work order was issued dated 30/08/19. Further Monitoring staff has also lodged several Muraslas/FIRs.

d. It is not correct that I have not visited the areas for checking/monitoring of illegal mining, I was heavily burdened with official work but even then I have paid 51 visits to different areas and is admitted by enquiry committee.

e. It's totally wrong that appellant has failed to auction the plots mentioned in charge sheet i.e. Plot No 01 in Mansehra and plot No 04, 05 & 07 in district Abbottabad, I have advertised these plots time and again and successfully auctioned Plot No 05 and 07. Plot No 01 couldn't be auctioned due to status quo order of Supreme Court of Pakistan. Plot No 04 was advertised several times but no one participated in auction. Except these plots I have auctioned plot no 04 Hassa, Balakot & plot No 06 Dhum Dhuma, Naran, and also discovered three new plots in District Mansehra and processed them for reserve price fixation through District Auction committee which generated revenue of more than 60 million PKR. The fact was admitted by the enquiry committee.

9. The enquiry committee handed over a questionnaire to the appellant vide letter dated 27/09/19. Accordingly the reply was submitted vide letter dated 03/10/19.
10. Meanwhile the suspension period was further extended for 90 days from initial period vide notification dated 05/11/2019.
11. The enquiry committee has established no charges against appellant and submitted its report to the competent authority with recommendation that appropriate action may be taken under rule 4(a) of the Government of Khyber Pakhtunkhwa efficiency and disciplinary rules (E & D) 2011 ignoring the efforts taken by appellant against illegal mining and the official workload on appellant.
12. That the appellant was served with show cause notice vide letter dated 18/12/2019 that the appellant has committed the inefficiency.

ATTESTED

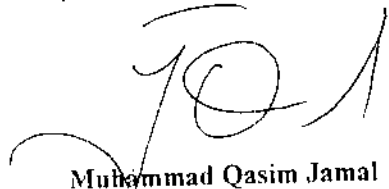


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13. That appellant has been given chance of personal hearing on 04/02/2020 by the competent authority and explained the facts to the competent authority and it was also brought in notice that despite of 6 months from suspension of appellant the illegal mining of minor mineral at the said sites couldn't be stopped neither the outstanding assessment amount can be recovered, nor the un-auctioned areas could be auctioned. Even one of the sites in Doatar, Havelian district Abbottabad auctioned by appellant could not be handed over to the highest bidder. Another site i.e. Plot No 01 in Mansehra still couldn't be auctioned due to supreme court statuesque order. It is very humbly submitted that how appellant can be blamed for failure to curb illegal mining and auctioning of the said areas if the situation is till same after months of suspension of the appellant.
14. That the minor penalty of stoppage of increment for three years has been imposed by the competent authority vides notification dated 04/03/2020.
15. That the stoppage of increment for three years is not justified as the enquiry team has admitted in its report that the appellant has registered FIRs, posted field staff at sensitive spots, conducted meetings and visits with district administration, forwarded Muraslas to DPO for action against offenders, recommended the name of persistent violator for blacklisting, imposed fine, made assessment in millions against offenders and successfully auctioned the minor mineral plots. As the appellant has taken all possible actions against violators to stop/curb illegal mining, therefore the appellant cannot be blamed for failure to show consistent efforts to control illegal mining of minor mineral from his jurisdiction.

In view of the above and efforts taken by appellant to curb illegal mining it is humbly prayed that the order dated 04/03/2020 for stoppage of increment for 3 years may be set aside and the appellant may be exonerated from the minor penalty being unjustified.



Muhammad Qasim Jamal
Assistant Director Technical (BPS-17)
Directorate General Mines and
Minerals
Khyber Pakhtunkhwa, Peshawar.

Dated: 27/04/2020

The appeal couldn't be submitted earlier due to lockdown and public holidays in current scenario of COVID-19 pandemic situation.

ATTESTED





Government of
Khyber Pakhtunkhwa
Minerals Development Department

No. SO (E)/MDD/4-1/2019 / 8086
Dated Peshawar, August 24, 2020

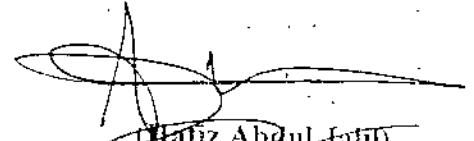
To ✓

Mr. Qasim Jamal,
Assistant Director Technical (BS-17).

C/O, Director General,
Mines & Minerals,
Khyber Pakhtunkhwa.

Subject: APPEAL AGAINST STOPPAGE OF INCREMENT FOR THREE YEARS.

I am directed to refer to your departmental appeal dated 27-04-2020, addressed to Hon'able Chief Minister, Khyber Pakhtunkhwa on the subject noted above and to state that the Appellate Authority i.e. the Chief Minister, Khyber Pakhtunkhwa has considered your appeal and rejected.


(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT:)

Endst: No & Date even:

Copy is forwarded for information to:

- i. Assistant Director (Admn). Directorate General of Mines & Minerals, Khyber Pakhtunkhwa, w.r.t his letter No.9328/DGMM/Admn/2/1186, dated 01-07-2020.
- ii PS. to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.

SECTION OFFICER (ESTT:)

ATTESTED


VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

MUHAMMAD QASIM JAMAL (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt. of KP & Others (RESPONDENT)
(DEFENDANT)

I/We Muhammad Qasim Jamal
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. 15 / 09 / 2020

[Signature]
CLIENT

[Signature]
ACCEPTED
NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

[Signature]
MIR ZAMAN SAFI

&

AFRASIAB KHAN WAZIR
ADVOCATES

OFFICE:

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

BEFORE THE HONORABLE SERVICE TRIBUNAL
PAKHTUNKHWA, PESHAWAR

KHYBER

SERVICE APPEAL, NO. 11149 / 2020

Mr. Muhammad Qasim Jamal Assistant Director Minerals (BPS-17),
Directorate General Mines & Mineral, Khyber Pakhtunkhwa, Peshawar. **Appellant**

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Mines and Minerals Dev: Department, Khyber Pakhtunkhwa, Peshawar.
3. Director General Mines & Minerals, Khyber Pakhtunkhwa Peshawar..... **Respondents**

Parawise reply on behalf of Respondent No.1,2 and 3

Respectfully Sheweth,

The respondents submit as under:-

Preliminary Objection.

- I- That the appellant has no cause of action and locus standi to file the instant appeal.
- II- That the appeal is not maintainable under the law.
- III- That no vested right of the appellant has been infringed as such the appeal is liable to be dismissed on merit.
- IV- That the appellant has not come to this Hon'able Tribunal with clean hands.
- V- That the appeal is not tenable and is liable to be dismissed.
- VI- That the appellant is estopped by his own conduct to file the instant appeal.
- VII- That the appeal in its present form is bad, defective and liable to be dismissed.
- VIII- That the appeal of the appellant is badly time bared.

Reply on Facts: -

1. Correct to the extent that the petitioner was posted as Assistant Director Minerals, Abbottabad. However, he failed to curb illegal excavation and transportation of minor minerals in their jurisdiction on account of which he was suspended under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Discipline) Rules 2011 vide Notification dated: 26.07.2019 (**Annex-A**).
2. Correct to the extent that the petitioner was given additional charge of Assistant Director Minerals, Mansehra and there he also failed to curb illegal excavation and transportation of minor minerals.
3. Incorrect. As stated in Para (1 & 2) of above.
4. Correct to the extent that the Competent Authority constituted an Enquiry Committee under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Discipline) Rules 2011 vide Notification dated: 06.09.2019 (**Annex-B**). The Enquiry Committee dig out that petitioner failed to show his consistent efforts to control illegal mining in Mansehra and Abbottabad. Therefore, the Enquiry Committee recommended for taking action against the petitioner under rule 4(a) by the Competent Authority under Efficiency & Discipline Rules, 2011.

Cont'd on.....p/2

- 7
5. Incorrect. Upon receiving the enquiry report (**Annex-C**) and on the findings of the enquiry report, the Competent Authority issued show cause notice to the petitioner wherein penalty of "Removal from Service" was imposed upon him tentatively under Rule-4 of the Efficiency & Discipline Rules-2011. After receiving of reply of the show cause notice, the Competent Authority offered opportunity of personal hearing to the petitioner (**Annex-D**) and fulfillment of all codal formalities, minor penalty of stoppage of 03 increments for 03 years was imposed upon him (**Annex-E**).
 6. Correct to the extent that the Appellate Authority perused Departmental Appeal of the petitioner, which was rejected due to no force. The applicant informed accordingly (**Annex-F**).
 7. As stated in Para (6) above.
 8. No comments.

Grounds: -

- A. Incorrect. The petitioner was proceeded under the relevant section of Efficiency & Discipline Rules-2011 and after fulfillment of all codal formalities, minor penalty of stoppage of 03 annual increments was imposed upon petitioner on account of following allegations:
 - i. Stop/curb illegal excavation and transportation of minor minerals at two sites of Jabba Siran Valley near Parhena, Mansehra.
 - ii. Stop unauthorized excavation of minerals at River Doar Abbottabad, where 18 numbers of crushing plants are operational and approximately hundred dumpers coupled with seventy to eighty trolleys of minerals are transported on daily bases.
 - iii. Stop large scale unauthorized supply of minerals crushing plants at the area of Dottar near Rajoia Abbottabad.
 - iv. Pay any visit to the said areas for checking/stopping the illegal excavation and transportation of minerals, which has caused huge loss to the Government exchequer in shape of continued illegal excavation and transportation of minerals.
 - v. Carry out auction of the said areas thus creating opportunities for unauthorized mining and excavation of minor minerals.
- B. Incorrect. The petitioner has been treated by the Department in accordance with Law & Rules. Opportunities of written statement to the charge sheet as well as reply of the show cause notice, opportunity of personal hearing and right of Departmental Appeal were given to the petitioner.
- C. Incorrect. As explained in Para-B of the grounds above. Proper charge sheet/statement of allegations were issued against the petitioner (**Annex-G**) as per procedure under E&D Rules-2011. All legal requirements are adopted in the entire proceedings taken against the petitioner.
- D. Incorrect. The petitioner treated as per law and rules. No malafide were arrived in the whole procedure.
- E. Incorrect. F.R-29 of the Fundamental Rules stipulates that "if a Government servant is, on account of misconduct or inefficiency, reduced to a lower grade or post, or to a lower stage in his time-scale, the authority ordering such reduction shall state the period for which it shall be effective and whether, on restoration, it shall operate to postpone future increments and if so, to what extent. Moreover, Rule-03 of the Efficiency & Discipline, 2011 speaks that a Government servant shall be liable to be proceeded against him, if he is inefficient, guilty of misconduct etc. Therefore, the minor penalty of stoppage of 03 annual increments is according to the spirit of FR-29 and Rule-03 of the Efficiency & Discipline Rules, 2011.

- F. Incorrect. The Competent Authority offered opportunity of personal hearing to the petitioner. Letter of the Administrative Department dated: 30.01.2020 is (Annex-H). The petitioner attended office of the Competent Authority on 04.02.2020. The Competent Authority heard him personally. However, the petitioner not submitted any documents in his defense to the Competent Authority.
- G. Incorrect. As stated in Para (4) above, the Competent Authority constituted Enquiry Committee vide Notification dated: 06.09.2019. Therefore, proper enquiry and proceeding was held against the petitioner.
- H. No comments.

It is therefore, most humbly prayed that the appeal of the appellant has no legal footings and may be dismissed with cost as all codal formalities have been fulfilled in the subject case.

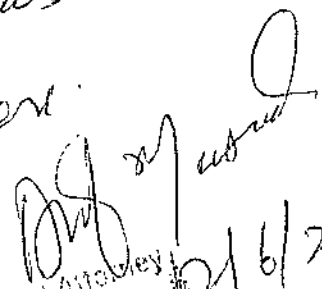
Chief Secretary
Khyber Pakhtunkhwa, Peshawar,
(Respondent No. 1)



Secretary
Minerals Development Department,
Khyber Pakhtunkhwa, Peshawar,
(Respondent No. 2)

Director General Mines and Minerals
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 3)

vetted
subject to correction
annexed all relevant
documents along with
index.


Deputy District Attorney
Khyber Pakhtunkhwa
Service Tribunal Peshawar
21/6/21