


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.

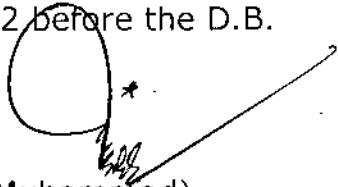

(Rozina Rehman)
Member(J)

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Peshawar

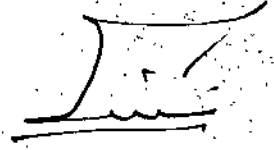
13.09.2022

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)



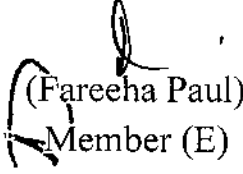
(Salah-Ud-Din)
Member (Judicial)

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)



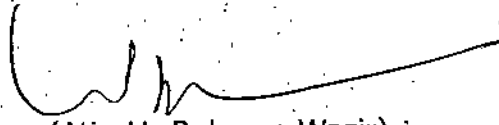
(Rozina Rehman)
Member (J)

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05.01.2022

Junior to 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)

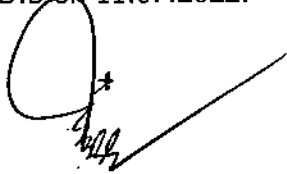


Chairman

07.04.2022

Clerk for the counsel of Appellant present. Mr. Kabirullah Khattak Adl. AG for respondents present.

Clerk for the counsel for the appellant requested 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



4-8-2022

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

Reader



Reader

02.06.2021

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

Stipulated period has passed along with other of connected appeal - Reply has not been submitted

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.


Chairman

P.S

11.06.2021


Learned Addl. A.G be reminded about the omission and for submission of reply within extended time of 10 days.

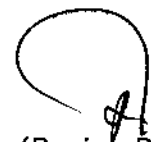

Chairman

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)

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.

Add: 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



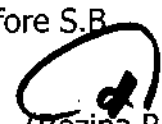
FORM OF ORDER SHEET

Court of _____

Case No.-

11151

/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. Kamran Ahmad 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>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>
	28.10.2020	

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 11157 / 2020

KAMRAN AHMAD

VS

GOVT: OF KP

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 3.
2	Suspension order	A	4.
3	Order dated 05.11.2019	B	5.
4	Enquiry report & show cause	C & D	6- 12.
5	Impugned order	E	13.
6	Departmental appeal	F	14.
7	Appellate order	G	15.
8	Vakalat nama	16.

APPELLANT

THROUGH:
NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2020

Mr. Kamran Ahmad, Assistant Director Minerals (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 Shangla, accordingly the appellant took over the charge of the said post on 03-06-2019 and started his duty quite efficiently and up to the entire satisfaction of his superiors.

2. 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 with the reasons that "**appellant failed to curb illegal excavation and transportation of minor minerals in his jurisdiction**". Copy of the suspension orders dated 26-07-2019 and dated 05-11-2019 is attached as annexure.....**A&B.**
3. That an enquiry was conducted and the appellant was recommended to be proceeded under the Khyber Pakhtunkhwa E&D rules 2011 for the reason that the appellant had failed to register a single murasila/ FIR while posted in Shangla against the culprits involved in illegal mining of minor minerals in Dandhai area. Copies of the enquiry report along with the show cause notice are attached as annexure.....**C&D.**
4. That after illegal and unlawful suspension of more than eleven months the appellant was awarded minor penalty of stoppage of three annual increments with accumulative effect vide impugned order dated 04-03-2020. Copy of the impugned order dated 04-03-2020 is attached as annexure..... **E.**
5. 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.....**F.**
6. 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.**
7. 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 provided to the appellant before initiating the inquiry, hence the whole procedure adopted by the respondents is doubtful and void, therefore, is to be vitiated and the impugned orders dated 04-03-2020 and 24-08-2020 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 the same is not tenable and 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

KAMRAN AHMAD

THROUGH:

NOOR MUHAMMAD KHATTAK

KAMRAN KHAN

UMER FAROOQ

SHAHZULLAH YOUSAFZAI

MIRZAMAN SAFI

&

AFRASYAB WAZIR

ADVOCATES



67

A - (4)

18183-92

**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

Dated Peshawar, July 26, 2019

NOTIFICATION

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

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 place the following officers / officials of Minerals Development Department under suspension from service due to their failure to curb illegal excavation and transportation of minor minerals in their jurisdiction, for a period of ninety (90) days, with immediate effect.

- i. Mr. Qasim Jamal, Assistant Director Minerals (BS-17), Abbottabad, holding additional charge of the post of Assistant Director, Mansehra.
- ii. Mr. Kamran Ahmad, Assistant Director Minerals (BPS-17), Shangla.
- iii. Muhammad Atif, Royalty Sub-inspector (BS-12), District Mansehra.
- iv. Mr. Majid Nawaz, Mineral Guard, District Shangla.

-sd-

Chief Secretary, Khyber Pakhtunkhwa

Dated Peshawar, July 26, 2019

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

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.



DD.(A)

29/7/19

MS

29/7/19

(Mian Hussain Din)
Section Officer (Estt :)

AD(A)



Government of
Khyber Pakhtunkhwa
Minerals Development Department

Dated Peshawar, November 05, 2019

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: /12809-17

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.

Minerals Development
D. No. 637
Date 05/11/19
Time

(Mian Hussain Din)
(Mian Hussain Din)
Section Officer (Estt :)

AD Kamran Ahmad



Government of
Khyber Pakhtunkhwa
Minerals Development Department

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

C-6

15788-93

To

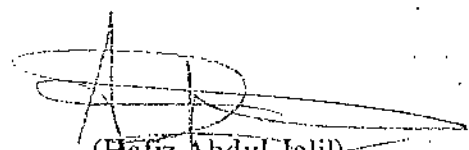
- i. Mr. Kamran Ahmed, Assistant Director Minerals (BS-17),
- ii. Mr. Qasim Jamal, Assistant Director Minerals (BS-17),
- iii. Muhammad Atif, Royalty Sub-Inspector (BS-10),
- iv. Mr. Majid Nawaz, Mineral Guard (BS-03),

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.


(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT:)

Encl: As Above.

Endst: No & Date even:

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.

Section Officer (Estt.)

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⑦

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

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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 Anjid Salar for blacklisting him and he has turned 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.

Chief Inspector of Mines
K.P.K. Peshawar

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

Sub-Inspector of Mines
Mansehra

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 minor 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 re-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

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 Manshehra 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 Awaiz (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 Manshehra 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

Chief Inspector of Mines
K. P. K. Peshawar

Statement of Officer

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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 Annawai 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

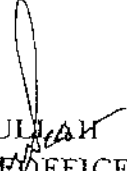
Chief Inspector of Mines
K.P.K. Peshawar

Section Officer
Mansehra

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.



I. Iqbal HUSSAIN
CHIEF INSPECTOR MINES,
PESHAWAR.



2. IZAZ ULLAH
SETTLEMENT OFFICER,
MANSEHRA.

(11)

Settlement Officer,
Mansehra

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. Kamran Ahmad, Ex-Assistant Director (Minerals), BPS-17, Shangla (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.CIM/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.

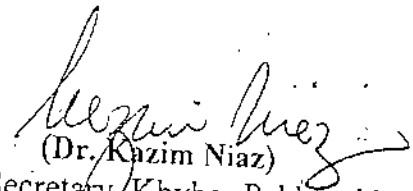
- (a). Inefficiency
- (b). _____
- (c). _____

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.


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



Government of
Khyber Pakhtunkhwa
Minerals Development Department

68

Dated Peshawar, March 04, 2020

NOTIFICATION

3547-53

Summ-2
20/03/20

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

WHEREAS, Mr. Kamran Ahmad, Ex-Assistant Director Minerals (BPS-17), Shangla, (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. Kamran Ahmad, Assistant Director Minerals (BPS-17), Shangla, (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.

Endst: No & Date even:

Copy forwarded to:

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director General, Mines & Minerals, Khyber Pakhtunkhwa.
3. Mr. Kamran Ahmad, Ex-Assistant Director Minerals (BPS-17), Shangla; (now under suspension), Directorate General Mines & Minerals, Khyber Pakhtunkhwa.
4. District Accounts Officer, Shangla.
5. CSO to Chief Secretary, Khyber Pakhtunkhwa.
6. The Private Secretary to Secretary Minerals Development Department.

Master File.

MS
11/3/20

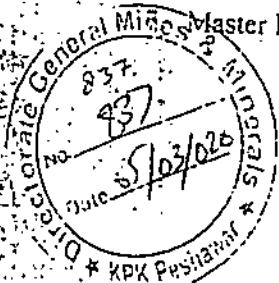
AS
06/3/20
AD(A)

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

AD (A)
06/3/20

07/03/20

DD(Admin)



(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT.)

19/5/20
AD (A)

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

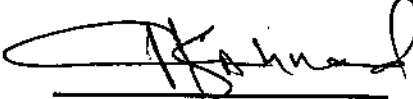
Kamran Ahmad (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govts of KP & others (RESPONDENT)
(DEFENDANT)

I/we Kamran Ahmad
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



CLIENT


ACCEPTED
NOOR MOHAMMAD KHATTAK

KAMRAN KHAN


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.



Directorate General of Mines and Minerals
KHYBER PAKHTUNKHWA
Attached Departments Complex Khyber Road Peshawar

No. 21092/DGMM/SA No. 11149 & 11151/20/Admin

Dated 05/08/2021

To

✓
The Registrar,
Khyber Pakhtunkhwa, Service Tribunal
Peshawar.

Subject: - **SUBMISSION OF WRITTEN REPLY IN SERVICE APPEAL NO. 11151 & 11149/2020 TITLED KAMRAN AHMED & ONE OTHER VS GOVERNMENT.**

I am directed to refer to the subject noted above and to enclose herewith written reply alongwith enclosures in Service Appeal No.11149 & 11151/2020 titled Mr. Kamran Ahmad and one other vs Government for further process. The next date in the instant case is fixed as 11.10.2021 before Khyber Pakhtunkhwa Service Tribunal, please.

Encl: As Above.

Assistant Director (Admin)
H/Q Office, Peshawar
Dated _____/08/2021

No. _____/DGMM/SA No. 11149 & 11151/20/Admin

Copy is forwarded to:

- 1) Mr. Kabir Ullah Khattak, Additional Advocate General, Khyber Pakhtunkhwa Service Tribunal, Peshawar with reference to his letter No.1179-1184 dated: 18.06.2021.
- 2) PS to Secretary Mineral Development Department Khyber Pakhtunkhwa, Peshawar.
- 3) PA to Director General Mines & Mineral, Khyber Pakhtunkhwa, Peshawar.
- 4) Deputy Director (Litigation) H/Q Office, Peshawar.
- 5) Section Officer (Litigation) Minerals Development Department with reference to his letter No.SO(Lit)/MDD/2-6/2021/12887-91 dated: 29.07.2021.
- 6) Master File /DGMM/Admin/2021.

Assistant Director (Admin)
H/Q Office, Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 11151/ 2020


Kamran Ahmed Appellant

Versus

Government of Khyber Pakhtunkhwa etc..... Respondents

INDEX

S.No	Description	Annexure	Pages
1.	Affidavit	_____	01
2.	Reply of Para Wise comments	_____	02 - 04
3.	Suspension Order	A	5
4	Constitution of Inquiry Committee	B	6
5.	Inquiry Report + Show Cause Notice.	C	7 - 14
6	Personal Hearing	D	15
7.	Penalty (Stoppage of Increment)	E	16
8.	Rejection of Appeal	F	17
9.	Charge Sheet/Statement of Allegations	G	18 - 19
10.	Letter of Personal Hearing	H	20
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12.	Vetted Copy	J	24-26


Superintendent (Admin)
H/Q Office, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 11151/2020

Kamran Ahmed Appellant

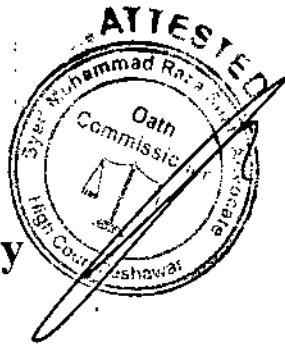
Versus

Government of Khyber Pakhtunkhwa etc..... Respondents

AFFIDAVIT

I Muhammad Iqbal Superintendent (Admin), Directorate General Mines & Mineral do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments are true and correct to the best of my knowledge and belief and that nothing has been concealed from Honorable Court.

Identified by



05 AUG 2021

DEPONENT

1	7	3	0	1	-	1	5	7	1	3	9	0	-	3
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126 / 102

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

SERVICE APPEAL NO. 11151/2020

Mr. Kamran Ahmad 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 Objections.

- 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 barred.

Reply on Facts: -

1. Correct to the extent that the petitioner was posted as Assistant Director Minerals, Shangla. However, he failed to curb illegal excavation and transportation of minor minerals in ^{his} 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. Incorrect. As stated in Para (1) of above.
3. 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 register ^o single Murasala/FIR despite the fact he made sufficient correspondences with District Administration. 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

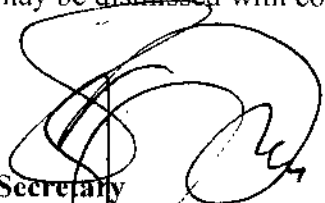
- 127 / 103
4. Incorrect. Upon receiving the enquiry report (**Annex-C**) and on the findings of the enquiry report, the Competent Authority issued show cause notice to the petitioner wherein penalty of "Removal from Service" was imposed upon him tentatively under Rule-4 of the Efficiency & Discipline 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**).
 5. Correct to the extent that the Appellate Authority perused Departmental Appeal of the petitioner, which was rejected due to no force. The applicant ^{was} informed accordingly (**Annex-F**).
 6. As stated in Para (5) above.
 7. No comments.

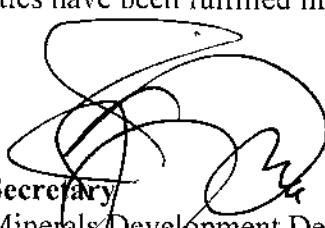
Grounds: -


- A. Incorrect. The petitioner was proceeded ^{against} 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 five sites of Dhandai and eighteen other sites alongside the beach of River Indus in District Shangla.
 - ii. To 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.
 - iii. 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 ^{was} 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-II). The petitioner attended office of the Competent Authority on 04.02.2020. The Competent Authority heard him personally. However, the petitioner ^{could} not submitted any documents in his defense to the Competent Authority.
- G. Incorrect. As stated in Para (3) 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)
 TO GOVT OF KHYBER PAKHTUNKHWA
 Minerals Dev: Deptt;


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





Government of
Khyber Pakhtunkhwa
Minerals Development Department

67 5

Annex-A

Dated Peshawar, July 26, 2019

18183-92

NOTIFICATION

No. SO (E)/MDD/4-1/Vol-IV/2018: 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 place the following officers / officials of Minerals Development Department under suspension from service due to their failure to curb illegal excavation and transportation of minor minerals in their jurisdiction, for a period of ninety (90) days, with immediate effect.

- i. Mr. Qasim Jamal, Assistant Director Minerals (BS-17), Abbottabad, holding additional charge of the post of Assistant Director, Mansehra.
- ii. Mr. Kamran Ahmad, Assistant Director Minerals (BPS-17), Shangla.
- iii. Muhammad Atif, Royalty Sub-inspector (BS-12), District Mansehra.
- iv. Mr. Majid Nawaz, Mineral Guard, District Shangla.

-sd-

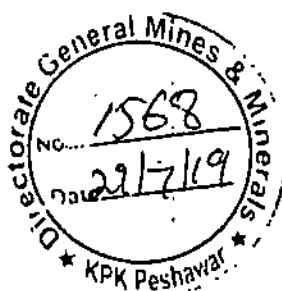
Chief Secretary, Khyber Pakhtunkhwa

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

Dated Peshawar, July 26, 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.



DD.(A)

29/7/19

Mian Hussain Din
(Mian Hussain-Din)
Section Officer (Estt :)

29/7/19

AD(A)

68



Government of
Khyber Pakhtunkhwa
Minerals Development Department

Dated Peshawar, September 06, 2019

9986-96

NOTIFICATION

No. SO (E)/MDD/4-1/2019: In exercise of the powers conferred by Rule-10 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority has been pleased to constitute an Enquiry Committee, comprising the following officers to conduct enquiry against the staff of the Minerals Development Department into the charges/allegations leveled against them in the Charge Sheets and Statement of Allegations.

- i. Mr. Fazal Hussain, Chief Inspector of Mines (BS-20), Inspectorate of Mines, Khyber Pakhtunkhwa.
- ii. Mr. Izaz Ullah (PMS BS-18), Settlement Officer, Mansehra.

2. The Enquiry Committee is requested to submit findings/enquiry report within thirty days positively.

3. Deputy Director (Tech), Directorate General, Mines & Minerals, Khyber Pakhtunkhwa is nominated as Departmental Representative to assist the Enquiry Committee.

-sd-

Chief Secretary, Khyber Pakhtunkhwa

Dated Peshawar, September 06, 2019

No. SO (E)/MDD/4-1/2019

Copy is forwarded to:

- 1. Mr. Fazal Hussain, Chief Inspector of Mines (BS-20), Inspectorate of Mines, Khyber Pakhtunkhwa alongwith copies of Charge Sheets and Statement of Allegations.
- 2. Mr. Izaz Ullah (PMS BS-18), Settlement Officer, Mansehra, alongwith copies of Charge Sheets and Statement of Allegations.
- 3. Mr. Qasim Jamal, Assistant Director Minerals (BS-17) Abbottabad alongwith copies of Charge Sheets and Statement of Allegations with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Enquiry Committee for the purpose of inquiry proceedings.
- 4. Mr. Kamran Ahmad, Assistant Director Minerals (BS-17) Shangla alongwith copies of Charge Sheets and Statement of Allegations with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Enquiry Committee for the purpose of inquiry proceedings.
- 5. Mr. Muhammad Atif, Royalty Sub-Inspector (BS-12) Mansehra alongwith copies of Charge Sheets and Statement of Allegations with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Enquiry Committee for the purpose of inquiry proceedings.
- 6. Mr. Majid Nawaz, Mineral Guard Shangla alongwith copies of Charge Sheets and Statement of Allegations with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Enquiry Committee for the purpose of inquiry proceedings.
- 7. PSO to Chief Secretary, Khyber Pakhtunkhwa, for information.
- 8. PS to Secretary Minerals Development Department, Khyber Pakhtunkhwa, for information.
- 9. Director General, Mines & Minerals, Khyber Pakhtunkhwa, for information.
- 10. Master File.
- 11. Personal File



AD(A) 13/9

Mian Hussain Din
Section Officer (Estt.)

15/9/19

AD(A)

19/9/19



7

Registered

INSPECTORATE OF MINES LABOUR WELFARE
KHYBER PAKHTUNKHWA

ATTACHED DEPARTMENT COMPLEX, KHYBER ROAD, PESHAWAR
Phone: 091-9211404 Phone :091-9210815

No. CIM/Enquiry/2019/ 4163-66

Dated 16/09/2019


To,

1. Mr. Qasim Jamal,
Ex-Assistant Director (Minerals), Abbottabad
(now under suspension).
2. Mr. Kamran Ahmad,
Ex-Assistant Director (Minerals) Shangla
(now under suspension).
3. Mr. Muhammad Atif,
Ex-Royalty Sub Inspector, Mansehra
(now under suspension).
4. Mr. Majid Nawaz
Ex-Mineral Guards, Shangla
(now under suspension).

Subject:- ENQUIRY/NOTIFICATION.

Refer to Notification No.SO(E)/MDD/4-1/2019/9986-96 dated 06.09.2019, wherein a committee of two officers mentioned in the notification has been constituted by the competent authority to conduct enquiry against you into the charges/allegation levelled against you in the charge sheet & statement of allegations already sent to you vide the above referred letter.

You are therefore directed to submit the requisite reply with all documented proof upto 19.09.2019 and appear before the Enquiry Committee on 23.09.2019 at 11:00 A.M for personal hearing as desired under the rules.


Engr. Fazal Hussain,
Chief Inspector of Mines,
Khyber Pakhtunkhwa,

e/c

c.c.to:-

1. Mr. Aizaz Ullah, Settlement Officer, Mansehra for information.

ENQUIRY REPORT

The Chief Secretary Khyber Pakhtunkhawa constituted an Committee vide Government of Khyber Pakhtunkhawa Mineral Department Notification No. SO(E)/MDD/4-1/2019 dated 6th November, 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 Guards 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 mineral excavators. Since assuming the

Chief Inspector of Mines
K.P.K. Peshawar

Settlement Officer

ATTEST

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 toward situation. Being head of the regional office

Chief Inspector of Mines
K.P.K. Peshawar

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Secretary Officer

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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 murasilla/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 Pakhtunkhwa 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

Chief Inspector of Mines
K.P.K. Peshawar

Chief Inspector

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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 Pakhtunkhawa 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 Pakhtunkhawa 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

Serjeant/Officer
Mansehra

ATTIES



14/53
~~Annex D~~

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. Kamran Ahmad, Ex-Assistant Director (Minerals), BPS-17, Shangla (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.CIM/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) _____

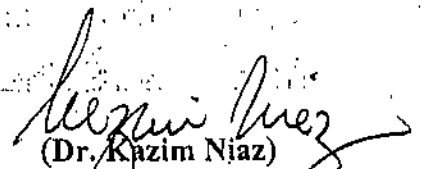
(c) _____

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.


(Dr. Kazim Niaz)

Chief Secretary, Khyber Pakhtunkhwa
(COMPETENT AUTHORITY)



150
Annex-H

**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

No. SO (E)/MDD/4-1/2018/
Dated Peshawar, January 30, 2020

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.

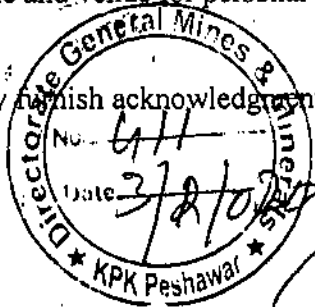
Subject:

**DISCIPLINARY ACTION AGAINST THE STAFF OF MINERALS
DEVELOPMENT DEPARTMENT.**

I am directed to refer to the subject cited above and to state that the Chief Secretary, Khyber Pakhtunkhwa / Competent Authority has been pleased to afford the opportunity of personal hearing to you in the disciplinary case against you on 04-02-2020 at 1400 hrs, in his office.

2. You are, therefore, directed to appear before the Competent Authority on the above given date, time and venue for personal hearing.

3. Kindly furnish acknowledgment receipt.



(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT):

Endst: No & Date even:

Copy is forwarded to:

1. Director General Mines & Minerals, Khyber Pakhtunkhwa, Peshawar, with the direction to ensure that all the four (04) accused officers/officials attend the personal hearing on the scheduled date, time and venue. He is also directed to depute **departmental representative** well versed with case alongwith all relevant documents to attend the said personal hearing.
2. CSO to Chief Secretary, Khyber Pakhtunkhwa w.r.t his letter No.CSO/CS/KP/1-53/2020, dated 30 January, 2020
3. P.S to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.

Advanced copy

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DD(Admin)

ADG
(on Tour)

Mr. Yaqoob Nawaz
D/L(N) nominated
as Deptt. Rep.

(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT):
24 the official concerned inform



Government of
Khyber Pakhtunkhwa
Minerals Development Department

Dated Peshawar, March 04, 2020

NOTIFICATION

No. SOE (MDD)/4-1/2019: WHEREAS, Mr. Kamran Ahmad, Ex-Assistant Director Minerals (BPS-17), Shangla, (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 Izzat Ullah (PMS BS-18), Settlement Officer, Manshera 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. Kamran Ahmad, Assistant Director Minerals (BPS-17), Shangla, (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.

Endst: No & Date even:

Copy forwarded to:

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



(Haqiz Abdul Jaili)
SECTION OFFICER (ESTT)

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Government of
Khyber Pakhtunkhwa
Minerals Development Department

No. SO (EY/MDID/4-1/2019/2089)
Dated Peshawar, August 24, 2020


To

Mr. Kamran Ahmed,
Assistant Director Mineral (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 21-04-2020, addressed to Honr'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:

- i. Assistant Director (Admin) Directorate General of Mines & Minerals, Khyber Pakhtunkhwa via his letter No. 208/DGMM/Admn/2/1186, dated 01-07-2020.
- ii. P.O. Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.


SECTION OFFICER (ESTT:)

CHARGE SHEET

Annex-G

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I, **Muhammad Salim**, Chief Secretary, Khyber Pakhtunkhwa as competent authority, hereby charge you, **Mr. Kamran Ahmad, Assistant Director Minerals (BPS-17)**:

- i. That you, while posted as Assistant Director Minerals (BPS-17), Shangla have failed to stop/curb illegal excavation and transportation of minor minerals at five sites of Dhandai, and eighteen other sites alongside the beach of River Indus District Shangla.
 - ii. You have not paid 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 in the areas.
 - iii. You have failed to carry out auction of the said areas thus creating opportunities for unauthorized mining and excavation of minor minerals.
2. By reason of the above, you appear to be guilty of in-efficiency, misconduct and corruption under Rule-3 of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified under Rule-4 of the Rule ibid.
3. You are, therefore, required to submit your written defence within seven (07) days of the receipt of this charge sheet to the Enquiry Officer/Committee, as the case may be.
4. Your written defence, if any, should reach the Enquiry Officer/Inquiry Committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.



(MUHAMMAD SALIM)
CHIEF SECRETARY, KHYBER PAKHTUNKHWA
(COMPETENT AUTHORITY)

DISCIPLINARY ACTION

I, **Muhammad Salim**, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr. Kamran Ahmad, while posted as Assistant Director Minerals (BPS-17), Shangla has rendered himself liable to be proceeded against, as he committed the following act/omissions, within the meaning of Rule-3 of the Government of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

That he, while posted as Assistant Director Minerals (BPS-17), Shangla has failed to:

- i. Stop/curb illegal excavation and transportation of minor minerals at five sites of Dhandai and eighteen other sites alongside the beach of River Indus in District Shangla.
- ii. To 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 in the areas.
- iii. Carry out auction of the said areas thus creating opportunities for unauthorized mining and excavation of minor minerals.

2. For the purpose of Enquiry against the said accused with reference to the above allegations, an Enquiry Officer/Enquiry Committee, consisting of the following is constituted under rule 10 (1) (a) of the ibid rules:-

- i. Mr. Fazal Hussain Chief Inspector Mines.
- ii. Mr. Jagjulloh, Settlement Officer, Mansehra.

3. The Enquiry Officer/Enquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty (30) 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 Enquiry officer/Enquiry Committee.



(MUHAMMAD SALIM)
CHIEF SECRETARY, KHYBER PAKHTUNKHWA
(COMPETENT AUTHORITY)



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Annex-H

**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

No. SO (E)/MDD/4-1/2018/
Dated Peshawar, January 30, 2020

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.

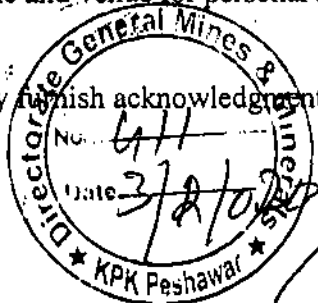
Subject:

**DISCIPLINARY ACTION AGAINST THE STAFF OF MINERALS
DEVELOPMENT DEPARTMENT.**

I am directed to refer to the subject cited above and to state that the Chief Secretary, Khyber Pakhtunkhwa / Competent Authority has been pleased to afford the opportunity of personal hearing to you in the disciplinary case against you on 04-02-2020 at 1400 hrs, in his office.

2. You are, therefore, directed to appear before the Competent Authority on the above given date, time and venue for personal hearing.

3. Kindly furnish acknowledgment receipt.



(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT:)

Endst: No & Date even:

Copy is forwarded to:

1. Director General Mines & Minerals, Khyber Pakhtunkhwa, Peshawar, with the direction to ensure that all the four (04) accused officers/officials attend the personal hearing on the scheduled date, time and venue. He is also directed to depute **departmental representative** well versed with case alongwith all relevant documents to attend the said personal hearing.
2. CSO to Chief Secretary, Khyber Pakhtunkhwa w.r.t his letter No.CSO/CS/KP/1-53/2020, dated 30 January, 2020
3. P.S to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.

Advanced copy

03/2/20

AD(A)

DD(Admin)

ADC
(on Tour)

Mr. Yaqoob Nawaz
D/L(N) nominated
as Deptt. Rep.

(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT:)

2/ the official concerned
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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 11151 /2020

Mr. Kamran Ahmad, Assistant Director Minerals (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 Shangla accordingly the appellant took over the charge of the said post on 03-06-2019 and started his duty quite efficiently and up to the entire satisfaction of his superiors.

- 2. 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 with the reasons that **"appellant failed to curb illegal excavation and transportation of minor minerals in his jurisdiction"**. Copy of the suspension orders dated 26-07-2019 and dated 05-11-2019 is attached as annexure.....**A&B.**
- 3. That an enquiry was conducted and the appellant was recommended to be proceeded under the Khyber Pakhtunkhwa E&D rules 2011 for the reason that the appellant had failed to register a single murasila/ FIR while posted in Shangla against the culprits involved in illegal mining of minor minerals in Dandhai area. Copies of the enquiry report along with the show cause notice are attached as annexure.....**C&D.**
- 4. That after illegal and unlawful suspension of more than eleven months the appellant was awarded minor penalty of stoppage of three annual increments with accumulative effect vide impugned order dated 04-03-2020. Copy of the impugned order dated 04-03-2020 is attached as annexure..... **E.**
- 5. 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.....**F.**
- 6. 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.**
- 7. 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

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and 25 of the constitution of Islamic Republic of Pakistan 1973.

- C- That no charge sheet and statement of allegation has been provided to the appellant before initiating the inquiry, hence the whole procedure adopted by the respondents is doubtful and void, therefore, is to be vitiated and the impugned orders dated 04-03-2020 and 24-08-2020 be set aside.
- D- That the respondents acted in arbitrary and mala fide 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 the same is not tenable and 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

KAMRAN AHMAD

THROUGH:

NOOR MUHAMMAD KHATTAK

KAMRAN KHAN

UMER FAROOQ

SHAHZULLAH YOUSAFZAI

MIRZAMAN SAFI

&

**AFRASYAB WAZIR
ADVOCATES**

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BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

SERVICE APPEAL, NO. 11151 / 2020

Mr. Kamran Ahmad 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 Objections.

- 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 barred.

Reply on Facts: -

1. Correct to the extent that the petitioner was posted as Assistant Director Minerals, Shangla. However, he failed to curb illegal excavation and transportation of minor minerals in his 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. Incorrect. As stated in Para (1) of above.
3. 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 register a single Murasala/FIR despite the fact he made sufficient correspondences with District Administration. Therefore, the Enquiry Committee recommended for taking action against the petitioner under rule 4(a) by the Competent Authority under Efficiency & Discipline Rules, 2011.

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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**).

5. Correct to the extent that the Appellate Authority perused Departmental Appeal of the petitioner, which was rejected due to no force. The applicant ^{was} informed accordingly (**Annex-F**).
6. As stated in Para (5) above.
7. No comments.

Grounds: -

- A. Incorrect. The petitioner was proceeded ^{against} 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 five sites of Dhandai and eighteen other sites alongside the beach of River Indus in District Shàngla.
 - ii. To 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.
 - iii. 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 ^{was} 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 ^{could} not submitted any documents in his defense to the Competent Authority.

G. Incorrect. As stated in Para (3) 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)

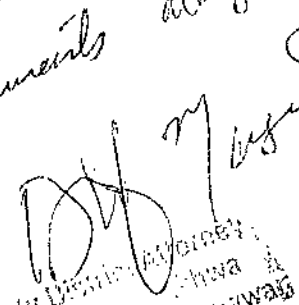


Secretary
Minerals Development Department,
Khyber Pakhtunkhwa, Peshawar,
(Respondent No. 2)

9/2/21 **Director General Mines and Minerals**
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 3)

Vetted

*Subject to correction
annexed all relevant
documents along with index*


Deputy Director (General)
Khyber Pakhtunkhwa
Service Bureau Peshawar

2/6/21

11/10/21
D.B.T

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Put up to the monthly chair - cu
with appeal.

CM NO. _____ /2021

IN

APPEAL NO.11151 /2020



28/10/21
Kamran Ahmad 701 V/S GOVT:OF KPK & OTHERS

**APPLICATION ON BEHALF OF THE APPELLANT FOR EARLY
HEARING OF THE ABOVE APPEAL**


Respectfully Sheweth;

1. That the above title appeal is pending adjudication before this Honorable Tribunal which fixed for hearing on 05-01-2022.
2. That appeal of the appellant has become mature and case also be fixed for final argument.
3. That, valuable rights of the applicant/appellant are involved in the instant appeal therefore, needs to fix at an earlier.
4. That the interest of justice demands that such like matter be heard as early as possible to meet the ends of justice and also to meet the principles of access to justice.

It is, therefore, most humbly prayed that on acceptance of this application the above titled appeal may be fixed at an earlier convenient date.

DATED : 25/10/2021

~~Notice be given to respondents through AAO
for submission of reply before the date
fixed. No need to change the date. NPA~~

Through: 
Noor Mohammad Khattak
Advocate High Court, Peshawar

02/11/2021