

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBU PESHAWAR

Appeal No.261/2018

Date of Institution ... 14.02.2018

Date of Decision ... 01.02.2019

Noor Zaman Khattak, District Attorney, Labour Court, Peshawar.  
... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary  
Peshawar and others. ... (Respondents)

Present.

Mr. Noor Muhammad Khattak,  
Advocate. ... For appellant

Mr. Muhammad Riaz Paindakhel,  
Asstt. Advocate General ... For respondents.

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MR. HAMID FAROOQ DURRANI, ... CHAIRMAN  
MR. HUSSAIN SHAH, ... MEMBER(E)

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved of order dated 18.10.2017, whereby, minor penalty in term of stoppage of three annual increments was imposed on him. He is also aggrieved of the order dated 15.01.2018 passed by the departmental appellate/review authority vide which his departmental appeal was rejected.

2. The appellant is presently serving as District Attorney in Labour Court, Peshawar. During his posting as Director Human Rights (BPS-19) a charge sheet and statement of allegations was served upon the appellant, wherein, allegations on six counts were levelled. The said two documents were signed and issued by the Chief Minister Khyber Pakhtunkhwa on 22.12.2015. The appellant submitted reply to the charge sheet and statement of allegations and was subjected to the enquiry conducted by Section Officer (General) Law, Parliamentary Affairs and Human Rights Department, Peshawar and Chairman Higher Education Regulatory Authority Peshawar. The said committee submitted its report on 25.5.2016, where after, another enquiry was ordered by the competent authority against the appellant. The subsequent enquiry was conducted by Director General Prosecution and report was submitted on 15.02.2017. On 18.10.2017 the impugned order was passed and a notification was issued under the signature of Secretary, Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs and Human Rights Department. The appellant submitted departmental appeal/review petition on 01.11.2017 which was filed on 15.06.2018.

3. We have heard learned counsel for the appellant and Assistant Advocate General on behalf of the respondents.

It was vehemently argued that the order of denovo enquiry in the matter was not based on any reason by the competent authority, therefore, it had no legs to stand. It was also contended that in the first enquiry a

committee was constituted for the purpose while the second enquiry was conducted by a single officer. The appellant was not provided with an opportunity to cross-examine the witnesses appearing against him during the enquiry, it was added. Learned counsel maintained that the subsequent enquiry so conducted was in violation of the law and the relevant rules, therefore, could not be rated as regular enquiry. The order ensuing the enquiry was, therefore, nullity in the eyes of law. In support of his arguments, learned counsel relied on judgments reported as 2011-PLC(C.S)1111, 2008-PLJ-Supreme Court-65, 2008-SCMR-1369, 2000-scmr-1780 and 2005-PLC(C.S)4.

On the other hand, learned AAG attempted to dislodge the arguments of learned counsel for the appellant and contended that it was the prerogative of competent authority to have ordered a second enquiry in any matter within the ambit of law. The proceedings under second enquiry found the allegations proved against the appellant and recommendations for penalty were made therein. In his view the appellant, in the light of allegations, not only violated the Rules of Business but also attempted to break the chain of command.

4. We have considered the available record and the arguments of learned counsel.

The first enquiry report dated 25.05.2016 suggested that the charges contained in the statement of allegations were dealt with in detail and exhaustive issue-wise findings were recorded. It was the conclusion of the

committee that the accused officer had exceeded his powers while directing the Estate Officer to issue N.O.C and for proceeding on tour to District Karak he should have informed his Administrative Secretary. In the issue wise discussion about other charges, it was categorically noted that those were not proved against the accused officer/appellant.


5. The respondents had appended with their reply to the appeal copy of proceedings/summary recommending second enquiry. The summary was prepared on 10.06.2016 by Secretary Law, Parliamentary Affairs and Human Rights Department Peshawar for submission to the competent authority/Chief Minister, wherein, it was noted that the first enquiry proceedings were not conducted in accordance with the provisions of rules. The charge wise comments of the said Secretary were also incorporated in the summary. The competent authority was, thereby, requested to approve denovo enquiry against the appellant and appoint enquiry officer/committee from the panel proposed by the Establishment Department and also signed the charge sheet and statement of allegations. Consequently, the denovo enquiry was ordered. As a result of the denovo enquiry and recommendations contained in the report the appellant was imposed the impugned penalty.

6. We have found from the record that the findings and recommendations contained in the two enquiry reports were diametrically opposite to each other while the role of Secretary, Law, Parliamentary Affairs and Human Rights Department smacked of prejudice in view of the



fact that he also get his statement recorded on 01.02.2017, wherein it was, inter-alia, stated that he visited the office of Human Rights Director to investigate the charge against the appellant in terms of provision of one room in his office to Mr. Akbar Ali Deputy Secretary, Law Department for the residential purpose. In the said circumstance the Secretary, Law was a complainant in at least one of the allegations against the appellant and, on other hand, recommended second enquiry through the summary noted herein above. The denovo enquiry could, therefore, not be said to be free of influence.

7. For what has been discussed above we consider it appropriate to allow instant appeal in terms that the competent authority shall constitute/initiate a fresh enquiry against the appellant and the denovo proceedings shall be concluded within three months but only in accordance with law/rules. The appellant shall be provided fair opportunity of defending his cause by due participation in the proceedings and having right of cross-examination of witnesses appearing against him, if any. Order accordingly. Parties are left to bear their respective costs. File be consigned to the record room.

  
(HUSSAIN SHAH)  
MEMBER(E)

  
(HAMID FAROOQ DURRANI)  
CHAIRMAN

ANNOUNCED  
01.02.2019

S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	01.2.2019	<p><u>Present.</u></p> <p>Mr. Noor Muhammad Khattak, Advocate .. For appellant  Mr. Muhammad Riaz Pinda Khel, Asstt.AG.. For respondents</p> <p>Vide our detailed judgment of today, we allow instant appeal in terms that the competent authority shall constitute/initiate a fresh enquiry against the appellant and the denovo proceedings shall be concluded within three months but only in accordance with law/rules. The appellant shall be provided fair opportunity of defending his cause by due participation in the proceedings and having right of cross-examination of witnesses appearing against him, if any. Order accordingly. Parties are left to bear their respective costs. File be consigned to the record room.</p> <p> Member</p> <p> Chairman</p> <p><u>ANNOUNCED</u> 01.2.2019</p>

Service Appeal No. 261/2018

23.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned Additional AG stated at the bar that the present case has been marked to Learned Assistant AG who is ill and on leave today therefore, requested for adjournment. Adjourned to 30.01.2019 for arguments before D.B.

  
(HUSSAIN SHAH)  
MEMBER

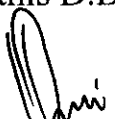
  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

30.1.2019

Appellant alongwith Mr. Noor Muhammad Khattak, Advocate and Mr. Muhammad Riaz Paindakhel, Asstt. AG alongwith Momin Khan, Superintendent for the respondents present. Arguments heard.

To come up for order on 01.02.2019 before this D.B.

  
Member

  
Chairman

12.11.2018.


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 03.12.2018.

  
READER

03.12.2018

Junior counsel for the appellant present. Mr. Riaz Ahmad Paindakhel, Assistant AG for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 22.01.2019 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

22.01.2019

Appellant in person and Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up arguments on 23.01.2019 before D.B

(Hussain Shah)  
Member

  
(Muhammad Amin Khan Kundi)  
Member



Service Appeal No. 261/2018

28.08.2018

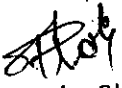
Appellant with counsel and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for rejoinder and arguments on 17.09.2018 before D.B.


  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

17.09.2018


Clerk to counsel for the appellant and Mr. Kabirullah Khattak learned Additional AG, for the respondents present. Due to General Strike of the Bar, arguments could not be heard. To come up for arguments on 29.10.2018 before D.B.

  
(Hussain Shah)  
Member

  
(Muhammad Amin Kundi)  
Member

16.10.2018

Application for fixation of early date of hearing filed by the appellant was allowed by the learned Chairman and the Service appeal was fixed for today. Junior to counsel for appellant present and seeks adjournment as senior counsel for appellant is not in attendance. Adjourned. To come up for arguments on 12.11.2018 before D.B.

  
Member


  
Member

**30.04.2018** Appellant alongwith junior counsel present. Learned Addl: AG for the respondents present. The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on **27.06.2018** before S.B.



Reader

**27.06.2018** Junior counsel for the appellant and Muhammad Jan, DDA for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on **02.08.2018** before S.B.



Member

**02.08.2018** Appellant Noor Zaman in person present. Mr. Muhammad Ismail, Supdt alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply submitted on behalf of the respondents. To come up for rejoinder and arguments on 28.08.2018 before D.B.



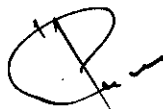


Chairman

Form-A  
FORM OF ORDERSHEET

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

Case No. 261/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26/02/2018  AA	<p>The appeal of Mr. Noor Zaman resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	27/02/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/03/18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
12.03.2018		<p>Learned counsel for the appellant present. Preliminary arguments heard.</p> <p>The appellant (District Attorney) has submitted appeal against the order dated 18.10.2017 whereby minor penalty of stoppage of three (03) annual increments for a period of (03) years was awarded to him and against the order dated 15.01.2018 whereby departmental appeal/Review Petition of the appellant was filed for having no substance.</p> <p>Points raised need consideration. Admitted for regular hearing subject to all just/legal objections. The appellant is directed to deposit process fees and security within 10 days, thereafter notice be issued to respondents for written reply/comments. To come up for written reply/comments on 30.04.2018 before S.B</p> <p style="text-align: right;"></p>

Appellant Deposited  
Security & Process Fee

(Muhammad Hamid Mughal)


Member

The appeal of Mr. Noor Zaman Khattak District Attorney Labour Court Peshawar received today i.e. on 14.02.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of enquiry report mentioned in para- 5 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Memorandum of appeal may be got signed by the appellant.

No. 351 /S.T,


Dt. 15/02 /2018

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Peh.

Sir

Resubmitted after completion.

  
26.2.18

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

APPEAL NO. 2161 /2018

**NOOR ZAMAN**

**VS**

**GOVT:OF KPK**

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**APPELLANT**

**THROUGH:**

  
**NOOR MUHAMMAD KHATTAK**  
**ADVOCATE**

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

APPEAL NO. 261 /2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 202

Dated 14-2-2018

Mr. Noor Zaman Khattak, District Attorney,

Labour Court, Peshawar.....**APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Law, Parliamentary Affairs and Human Rights Department, Khyber Pakhtunkhwa, Peshawar

..... **RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED ORDER DATED 18.10.2017 WHEREBY MINOR PENALTY STOPPAGE OF THREE ANNUAL INCREMENTS HAS BEEN IMPOSED ON THE APPELLANT WITHOUT CONDUCTING REGULAR INQUIRY IN THE MATTER AND AGAINST THE APPELLATE ORDER DATED 15.1.2018 COMMUNICATED TO THE APPELLANT ON 16.1.2018 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS**

**PRAYER:**

That on acceptance of this appeal the impugned orders dated 18.10.2017 and 15.1.2018 may very kindly be set aside and the respondents may be directed to restore the three annual increments of the appellant with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Re-submitted to-day  
and filed.

Filed to-day  
Registrar  
14/2/18

Registrar  
14/2/18

**R/SHEWETH:**

**ON FACTS:**

- 1- That appellant is the employee of the respondent Department and is serving as District Attorney at Labour Court, Peshawar.
- 2- That appellant while serving as Director Human Rights (BPS-19) a charge sheet and statement of allegation were served on the appellant in which some baseless allegations were leveled against the appellant by the respondents. Copies of the charge sheet and statement of allegation are attached as annexure ..... **A & B.**
- 3- That in response the appellant submitted his detailed reply to the charge sheet and statement of allegation. That in the said reply the appellant denied the allegations with documentary proofs. Copy of the reply to the charge sheet and statement of allegation is attached as annexure ..... **C.**
- 4- That after inquiry the inquiry officers namely Mr. Faheem Wazir (BPS-21) and Akbar Khan SO (General) Law Department has exonerated the appellant and not recommended for any punishment. Copy of the inquiry report is attached as annexure ..... **D.**
- 5- That astonishingly the respondents without issuing final show cause notice and without showing any reason conducted Denovo inquiry in the matter inspite of the fact that the appellant was earlier exonerated by the inquiry committee consisting of two senior officers. That the respondents without providing chance of personal hearing and defense straight away issued the Denovo inquiry report in which the appellant was recommended for minor punishment. Copy of the Denovo inquiry report is attached as annexure ..... **E.**
- 6- That in light of the Denovo inquiry the respondent No.3 issued the impugned order dated 18.10.2017 whereby minor penalty of stoppage of three annual increments with cumulative effect was imposed on the appellant. That feeling aggrieved the appellant filed review petition/departmental appeal but the same was regretted on no good grounds vide impugned appellate order dated 15.1.2018 communicated to the appellant on 16.1.2018.

Copies of the impugned order dated 18.10.2017, review petition and appellate order are attached as annexure ..... **F, G & H.**

- 7- That appellant having no other remedy prefer the instant service appeal on the following grounds amongst the others.

**GROUND:**

- A- That the impugned orders dated 18.10.2017 and 15.1.2018 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 respondents 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 the impugned order dated 18.10.2017 has been issued on the ground of baseless allegations which have not been proved against the appellant by the respondents.
- D- That appellant was got involved in flimsy/concocted baseless allegation, which has no factual and legal backing. The inquiry report is worth, perusal.
- E- That it is pertinent to mention that during inquiry proceedings, the appellant have not been given opportunity/chance to cross examine the Secretary Law and other witness produced by the respondent Department. That it is clear violation of law and rules and according to the Qanun-e-Shahdat order 1984 cross examination of PW is mandatory. Copies of the statements are attached as annexure ..... **I.**
- F- That it is also pertinent to mention that the inquiry officer submitted inquiry report on 15.02.2017 whereas the witness Anwar Akbar statement attached with the inquiry report on 16.02.2017 after submission of inquiry report. It is manifestly/melice intention of inquiry officer.
- G- That the undersigned had submitted detailed reply of all the un sub standing allegations leveled by inquiry officer in inquiry proceedings. That the inquiry officer neither considering the reply nor has rebutted the same.



- H- That during inquiry proceedings nothing was proved against the appellant in light of PWs statement. And that after completion of inquiry proceedings the inquiry officer did not record the statement of the appellant. Hence not adopted inquiry proceedings according to law and rules.
- I- That Mr. Faheem Wazir (BPS-21) and Akbar Khan SO (General) Law Department has exonerated the undersigned and not recommended for any punishment. It is pertinent to mention that the undersigned was earlier exonerated by inquiry committee consisting of two officers but later on de novo inquiry, single junior officer overturned the decision of the earlier inquiry committee report without legal justification and principle. How is it legally justifiable to overturn/reverse the decision of inquiry committee by single junior inquiry officer on same charges/allegation?
- J- That earlier inquiry committee recorded the detail statements of all PWs along with the statement of Law Department representatives. After completion of all PW statements, the statement of the undersigned was recorded without affording the opportunity of cross examining the PWs to the applicant.
- K- That no regular inquiry has been conducted in the matter of the appellant which is as per Supreme Court Judgments is necessary in punitive actions against the Civil Servant. Case law are reported as 2008 PLJ (S.C) page 65 and 2008 SCMR page 1369.
- L- That respondents have not mentioned any reason regarding disagreeing with the earlier inquiry report, therefore the whole proceedings are void ab initio and have no legal footing.
- M- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

DATED: 14.2.2018

**APPELLANT**



**NOOR ZAMAN KHATTAK**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK**

**ADVOCATE**

## CHARGE SHEET

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as competent authority, hereby charge you Mr. Noor Zaman Khattak, Director, Human Rights Khyber Pakhtunkhwa as follows:

That you, while posted as Director Human Rights (BPS-19) Khyber Pakhtunkhwa committed the following irregularities;

- a. That you issued Notice to Estate Officer, Administration Department in violation of Rule 4(e) of Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 directing him to issue NOC without fail to Ms. Nageen Begum Ex-SST in her pension case.
- b. That you have issued Notice to Addl: Secretary Home Department in violation of Rule 4 (b) of aforesaid rules in a subjudice case of Ex-Senior Govt: Pleader Mr. Ghulam Mustafa in KP Services Tribunal.
- c. That you have provided one of the rooms in the Office of Directorate of Human Rights to Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department for residential purpose since February, 2015 in violation of rules.
- d. That you misguided PS to Minister for Law to pass an order bypassing Secretary Law for getting illegal gratification for accompanying him during his visit to District Karak on 2.5.2015 for which Minister Law was not competent under KP Travelling Allowance Rules, 1980.
- e. You appointed a Naib Qasid in place of a dismissed employee namely Mr. Akbar Zaman Naib Qasid of the Directorate without waiting for disposal of his appeal in violation of rules.
- f. That you failed to implement the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 for disposal of complaints since 22.6.2015 which is your incompetence and gross negligence tantamounting to mis-conduct.

2. By reason of the above, you appear to be guilty of mis-conduct under rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule-4 of the rules *ibid*.

3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry officer/ Enquiry Committee, as the case may be.

4. Your written defense, if any, should reach the inquiry officer/ inquiry committee within the specified period, failing which it shall be presumed that you have no defense 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.

*Pervez Khattak*  
(Pervez Khattak)  
Chief Minister, Khyber Pakhtunkhwa /  
Competent Authority

Mr. Noor Zaman Khattak,  
Director Human Rights  
Khyber Pakhtunkhwa

**ATTESTED**

*[Signature]*

**DISCIPLINARY ACTION**

In view of the opinion that Mr. Noor Zaman Khattak, Director, Human Rights, Khyber Pakhtunkhwa Government Services, has committed the following acts, the Government Services Commission has proceeded against him as follows:

**STATEMENT OF ALLEGATIONS**

- a. Notice to Estate Officer, Administration Department by Director Human Rights in violation of Rule 4(c) of Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2018.
- b. Notice to Addl. Secretary Home Department in violation of Rule 4 (d) of aforesaid rules.
- c. Director Human Rights cannot provide one of the rooms in the Office of Director of Human Rights to Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department for residential purpose under any rule as the Directorate is meant for Official purpose and not for residential purpose.
- d. The Director Human Rights misguides PS to Minister for Law to pass an order bypassing Secretary Law for getting illegal gratification for accompanying him during his visit to District Kark on 25.2.2018 for which Minister Law was not competent under KP Travelling Allowance Rules, 1980.
- e. Non-disposal of complaint under the KP Directorate of Human Rights (Procedure) Rules, 2018 by Director Human Rights in incompetence and is gross negligence and tantamount to misconduct.
- f. Appointment of Waib Qasid in place of a dismissed employee namely Mr. Akbar Zaman without waiting for disposal of appeal in violation of rules.

For the purpose of enquiry against the said accused with reference to the above allegations, an enquiry officer committee, consisting of the following is constituted under rule 10 (1) (a) of the said Rules.

- i. Mr. Akbar Zaman Khattak (Chairman)
- ii. Mr. Akbar Zaman Khattak (Member)
- iii. Mr. Akbar Zaman Khattak (Member)

The enquiry officer committee shall, in accordance with the provision of the said Rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

The accused and a well contented representative of the department shall join the proceedings on the date, time and place fixed by the enquiry officer committee.

*(Signature)*  
 Chief Minister, Khyber Pakhtunkhwa  
 Competent Authority

**ATTESTED**

Mr. Noor Zaman Khattak  
 Director Human Rights  
 Khyber Pakhtunkhwa



**DIRECTORATE OF HUMAN RIGHTS  
KHYBER PAKHTUNKHWA.**

6<sup>th</sup> Floor Tasneem Plaza Near Jan's Bakers, Saddar Road Peshawar.

Phone No: 091-9213068

FAX: 091-9213069

E-mail: [Dhr.kpk@gmail.com](mailto:Dhr.kpk@gmail.com)

No. DHR/1-8/2013/General /

Dated Peshawar 14th January 2016

**INQUIRY COMMITTEE**

1. Mr. Muhammad Fahim Wazir(PAS BS-20),  
OSD, Establishment Department.
2. Mr. Akbar Khan, Section Officer,  
Law, Parliamentary Affairs and Human Rights,  
Department

C - (7)

Subject: **WRITTEN REPLY TO INQUIRY/DISCIPLINARY ACTION AGAINST  
MR. NOOR ZAMAN KHATTAK, DIRECTOR HUMAN RIGHTS LAW  
DEPARTMENT.**

Respected Sir,

Para wise comments are submitted as under:

A. That the allegation leveled against me in Para (a) is incorrect. Directorate of Human Rights, Khyber Pakhtunkhwa issued notice to Estate Officer as per Human Rights Act, 2014, in the case of Mst: Nagina Begum.

Succinct facts of the case are that the complainant got retired from service as SST (BPS-17) w.e.f 12-03-2014 and approached the Directorate of Human Rights, Khyber Pakhtunkhwa on dated 19-05-2015 for request of issuance of NOC for the purpose of pension.

The Directorate of Human Rights, Khyber Pakhtunkhwa is a statutory body and as per section 5 and section 10, of Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Rights Act, 2014, it may proceed to inquire into the complaint on its own or having regard to the nature of the complaint, it may initiate an inquiry. (Enclosed Human Rights Act as Annexed A section, 5 and 10 of the said Act may please be perused and also read procedure rule 2015 section 5 read with section 8,9,10,11,15 etc ).

It is crystal clear/apparent that Estate Officer falls under the definition of public servant and any violation of Human Rights at his hand is amenable to the jurisdiction of Directorate of Human Rights, Khyber Pakhtunkhwa.

That no illegality or irregularity has been committed by the undersigned as it is come within the domain of the Directorate and so far no finding whatsoever has been passed/made by the Directorate in the instant case. The matter is still pending before the Directorate. It would not be out of place to mention that no NOC was issued by the Estate Office to date to the complainant. (Notice 1,2,3,4 is enclosed for your kind perusal) If there is any allegation against the complainant regarding any illegality committed by the complainant pertaining to subsidy of the said house then in that case the estate officer was duty bound to forthwith cancel the allotment of subsidy prior to her retirement. It is the right of complainant to receive the pension regularly after retirement according to government rules, which is also guaranteed/safeguard by the Constitution of the Islamic Republic of Pakistan 1973.

B. That the allegation leveled against me in Para (b) of the said charge sheet is incorrect, baseless, fabricated and not within purview of the 4(b) of the said Act.

ATTESTED

9

According to the statement of allegation given to Mr. Ghulam Mustafa (Senior Govt Pleader) by the Chief Minister Mr. Pervaz Khattak on dated 07-02-2014 the matter has been totally different as per to the statement of allegations.

That on 20-04-2015 Mr. Ghulam Mustafa had submitted a complaint against the Muhammad Arif Khattak the then Additional Secretary Opinion Law Department pertaining to a fake and fabricated inspection report presented by the Mr. Muhammad Arif on 16-07-2011(Notices 5.6 is annexed for your kind perusal).

That the removal of Ghulam Mustafa (Senior Govt Pleader) from service was not the consequences of the said inspection report, rather the order sheet dated 16-01-2014 of District & Session Judge Dir Lower was the caused/basis/ground of said removal of Ghulam Mustafa from service.(charge sheet of chief minister enclosed for your kind perusal as Annexed B).

According to his complaint dated 20-04-2015 to this directorate, the complainant stated that his reputation has been very much damaged due to the said fake and fabricated inspection note. The instant matter come within the domain/purview of human rights Directorate, because the District and Session Judge Malakand not only denied the said inspection note but also stated that I have/had never met with Muhammad Arif during my tenure as District and Session Judge Malakand and the said inspection note was declared fake and fictitious one which is also apparent/evident from written certificate (enclosed for your perusal as Annexed C).

On 20<sup>th</sup> August, 2015 the reply of the subject complaint was send to Secretary Law up till now no reply were given by the Secretary Law in the instant case(letter of the Directorate is enclosed as Annexed C-1).

It is also pertinent to mention here that there is no such provision available in Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Rights Act, 2014 to direct/advice or interfere during the pendency of the inquiry proceeding.

- C. That the allegation leveled against me in Para No(c) of the said charge sheet is incorrect, fake/fabricated and based upon mere presumption/conjecture/surmises as no documentary evidence produced to substantiate the allegations. It is beyond imagination that the government office/room has been provided to Mr. Akber Ali for residential purpose. The undersigned time and again requested/supplicated/entreated for inspection of the said Directorate to verify it (letter is annexed D).
- D. That the allegation leveled against me in Para No(d) is not correct hence denied. The PS to Minister Law through letter No. PS/Minister for Law/2015/dated 29-04-2015 requested the undersigned to accompany with Minister Law, Parliamentary Affairs and Human Rights Department to attend different programs arranged by the District Bar Association, Karak. The undersigned just obey/ comply with lawful order of the Minister Law, Parliamentary Affairs and Human Rights in charge of the department and by doing so committed no misconduct/wrong doing which would amount to illegality or irregularity (letter is annexed E).
- E. That the allegation leveled against me in Para No.(e) is not correct. The undersigned removed Mr. Akbar Zaman Naib Qasid from services dated 8<sup>th</sup> September 2015 due to the long absence from duty (order is annexed F). Mr. Akbar Zaman submitted a departmental representation dated 07-10-2015 against his removal from services before the Secretary Law without informing the Director Human rights. That the office of the Secretary Law when duly received the department appeal of the Akbar Zaman was duty bound to inform/apprise the Directorate about the appeal but

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despite the lapse of so many days, the office of Secretary Law did not inform the Directorate of Human Rights about the pendency of the said appeal.

That due to rush of work in the Directorate, the undersigned appointed a Naib Qasid conditionally after lapsing 36 days in the best interest of public and by doing so not committed any illegality (Order annexed H).

That after receiving the re-instatement order of the Mr. Akber Zaman, the undersigned re-instated the dismissed employee and sent a copy of acknowledgment to the office of Secretary Law for information and also provided a copy of the said reinstatement order to the Mr. Akbar Zaman which has also been duly signed by him (annexed G), but to date Mr. Akbar Zaman did not join/assume his duty in this directorate yet.

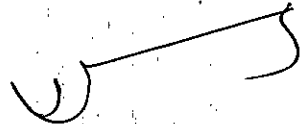
That the Directorate duly inform the Secretary Law office pertaining to the said matter and the office of Secretary Law gave the undersigned full authority to deal with the matter as per law. (Letters is annexed I-J).

F. That the allegation leveled against me in No. (f) of the said charge sheet/statement of allegation is not correct, hence denied. The Directorate of Human Rights, Khyber Pakhtunkhwa received approximately 207 complaints in year 2015 out of which 25 complaints were still pending during year 2015 since I assumed the charge, the remaining were disposed off according to law.

That since the establishment of Directorate of Human Rights, Khyber Pakhtunkhwa in 2012 and I posted as Director Human Rights in February, 2015, within span of one year I conducted/arranged so many events i.e. conduct seminars, jails visits, meetings with different sections of the society etc. My performance/achievements as being Director of Human Rights to date is excellent/up to the mark and the performance of my tenure can be compared with tenure of my predecessors in office.

It is therefore most humbly requested that the undersigned my please be exonerated from the charges leveled against him.

**NOTE:** This written reply is consisting of 3 pages and each page of this written reply is duly signed by the undersigned.



**(Noor Zaman Khan Khattak)**  
**Director Human Rights**

**ATTESTED**



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DISCIPLINARY PROCEEDINGS

Against Mr. Noor Zaman, Director (BS-19),  
Directorate of Human Rights, Khyber Pakhtunkhwa

INQUIRY REPORT

By

Muhammad Fahim (BPS-20)

Chairman, Higher Education Regulatory Authority,  
Khyber Pakhtunkhwa Peshawar,

&  
Mr. Akbar Khan

Section Officer (General), Law, Parliamentary Affairs and Human  
Rights Department.

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## INQUIRY REPORT

The competent authority was pleased to chargesheet Mr. Noor Zaman Khattak, Director (BS19) Directorate of Human Rights Khyber Pakhtunkhwa for the following irregularities under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011:

- a. That you issued notice to Estate Officer, Administration Department in violation of Rule 4(e) of Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 directing him to issue NOC without fail to Mrs. Nageena Begum Ex-SST in her pension case.
- b. That you have issued Notice to Addl. Secretary Home Department in violation of Rule 4 (b) of the aforesaid rules in a subjudice case of Ex-Senior Government pleader Mr. Ghulam Musthafa in Khyber Pakhtunkhwa Services Tribunal.
- c. That you have provided one of the rooms in the office of Directorate of Human Rights to Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department for residential purpose since February, 2015 in violation of rules.
- d. That you misguided PS to Minister for Law to pass an order bypassing Secretary Law for getting illegal gratification for accompanying him during his visit to District Karak on 2/5/2015 for which Minister for Law was not competent under Khyber Pakhtunkhwa Travelling Allowance Rules, 1980.
- e. You appointed a Naib Qasidin place of a dismissed employee namely Mr. Akbar Zaman of the Directorate without waiting for disposal of his appeal in violation of rules.

**ATTESTED**  






F. That you failed to implement the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules 2015 which is your incompetence and gross negligence tantamounting to misconduct.

The copies of the Charge Sheet and Statement of Allegations, duly signed by the Chief Minister Khyber Pakhtunkhwa, were handed over to Mr. Noor Zaman the accused officer. Mr. Noor Zaman submitted his written reply(F/A) in his defense along with relevant documents. The inquiry committee, after perusal of the written reply and Annexures, considered it appropriate to call Estate Officer, Addl: Secretary Home Department, Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department, Mr. Anwar Khan PS to Minister for Law and Mr. Ayaz Khan Chowkidar. The Department of Law and Parliamentary Affairs nominated Mr. Kaibaz Kahn, Deputy Secretary as Departmental Representative.

A. Estate Officer (EO) stated that the Estate Office issue No Objection Certificates (NOC) to government servants, on their retirement in respect of their house subsidy or government accommodation. He presented a Circular of Administration Department (Ex P/A) where in procedure/policy of House Subsidy was circulated.

He further stated that on 04/3/2014 Mrs. Nageena Begum, Rtd-SST teacher, submitted an application (Ex-PB) to issue NOC in respect of her house located in Gulberg No:4, Swati Pathak Peshawar for which she was receiving house subsidy. As per procedure the Estate Office deputed Hamidullah Constable for verification. According to his report (Ex-PC) the said house was partitioned in two parts. For further verification another team consisting of Hamid Constable, Tariq

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Stenographer and Rasool Muhammad which reported that both the portions were occupied by two different persons as tenants. One of the portions was occupied by Muhammad Rafique for the last three years as tenant, while the other portion by one Muzzafer. The team further reported that the owner, Mrs. Nagina, was living somewhere else (Ex-PD). The Estate Officer further disclosed that on receipt of the notice from the Human Rights Directorate, Assistant Estate Officer and Muhammad Rasool subsidy Assistant attended the Directorate on 27/7/2015. They informed the Director that as per reports (Ex-PC & D) NOC could not be issued in violation of the rules.

During cross examination the Estate Officer further disclosed that the agreement deed for renting out the house, between the tenants and Mrs. Nagina, was executed on 17/6/2014 and attested the same day (Ex-PE). The Administration Department vide their letter (Ex-PD/1) requested the Elementary & Secondary Education Department and local police to intimate the exact date of subletting the house by Mst. Nagina as the Estate Officer did not know as to when the house was rented out. In cross examination the Estate Officer contradicted the proposal that Mrs. Nagina has submitted an application to the Estate Office to issue NOC while the application (Ex-PB) bears signature of the EO who had marked the same to Assistant Estate Officer on 03/4/2014 and the inspections of the house were conducted after one and a half month on 11/5/2014 and 20/5/2014. It is noteworthy that Mst. Nageena submitted application for NOC on 04/3/2014 and the agreement deed for renting out the house was attested on 17/6/2014 which can be presumed that she partitioned and rented out her house after retirement. It is the duty of the Estate Office to check such houses on regular basis. The Director Human Rights

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was obligated by the Law to intervene and inquire into the matter. So the issuance of notices is according to the law and rules framed there under. It is also noted that directing the Estate Officer to join the proceedings along with NOC was against the spirit of the law and natural justice.

- B. The second charge against the accused officer is that he issued a notice to Mr. Arif Khan Addl: Secretary in a *sub judice* case of Ex- Government Pleader Mr. Ghulam Musthafa.

While recording his statement Mr. Arif presented the inspection report (Ex-PW-2/1), which he submitted to Secretary Law on 16/7/2011 (Ex-PW-2/3) and his reply to Director Human Rights (Ex-PW2/4). He stated that he conducted inspection in 2011 while the complaint was lodged with the Directorate of Human Rights in 2015 which was time barred. Mr. Arif further deposed that at the time of lodging complaint the case of Mr. Ghulam Musthafa was *sub judice* in Khyber Pakhtunkhwa Service Tribunal but in his cross examination he admitted that the notice to him was issued in another case which was not *sub judice*. He also informed that Mr. Ghulam Musthafa and Director Human Rights are very close friends and that was why Mr. Ghulam Musthafa lodged the complaint after laps of four years. As the subject matter was not *sub judice* before any court of Law the Director Human Rights has followed the provisions of Rule 4(b). Hence the charge is not proved against the accused officer Mr. Noor Zaman Director Human Rights in the light of the provisions of Rule 4(b) of the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015.

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C. The third charge against Mr. Noor Zaman, the accused officer, is that he has provided one room in the office of the Directorate of Human Rights to Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department, for residential purpose. Mr. Akbar Ali in his statement deposed that his kids are studying in various educational institutions and he was living with his family in a house located in Khushal Bagh Colony near Chinar House Opposite Madrassa Banath Peshawar. In reply to the question whether Secretary Law himself visited the Directorate of Human Rights? He replied that he came to know about the visit of the Secretary when his explanation was called. He further deposed that nothing was taken in custody any of his belongings to prove that he was living in one of the room. To get further information the committee considered it appropriate to record statement of the Chowkidar of the Directorate. Mr. Ayaz Khan Chowkidar in his statement deposed that the offices of the Directorate consist of five flats while in one of the flats office of the Government Pleader has been established. He further stated that no one was residing in any room of the office including Mr. Akber Ali. In reply to the question, 'Did Secretary Law visit the Directorate when you were on duty?' He confirmed that Secretary Law once came to the office at about 8.00 or 8.30 in the morning and he could not remember the exact date of Secretary's visit to the directorate. He also deposed that Secretary Law met him outside the directorate. The representative of the department failed to extract anything from Mr. Akber Ali and the Chowkidar which could prove the charge against the accused officer.

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D. The fourth charge against the accused officer is that he misguided PS to Minister for Law to pass an order bypassing Secretary Law for getting illegal gratification for accompanying him during his visit to District Karak on 2<sup>nd</sup> May, 2015 for which Minister Law was not competent under Khyber Pakhtunkhwa Travelling Allowance Rules, 1980.

The PS to Minister Law stated that keeping in view the establishment of regional offices by the Directorate of Human Rights in various districts the Minister Law desired that the Director Human Rights should accompany him. Therefore on the directions of the Minister Law he issued a letter (Ex PW-4/1) conveying the directives of the Minister that the Director Human Rights and Deputy Secretary (Assembly) Law Department should be present during his official visit to District Karak on 02/5/2015. "As a PS, for better coordination do you issue directives through the head of the department or you directly convey directives of the Minister of Law to a particular officer, if so would it be legal?" The PS to Minister replied that on directions of the Minister he used to inform an officer directly and indirectly and he was not bound to obey any illegal orders of the Minister. He further stated that he did not inform the Secretary Law about the Minister's visit to district Karak, neither in writing nor verbally, and all the subordinate offices and staff was bound to obey the orders of the Minister as in charge of the department. So for the actions of the PS to Minister Law the Director Human Rights cannot be held responsible. The representative of the department could not place any document to prove the allegations of illegal gratifications with reference to Khyber Pakhtunkhwa Travelling Allowance Rules.

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1980. However if any TA/DA was claimed by the accused officer should immediately be recovered and PS to Minister of Law should be warned and directed to strictly follow the Rules of Business

E. The fifth charge against the officer is that he appointed a Naib Qasid in place of a dismissed employee namely Mr. Akber Zaman Naib Qasid of the Directorate without waiting for disposal of his departmental appeal in violation of rules. It is pertinent to mention here that Representative of the Department in his cross examination stated that Mr. Noor Zaman, the accused officer, dismissed from service the above named Naib Qasid and appointed Mr. Labidullah s/o Muhammad Younis without waiting for the outcome of the appeal of Mr. Akber Zaman which was filed on 07/10/2015. But the representative failed to produce any paper to prove that the Directorate was informed about the appeal or sought any comments from the Director Human Rights which are mandatory under the rules. The representative also confirmed that in the appointment orders of Mr. Labidullah it was mentioned that in case Mr. Akber Zaman was reinstated the orders bearing No: DHR/1-7/A&T/2012 Dated 13/10/2015 (Ex DW2/3) should be considered as cancelled and on acceptance of appeal Mr. Akber Zaman was reinstated. This charge is also not proved in light of the above as the Directorate was unaware of the appeal.

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F. The sixth and the last charge is that the accused officer ~~failed to implement the~~ Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 for

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disposal of complaints since 22/6/2015. The representative was particularly quoting /referring to Rule 6 which provides:

"Every report or recommendation shall be sent to the Government within seven (7) days of completion of the proceedings before the Directorate and on receipt of the comments of the Government, the Directorate shall publish such reports within seven (7) days after receiving it".

Rules 10 and 11 of the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules 2015 are in respect of annual and special reports respectively. Annual reports are mandatory to be presented to the Government by the end of May every year. While under rule 11 Directorate may furnish special report to the Government on specific matters. Rule 6 does not provide any guidance whether the report should be published in a booklet form or in print media after receipt of comments of the government. It is also worthwhile to note that the accused officer was appointed as Director, Directorate of Human Rights in the month of March, 2015 while the rules were framed on 22/6/2015. At the initial stage of any institution such teething problems may occur. The accused officer placed on record (Ex-DW2/2) which shows that in the year 2012, 24 complaints were received and all were disposed of, in the year 2013, 37 complaints were lodged and 30 were disposed, in 2014, 57 were received out of which 50 were disposed of. In the same year one inspection and 8 international days were observed. In the year 2015 the Directorate received 228 complaints out of which 203 were disposed of, two seminars, 12 inspections were conducted and 32 international days were observed. The performance of the Directorate Human Rights seems satisfactory. The accused officer deposed that he had submitted special report to

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the Supreme Court and government on inspection of Central Jail Peshawar. No material was presented by the representative of the Department to prove the charge against the officer.

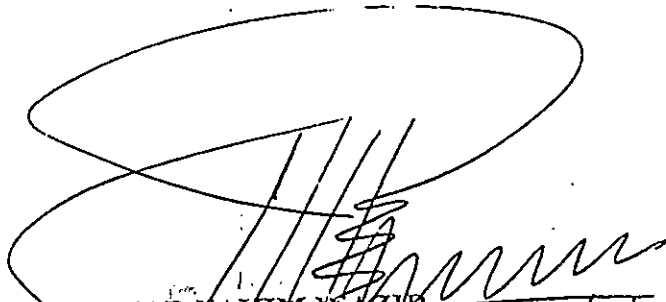
FINDINGS AND CONCLUSION:

The Inquiry Committee has carefully examined all the relevant record, perused the statements recorded and government instructions. It is observed that the accused officer has exceeded his powers while directing Estate Officer to issue NOC and before proceeding on tour to District Karak he should have informed his administrative Secretary.

  
MR. AKBAR KHAN

Section Officer (General),

Law, Parliamentary Affairs and Human Rights Department,  
Khyber Pakhtunkhwa, Peshawar.

  
MUHAMMAD FAHIM

Chairman,

Higher Education Regulatory Authority,  
Khyber Pakhtunkhwa, Peshawar.

25/5/16

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### Inquiry report

Brief Facts given raise to the instant Inquiry are that in the Inquiry in hand earlier Mr. Muhammad Fahim Chairman Higher Education Regularity Authority Khyber Pakhtunkhwa was appointed as an Inquiry Officer against the defaulting Officer (Mr. Noor Zaman vide **Flag A**), who submitted his findings vide **Flag B**, the Law Department vide **Flag C** requested for the denovo Inquiry, Vide **Flag D** denovo Inquiry was ordered.

The Inquiry Committee completed the proceedings however in this round the Officer under Inquiry expressed his lack of confidence upon the same and thus the committee was changed and the undersigned was nominated as an Inquiry Officer.

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15/2/17

Before discussing the statements of the defaulting Officers and the witnesses produced in support of the Allegations it is pertinent to highlight; the Allegations and the defenses by the defaulting Officers.

S.#	Allegations	Reply of the accused	Evidence	Finding of the Inquiry Officer
A.	That you issued Notice to Estate Officer, Administration Department in violation of Rule 4(e) of Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 directing him to issue NOC without fail to Ms. Nageen Begum Ex-SST in her pension case.	That the allegation leveled against me in Para (a) is incorrect. Directorate of Human Rights, Khyber Pakhtunkhwa issued notice to Estate Officer as per Human Rights Act, 2014, in the case of Mst: Nagina Begum.  Succinct facts of the case are that the complainant got retired from service as SST (BPS-17) w.e.f 12-03-2014 and approached the Directorate of Human Rights, Khyber Pakhtunkhwa on dated 19-05-2015 for request of issuance of NOC for the purpose of pension.  The Directorate of Human Rights, Khyber Pakhtunkhwa is a statutory body and as per section 5 and section 10, of Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Rights Act, 2014, it may proceed to inquire into the complaint on its own or having regard to the nature of the complaint, it may initiate an inquiry. (Enclosed Human Rights Act as Annexed A section 5 and 10 of the said Act may please be perused and also read procedure rule 2015 section 5 read with section 8,9,10,11,15 etc.  It is crystal clear/apparent that Estate Officer falls under the definition of public servant and any violation of Human Rights at his hand is amenable to the jurisdiction of Directorate of Human Rights, Khyber Pakhtunkhwa.	The charges level against the accused is correct according to Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 22-6-2015. Moreover it is a case of maladministration and falls in the domain of Provincial Ombudsman. Previously she had lodged complaint in the Ombudsman Secretariat. Later on she lodged complaint in the Directorate of HR not falling in is domain. He should not	Since the matter falls within the domain of Ombudsman so I am of the view that the officer under inquiry being a senior law officer as well was not required to interfere; I am of the firm view that this is also misuse of the authority and interference in the business of some other department. The relevant documents showing the pendency of the issue with Provincial Ombudsman are attached. <b>The charge stand proved.</b>

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That no illegality or irregularity has been committed by the undersigned as it is come within the domain of the Directorate and so far no finding whatsoever has been passed/made by the Directorate in the instant case. The matter is still pending before the Directorate. It would not be out of place to mention that no NOC was issued by the Estate Office to date to the complainant. (Notice 1,2,3,4 is enclosed for your kind perusal) If there is any allegation against the complainant regarding any illegality committed by the complainant pertaining to subsidy of the said house then in that case the estate officer was duty bond to forthwith cancel the allotment of subsidy prior to her retirement. It is the right of complainant to receive the pension regularly after retirement according to government rules, which is also guaranteed/safeguard by the Constitution of the Islamic Republic of Pakistan 1973.

entertain the complaint.

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B. That you have issued Notice to Addl: Secretary Home Department in violation of Rule 4 (b) of aforesaid rules in a subjudice case of Ex-Senior Govt: Pleader Mr. Ghulam Mustafa in KP Services Tribunal.

That the allegation leveled against me in Para (b) of the said charge sheet is incorrect, baseless, fabricated and not within purview of the 4(b) of the said Act. According to the statement of allegation given to Mr. Ghulam Mustafa (Senior Govt Pleader) by the Chief Minister Mr. Pervaz Khattak on dated 07-02-2014 the matter has been totally different as per to the statement of allegations.

The complaint was entertained in violation of Rule 4 (b) of Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 as in a rejoinder submitted by Mr. Ghulam Mustafa SGP Law Department was allowed and case became sub-judice in Service Tribunal. Directorate HR was not competent to entertain the notice in terms of aforesaid rules.

The matter wherein, the officer under inquiry issued notice to the Additional Secretary Home was admittedly subjudice before the competent forum i.e. Khyber Pakhtunkhwa Services Tribunal; he was not required to initiate a parallel proceedings, knowingly, when the matter has already been pending in the Court/Tribunal. **The Charge stand proved.**

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instant matter come within the domain/purview of human rights Directorate, because the District and Session Judge Malakand not only denied the said inspection note but also stated that I have/had never met with Muhammad Arif during my tenure as District and Session Judge Malakand and the said inspection note was declared fake and fictitious one which is also apparent/evident from written certificate (enclosed for your perusal as Annexed C).

On 20 August, 2015 the reply of the subject complaint was send to Secretary Law up till now no reply were given by the Secretary Law in instant case (letter of the Directorate is enclosed as Annexed C-1)

It is also pertinent to mention here that there is no such provision available in Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Rights Act, 2014 to direct/advice or interfere during the pendency of the inquiry proceeding.

The charges leveled against the accused are correct according to Khyber Pakhtunkhwa Directorate of Human Rights (procedure) Rules, 22-6-2015. Moreover it is a case of maladministration and falls in the domain of Provincial Ombudsman. Previously she had lodged complaint in the Ombudsman Secretariat. Later on she lodged complaint in the Directorate of HR not falling in his domain. He should not entertain the complaint.

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C. That you have provided one of the rooms in the Office of Directorate of Human Rights to Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department for residential purpose since February, 2015 in violation of rules.

That the allegation leveled against me in Para No(c) of the said charge sheet is incorrect, fake/fabricated and based upon mere presumption/conjecture/surmises as no documentary evidence produced to substantiate the allegations. It is beyond imagination that the government office/room has been provided to Mr. Akbar Ali for residential purpose. The undersigned time and again requested/supplicated/entreated for inspection of the said Directorate to verify it (letter is annexed D).

The Secretary Government of Khyber Pakhtunkhwa, Law Department have given his statement wherein he stated that he personally visited the office of Directorate of Human Rights as there were

Since the office of the Director Human Rights was personally visited by the Secretary Law and that the keys of the room were found to be with the DS Assembly Mr. Akbar Ali who was not supposed to retain the same as having nothing

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Fahim Chairman who submitted his findings

		<p>lot of complaint; the Deputy Secretary Assembly Mr. Akbar Ali who used to reside in a room of the Directorate, he asked for the key of the room from Chowkidar who told that the same is with D.S Assembly Akbar Ali.</p>	<p>to do with it; in the given scenario I am convince that this charge also stand proved.</p> <p><i>15/2/17</i></p>
<p>D. That you misguided PS to Minister for Law to pass an order bypassing Secretary Law for getting illegal gratification for accompanying him during his visit to District Karak on 2.5.2015 for which Minister Law was not competent under KP Travelling Allowance Rules, 1980.</p>	<p>That the allegation leveled against me in Para No(d) is not correct hence denied. The PS to Minister Law through letter No. PS/Minister for Law/2015/dated 29-04-2015 requested the undersigned to accompany with Minister Law, Parliamentary Affairs and Human Rights Department to attend different programs arranged by the District Bar Association, Karak. The undersigned just obey/ comply with lawful order of the Minister Law, Parliamentary Affairs and Human Rights in charge of the department and by doing so committed no misconduct/wrong doing which would amount to illegality or irregularity (letter is annexed E).</p> <p style="text-align: center;"><b>ATTESTED</b></p> <p style="text-align: center;"><i>[Signature]</i></p>	<p>The accompanying of officer with Minister Law without permission of Secretary law is not covered under Khyber Pakhtunkhwa Travelling Allowance Rules 1980.</p>	<p>Since the officer under inquiry could not provide any permission letter from the Law Department to proceed with the Law Minister which was required; being a Civil Servant he was required to take on board the Administrative Secretary which he failed.</p> <p><b>The Charge stand proved and it is recommended that the recovery of the TA/DA so received may be made.</b></p>

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You appointed a Naib Qasid in place of a dismissed employee namely Mr. Akbar Zaman Naib Qasid of the Directorate without waiting for disposal of his appeal in violation of rules.

That the allegation leveled against me in Para No.(e) is not correct. The undersigned removed Mr. Akbar Zaman Naib Qasid from services dated 8th September 2015 due to the long absence from duty (order is annexed F). Mr. Akbar Zaman submitted a departmental representation dated 07-10-2015 against his removal from services before the Secretary Law without informing the Director Human rights. That the office of the Secretary Law when duly received the department appeal of the Akbar Zaman was duty bound to inform/apprise the Directorate about the appeal but despites the lapse of so many days, the office of Secretary Law did not inform the Directorate of Human Rights about the pendency of the said appeal.

That due to rush of work in the Directorate, the undersigned appointed a Naib Qasid conditionally after lapsing 36 days in the best interest of public and by doing so not committed any illegality (Order annexed H).

That after receiving the re-instatement order of the Mr. Akbar Zaman, the undersigned re-instated the dismissed employee and sent a copy of acknowledgment to the office of Secretary Law for information and also provided a copy of the said reinstatement order to the Mr. Akbar Zaman which has also been duly signed by him (annexed G), but to date Mr. Akbar Zaman did not join/assume his duty in this directorate yet. That the Directorate duly inform the Secretary Law office pertaining to the said matter and the office of Secretary Law gave the undersigned full authority to deal with the matter as per law.(Letters is annexed I-J).

The appointed made by the appointment officer in case of Naib Qasid in place of dismissed employee namely Mr. Akbar Zaman Naib Qasid of Directorate of Human Rights is totally unlawful/ without waiting for disposal of his appeal. No one can be appointed in place of dismissed employee under the Khyber Pakhtunkhwa APT, Rules, 1989. The Director exceeded his power in this appointment.

This fact of appointing the Naib Qasid before the finalization of the appeal of dismiss employee namely Akbar Zaman is not disputed. The officer under inquiry was required to take into loop the Administrative Department before appointing the Naib Qasid which he failed resulting into such an ugly situation. **The Charge stand proved.**

*Signature*  
15/2/17

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F. That you failed to implement the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 for disposal of complaints since 22.6.2015 which is your incompetence and gross

That the allegation leveled against me in No. (f) of the said charge sheet/statement of allegation is not correct, hence denied. The Directorate of Human Rights, Khyber Pakhtunkhwa received approximately 228 complaints in year 2015 out of which 25 complaints were still pending during year 2015 since I assumed the charge, the remaining were dispose of according to law. That since the establishment of Directorate of Human Rights, Khyber Pakhtunkhwa in 2012 and I posted as Director Human Rights in February, 2015, within span of one year I conducted/arranged so many events i.e. conduct

The Director Human Rights may be asked to present any case which has been decided according to Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 and report

No doubt the Officer under Inquiry might have received complaints but from the perusal of the record available on file-I could not find any report presenting to the Government as required by the Directorate of

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negligence amounting to tent miss-conduct.	seminars, jails visits, meetings with different sections of the society etc. My performance/achievements as being Director of Human Rights to date is excellent/up to the mark and the performance of my tenure can be compared with tenure of my predecessors in office. (Annexed, F) It is therefore most humbly requested that the undersigned my please be exonerated from the charges leveled against him.	submitted to Government in each case as per provision of aforesaid rules.	Human Rights (Procedure) rules 2015. <b>The charge stand proved.</b>
--	--	---	--

I have recorded the statements of Syed Ayaz Hussain Shah, Chowkidar, Directorate of Human Rights and Estate Officer, Peshawar along with Akbar Ali, then Deputy Secretary Assembly; the officer under inquiry was invited to cross examine the witnesses but he refused to avail this opportunity, his statement to this effect was recorded at the bottom of the statements of the above officers/official.

I am affirm on the opinion that the statements of the above in the light of statement by the Secretary Law appears to be a menavoring. Further the Chowkidar surprisingly is negating the stance of Secretary Law and is standing as defense for the defaulting Officer. Despite of all that I could not find any stuff on record which could defend the defaulting officer.

For the reasons above I am inclined to say that all the charges as discussed above stand proved. During the course of drafting this report I came across the track service record of the officer under inquiry, he was earlier charge-sheeted and was found guilty of with-holding of three increments for three years vide notification No. SO(G)/LD/1-13/2014/PF dated 12-03-2015.

**Recommendation:**

I hold the officer under inquiry guilty of Misconduct within the meaning of section 3(b) of Khyber Pakhtunkhwa, Efficiency & Discipline Rules 2011 and propose Minor penalty for the officer within the meaning of section 4 of the Khyber Pakhtunkhwa, Efficiency & Discipline Rules 2011 before parting with the Inquiry report I would like to highlight the conduct of Syed Ayaz Hussain Shah, Chowkidar who attempted to defend the accused Officer and did not mention about the Secretary visit to the Directorate of Human Rights, asking of key etc.

I recommend that he may also be proceeded accordingly.

**Certificate:**

My Inquiry report consist of 6 pages all signed by me.

ATTESTED

*[Handwritten signature]*

*[Handwritten signature]* 15/2/17  
Adil Siddiq

Director General Prosecution/Inquiry Officer.

F-(26)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS AND HUMAN  
RIGHTS DEPARTMENT

Dated Peshawar the October 18, 2017.

NOTIFICATION

NO.So(G)/LD/1-13/2014/PF

**WHEREAS** Mr. Noor Zaman Khattak District Attorney (BS-19) Ex Director Human Rights, Presently working as District Attorney Labour Court Peshawar was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011.

2. **AND WHEREAS**, Mr. Adil Saddique, (PCS EG BS-20), Director General, Prosecution, Govt: of Khyber Pakhtunkhwa was appointed enquiry officer to conduct inquiry against the accused officer.

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

4. **AND WHEREAS**, the competent authority afforded the opportunity of personal hearing to the accused officer on 26-09-2017 at 02:00 PM.

5. **NOW, THEREFORE**, the Competent Authority, after having considered the charges, evidence on record, the explanation of the accused officer and defense offered by the accused officer during personal hearing and exercising his powers under Rule-14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 has been pleased to impose minor penalty of **withholding increments for three years** upon Mr. Noor Zaman Ex Director Human Rights, Presently working as District Attorney Labour Court Peshawar with immediate effect.

**SECRETARY**  
Govt: of Khyber Pakhtunkhwa,  
Law, Parliamentary Affairs and Human  
Rights Department

Endst: of Even No. & Date: / 28383-90

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Principal Secretary to Chief Minister Khyber Pakhtunkhwa Peshawar.
- 3- PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 4- PS to Secretary Establishment Department Khyber Pakhtunkhwa.
- 5- PS to Secretary Law Department Khyber Pakhtunkhwa.
- ✓ 6- Officer concerned.
- 7- The Manager, Govt Printing Press, Peshawar.
- 8- Personal file.

**ATTESTED**

Momin Khan  
(Momin Khan)  
Section Officer (General)

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To be substituted for the Notification bearing even No and date.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS AND HUMAN  
RIGHTS DEPARTMENT

Dated Peshawar the October 18<sup>th</sup>, 2017.

**NOTIFICATION**

**NO.SO(G)/LD/1-13/2014/PF/28383-90** WHEREAS Mr. Noor Zaman Khattak District Attorney (BS-19) Ex Director Human Rights, Presently working as District Attorney Labour Court Peshawar was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011.

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**ATTESTED**

**SECRETARY**  
Govt: of Khyber Pakhtunkhwa,  
Law, Parliamentary Affairs and Human  
Rights Department

**Endst: NO: SO(G)/LD/1-13/2014/PF/28778-85**

Dated 23.10.2017

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Principal Secretary to Chief Minister Khyber Pakhtunkhwa Peshawar.
- 3- PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 4- PS to Secretary Establishment Department Khyber Pakhtunkhwa.
- 5- PS to Secretary Law Department Khyber Pakhtunkhwa.
- 6- Officer concerned.
- 7- The Manager, Govt Printing Press, Peshawar.
- 8- Personal file.

(Momin Khan)  
Section Officer (General)



To

The Worthy Chief Minister,  
Govt: of Khyber Pakhtunkhwa.

G 28

**Through: The Secretary Law, Parliamentary Affairs and Human Rights Department.**

**Subject: DEPARTMENTAL APPEAL/REVIEW PETITION AGAINST ORDER NO. SO (G)/LD/1-13/2014PF/28383-90 DATED 18.10.2017.**

Respected Sir,

With due respect, the applicant/petitioner humbly submitted the following facts and grounds for your kind consideration and favorable action please.

**LEGAL GROUNDS.**

1. That the applicant/petitioner has been serving as a District Attorney Labour Court Peshawar.
2. That the applicant/petitioner was got involved in flimsy/ concocted baseless allegation, which has no factual and legal backing. The inquiry report is worth, perusal.
3. After de novo inquiry, one inquiry officer namely Adil Sadeeq DG Prosecution nominated. The inquiry report submitted on dated 15.02.20017 and the undersigned recommended for minor penalty. Copy enclosed for your kind perusal please. **Flag "A"**.
4. It is brought to your notice that once two senior judges has decided the case then how one junior judge can set aside the decision of the senior judges. Once the inquiry committee exonerated/absolved the appellant then how one junior officer at what law and grounds set aside the inquiry committee decision/report. **Flag "B"**.
5. It is also pertinent to mention that during inquiry proceedings, I have not been given opportunity/chance to cross examine the Secretary Law. Statement of Secretary Law is enclosed as **Flag "C"**. It is clear violation of law/rules. According to Qanun-e-Shahadat Order 1984 cross examination of PW is mandatory.
6. It is also brought to your notice that the inquiry officer submitted inquiry report on 15.02.2017 whereas the witness Anwar Akbar statement attached/appended with the inquiry report on 16.02.2017 after submission of inquiry report. It is manifestly malafide/malice intention of inquiry officer. Copy enclosed as **Flag "D"** for your kind perusal.
7. The undersigned had submitted detailed Reply of all the unsubstantiated allegations leveled by inquiry officer in enquiry proceedings. The inquiry officer neither considered my reply nor has rebutted the same.

ATTESTED

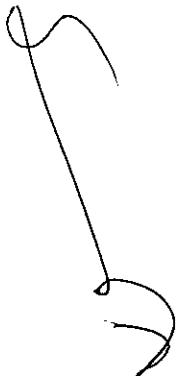

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8. During inquiry proceedings nothing was proved against the undersigned in light of PWs statement enclosed as **Flag "E"**.
9. It is also pertinent to mention that after completion of inquiry proceedings, the inquiry officer did not record my statement. Hence not adopted inquiry proceedings according to law and rules.
10. It is also worth mentioning that Mr. Faheem Wazir {BPS-21} and Akber Khan SO (General) Law Department has exonerated the undersigned and not recommended for any punishment. It is pertinent to mention here that the undersigned was earlier exonerated by inquiry committee consisting of two officers but later on de novo inquiry, single junior officer overturned the decision of the earlier inquiry committee report without legal justification and principle. How is it legally justifiable to overturn/reverse the decision of inquiry committee by single junior inquiry officer on same charges/allegations?
11. Earlier inquiry committee recorded the detail statements of all PWs along with the statement of Law Department representatives. After completion of all PW statements; the statement of the undersigned was recorded without affording the opportunity of cross examining the PWS to the applicant.
12. Whereas the present inquiry officer recorded four PWs statements namely Akber Ali former Deputy Secretary Assembly, Ayaz Hussain Chowkidar, Directorate of Human Rights, representative of Estate Office and Secretary Law . Meanwhile recording the statement of Secretary Law, no opportunity of cross examine was given to the undersigned, which is clear violation of Qanun-e-shahadat order 1984?
13. Copy of notification dated 18.10.2017 is enclosed as **Flag-Z**.

**FACTS DETAIL.**

S. No	Allegations	Finding of inquiry officer	Reply of Appellant (facts detail)
a	That you issued Notice to Estate Officer, Administration Department in violation of Rule 4(e) of the Khyber Pakhtunkhwa Directorate of Human Rights (procedure) Rules, 2015 directing him to issue NOC without fail to Ms. Nageena	Since the matter falls within the domain of ombudsman. I am of the view that officer under inquiry being a senior law officer as well was not required to the interfere; I am of the firm view that this is the misuse of the authority and interference in the business of	The inquiry officer did not consider withdrawal application of Mst. Nageena Begum before provincial Ombudsman.  In the reference case Mst: Nageena Begum was got retired on 12.03.2014 and she made complaint on 15.05.2015 i.e. after 14 months of her retirement. Under the rules the Estate Officer was bound to initiate recovery before retirement (pension rules clear in this respect) The Estate Officer has stated that Mst: Nageena Begum has rented her house 03 years before her retirement then why the Estate Officer remained silent and why he did not cancelled the same as he was duty

ATTESTED  
[Signature]

	<p>Begum Ex sst in her pension case.</p>	<p>some other department. The relevant documents showing the pendency of the issue with the Provincial Ombudsman are attached.</p>	<p>bound to inspect the premises on quarterly on yearly basis.</p> <p>It was a case of Human Rights Violation; therefore, the undersigned took cognizance on the complaint and served the Estate Officer with notice. The Estate Officer was under legal obligation to appraise the undersigned regarding the pending of the complaint in the Office of Provincial Ombudsman, but he failed to inform the Directorate immediately.</p> <p>Upon receiving information regarding pending of the complaint in the office of Provincial Ombudsman. The undersigned took serious notice and the complaint filed copy of application submitted before the Provincial Ombudsman for the withdrawal of complaint from Provincial Ombudsman.</p> <p>In the presence of documentary evidence to the effect that the complaint has filed application before the Provincial Ombudsman for the withdrawal of complaint, how it could be said that the undersigned took cognizance in a sub judice case.</p> <p>It is also worth mentioning that provincial ombudsman is not a court within its legal meaning.</p> <p>The directorate of Human Rights, Khyber Pakhtunkhwa is a statutory body and as per section 5 and section 10 of the Khyber Pakhtunkhwa promotion protection Act, 2014, it may proceed to inquire into the complaint on its own or having regard to the nature of the complaint, it may initiate an inquiry the rule may kindly be read with section 8, 11 and 15 etc of Human Rights Procedure Rules, 2015. <b>(Flag-I)</b></p> <p>It is crystal clear/apparent that Estate Officer falls under the definition of Public Servant and any violation of Human Rights on his part is amenable to the jurisdiction of Directorate of Human Rights, Khyber Pakhtunkhwa.</p> <p>The inquiry officer has failed to bring any sort of evidence against the</p>
	<p></p> <p><b>ATTESTED</b></p> <p></p>		

			undersigned to prove that the act was done with malafide intention. In absence of malafide intention, no act could be declared as illegal. The law has protected the job of Directorate.
b	<p>That you have issued Notice to Addl: Secretary Home Department in violation of Rule 4(b) of aforesaid rules in a subjudice case of Ex-Senior Govt: Pleader Mr. Ghulam Mustafa in KP Service Tribunal.</p>	<p>The matter wherein, the officer under inquiry issued notice to the Additional Secretary Home was admittedly subjudice before the competent forum. i.e. Khyber Pakhtunkhwa Services Tribunal; he was not required to initiate a parallel proceedings, knowingly, when the matter has already been pending in the court/ Tribunal.</p> <p><b>The charge stand proved.</b></p>	<p>The allegation is baseless having no factual and legal backing.</p> <p>The Senior Govt: Pleader submitted a complaint against one Muhammad Arif Khattak, the then Additional Secretary Opinion Law Department pertaining to a fake and fabricated inspection report presented by the Muhammad Arif Khattak on 16.07.2011.</p> <p>It is worth mentioning that the inspection report was not the basis of Ghulam Mustafa removal from service. The removal of Ghulam Mustafa (Senior Govt: Pleader) was based on the order sheet dated 16.01.2014 of the District &amp; Session Judge, Dir Lower (charge sheet served on Ghulam Mustafa is attached as <b>(Flag-J)</b>).</p> <p>It is worth mentioning that the subject inspection note relates to the year, 200 and whereas charge sheet against Ghulam Mustafa is related to the year 2014. It is also pertain to notify that the question inspection note of Muhammad Arif Khan has nothing to do with the charge sheet of Ghulam Mustafa SGP.</p> <p>It is also pertaining to mention here that the honorable Session Judge in his written certificate has categorically declared the inspection note as fake and fabricated (<b>certificate enclosed as Flag-K</b>).</p> <p>The statement of Muhammad Arif Khattak (now deceased) (<b>Flag-L</b>) has categorically stated in his cross examination that the complaint filed by Ghulam Mustafa before the Directorate</p>

ATTESTED


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			has no relevancy with the appeal filed by Ghulam Mustafa in Service Tribunal.
c.	That you provided one of the rooms in the office of Directorate of Human Rights to Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department for residential purpose since February, 2015 in violation of Rules.	Since the office of the Director Human Rights was personally visited by the Secretary Law and that the keys of the rooms were found to be with the DS Assembly Mr. Akbar Ali who was not supposed to retain the same as having nothing to do with it; in the given scenario I am convince that this charge also stand proved.	The findings of the inquiry officer with respect to this allegation is totally fabricated and without any sort of supporting evidence. The statement of the concerned Chowkidar Sayed Ayaz Hussain has been recorded by the inquiry officer, who has stated that no room of the Directorate whatsoever has been allotted to Mr. Akbar Ali Deputy Secretary (Assembly) Law for residential purposes. Mr. Akbar Ali vide his statement recorded by the inquiry officer has confirmed that he is residing Bangla No. 7/3 Khushal Bag, Peshawar along with his kids, who are studying in different schools i.e. Happy Day, ICMS, Allied School etc.  In the presence of categorical statement of concerned Chowkidar, how it could be justified that a room was allotted to Mr. Akbar Ali for his residential purposes.
d.	That you misguided PS to Minister Law to pass an order by passing Secretary Law for getting illegal gratification for accompanying him during his visit to District Karak on 02.05.2015 for which Minister of Law was not competent under KP Travelling Allowance Rules, 1980.  <b>ATTESTED</b>  	Since the officer under inquiry could not provide any permission letter from the Law Department to proceed with the Law minister which was required; being a Civil Servant he was required to take on board the Administrative Secretary which he failed. <b>The charge stand proved and it is recommended that the recovery of the TA/DA so received may be made.</b>	The allegation vide this Para is flimsy in nature and against facts. The inquiry officer without any legal and evidently support has declared the allegation as true.  It is fact that PS to Minister for Law vide letter No. PS/Minister for Law/2015 dated 29.04.2015 ( <b>Flag-M</b> ) directed the undersigned to accompany the Minister for Law, Parliamentary Affairs and human Rights Department during his visit to Karak. The undersigned has only complied with the directions of honorable Minister being in charge of the department. It was also the duty of PS to Minister to inform the Secretary regarding the directions of the Minister. So far the role of the undersigned is concerned he has not only informed the Worthy Secretary regarding the Minister's order but also acquired his formal approval through telephone. No evidence is available to show that Secretary has made any complaint against me in this respect.  It is also worth mentioning that Minister directions have been communicated to the undersigned on

			<p>30.04.2015 and the visit was scheduled on 02.05.2015, which day is Saturday i.e. holiday.</p> <p>The undersigned could not be blamed in this respect as he was directed by head of the department for accompanying him. The Minister of law may be call to explain as to why he had directed the undersigned to accompany him during his visit to Karak? The undersigned has been made an escape goat.</p>
e.	<p>You appointed a Naib Qasid in place of dismissed employee namely Akbar Zaman Naib Qasid of the Directorate without waiting for disposal of his appeal in violation of rules.</p>	<p>This fact of appointing the Naib Qasid before the finalization of the appeal of dismiss employee namely Akbar Zaman is not disputed. The officer under inquiry was required to take into loop the Administrative Department before appointing the Naib Qasid which he failed resulting into such an ugly situation.</p> <p><b>The charge stand proved.</b></p>	<p>The allegation leveled vide this Para is illegal and against the fact and circumstances of the case. The undersigned removed Mr. Akbar Zaman Naib Qasid from Service due to his long absence from duty vide order dated 08.09.2015.</p> <p>It is clear law that any departmental appeal is routed/processed through the office of his duty. Mr. Akbar Zaman was under legal obligations to submit his departmental appeal through the office of his duty, but he directly submitted his appeal in the office of the Secretary law on 07.10.2015 i.e. on the very last day of limitation prescribed for presentation of appeal (<b>enclosed as Flag-O</b>). The office of Secretary Law was also under legal obligation to inform the Directorate of Human Rights regarding the pendency of appeal, but no such much information has ever been communicated to the undersigned immediately.</p> <p>Apart from the above the undersigned has recruited a fresh employee after the lapse of 36 days from the date of removal order of Akber Zaman and that too on conditional basis and also after fulfilling all prescribed formalities and keeping in view the need of Naib Qasid for the office (<b>order enclosed as Flag-P</b>).</p> <p>The undersigned has not been blamed for any sort of corrupt practice in the appointment of Naib Qasid. He has been blamed only for recruitment of fresh employee without waiting for disposal of departmental appeal. The law gives protection to any act done in</p>

**ATTESTED**

*[Handwritten Signature]*

			<p>good faith. The undersigned has appointed a fresh Naib Qasid on conditional basis in good faith.</p> <p>It is also worth mentioning that after receiving the reinstatement of Akber Zaman Naib Qasid, the undersigned Re-instated him and communicates the order to the Secretary Law. Mr. Akber Zaman after reinstatement has failed to join his duty till the date and the undersigned has informed the Secretary law for the same. The order of the undersigned has not been challenged in any court by Mr. Akber Zaman Ex Naib Qasid. It means that order of the undersigned is legal.</p>
f.	<p>That you failed to implement the Khyber Pakhtunkhwa Directorate of Human Rights (procedure) Rules, 2015 for disposal of complaints since 22.06.2015 which is your incompetence and gross negligence tent amounting to misconduct.</p> <p><b>ATTESTED</b></p> 	<p>No doubt the officer under inquiry might have received complaints but from the perusal of the record available on file I could not find any report presenting to the Government as required by the directorate of Human Rights (Procedure) Rules 2015. <b>The charge stand proved.</b></p>	<p>The allegation leveled vide this Para are against the fact. The findings of the inquiry officer are against actual facts.</p> <p>The record provided to the inquiry officer has established that 24 complaints were received and disposed in the year 2013, 37 complaints were logged and 30 were disposed in 2014, 57 were received out of which 50 were disposed of. In the year 2014 only one inspection and 8 international days were observed.</p> <p>During the tenure of undersigned total of 228 complaints were logged and out of which 203 were disposed of, 2 seminars, 12 inspections were conducted and 32 international days were observed. The performance of the undersigned as remarkable as compared to his other Directors/Predecessors in office. (<b>Flag-Q</b>).</p> <p>The findings of the inquiry report conducted by Mr. Faheem Wazir and Muhammad Akber Khan SOG Law Department very clear on the points which need your kind perusal please. The inquiry committee findings/report.</p> <p>The findings of the present inquiry officer are against facts.</p> <p>The undersigned has submitted annual report to the government which has been published. In previous inquiry report it is crystal clear and admitted that the undersigned has</p>

(35)

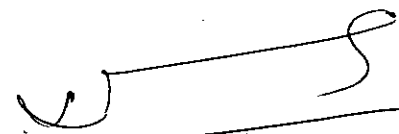
			<p>presented/submitted his report to government.</p> <p>In the presence of this un-rebuttable record how it can be said that the undersigned has failed to implement the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 for disposal of complaints since 22.06.2015.</p>
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The allegations leveled against the undersigned are baseless/groundless and has no factual and legal support. The undersigned has been continuously harassed with continual/perpetual inquiry proceedings on the same set of allegations. Mr. Faheem Wazir alongwith other officials has exonerated the undersigned from the same charges, but there are hidden elements/hands, who are bent upon to prosecute the undersigned on flimsy and self made allegations.

The undersigned has not been charged for corruption.


It is therefore, most humbly requested that on acceptance of this review petition on the subject, the impugned order dated **18.10.2017** may kindly be reviewed/ set aside and all the three increments which has been withheld/stopped may kindly be restored with all back benefits.

Dated: 01.11.2017

  
 (NOOR ZAMAN KHAN)  
 District Attorney,  
 Labour Court Peshawar.

**This departmental appeal/review petition consists of eight pages and every page is signed by the undersigned.**

**ATTESTED**

  
 2/11/17  
 at 3:00pm







GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS  
& HUMAN RIGHTS DEPARTMENT

Day No. 870  
16/01/2018

H-36

No. SO (G)(LD)/1-13/2014/PF/1985-93  
Dated: Peshawar the, Jan, 15- 2018

To

Mr. Noor Zaman,  
District Attorney Labour Court Peshawar.

Subject: REVIEW PEITION AGAINST ORDER NO. SO (G)LD/1-13/2014/PF 28383-90 DATED 18.10.2017 WHEREIN PETITIONER HAS BEEN AWARDED PENALTY OF WITHHOLDING THREE INCREMENTS FOR THREE YEARS.

I am directed to refer to your review petition dated 01.11.2017 on the subject noted above and to inform that the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) has perused your review petition and filed the same for having no substance.

*M/Y*  
15/1/2018  
(Muhammad Yasin)  
Section Officer (General)

Endst: of even No. & Date:

Copy is forwarded for information to:-

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Principal Secretary to Chief Minister Khyber Pakhtunkhwa Peshawar.
- 3- PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
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- 5- PS to Secretary Law Department Khyber Pakhtunkhwa.
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Section Officer (General)

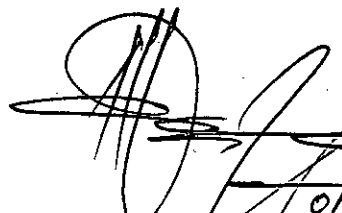
*M*

بیان - محمد عمار حسین صاحب  
سیکرٹری - قانونی امور، خیبر پختونخوا

I - (37)

مورخہ 01 فروری 2015 میں بحیثیت سیکرٹری مذکورہ اجلاس  
جس میں اوزرمان حدک ڈائریکٹر، صوبائی ایٹس ایجنٹ  
کا دورہ کیا اور گذشتہ شکایات کی بنیاد پر جس میں صوبائی  
دفتر صبح 8-9 بجے کے درمیان اپنا اوڈر ایٹس ایجنٹ کا جواب  
افیس موجود نہیں تھا چوکیدار جس کا نام شہد بازار حسین شاہ ہے موقع  
پر موجود تھا۔ اس سے میں نے مذکورہ نمبر سے جس کے بارے میں مجھے شکایات  
ملی تھیں کہ جس میں مسی البر علی (Then DS Assembly) لاء ڈیپارٹمنٹ موجود تھا

چوکیدار نے کہا کہ موجودہ کے کی جالی میرے پاس نہیں ہے جب میں نے دوبارہ  
پوچھا کہ کیا مذکورہ نمبر سے کی جالی جس نے پتلا ہے، تو مذکورہ چوکیدار نے جواب  
دیا کہ اس نمبر سے کی جالی جناب انجمن علی صاحب کے پاس ہے، چونکہ مجھے دفتر اپنا تھا  
تو اس لئے میں نے مزید تحقیقات کیلئے ڈائریکٹ کے محنتی ایٹس ایجنٹ کو پتلا  
اور سیدھا دیا نہیں۔ چوکیدار کے بیان کے مطابق اس بات کی مزید تحقیق کی ضرورت  
بھی نہیں رہی۔ چونکہ کوئی بھی ایٹس ایجنٹ بھی مجھے کو کسی قانون کے نمبر سے جواب دے  
والی استعمال میں نہیں لاسکتا، لہذا وہ اس نے تحریری طور پر ڈائریکٹر کو جواب دے کر  
کو ایک خط لکھا (جو کہ منسلک ہے) جس کا اس نے غیر تسلی بخش جواب دے کر  
حکمہ کو درجہ لے کر کوئی بھی ایٹس ایجنٹ کے پاس نہیں لے کر لے کر لے کر جو  
کو زبردستی لے کر لے کر وہ ڈائریکٹر صاحب کے صاحب یہاں لے کر لے کر جو  
کہ وہ طے غیر قانونی طور پر نمبر کو استعمال کرنے کا جواز نہیں تھا۔ (ای کا  
جواب منسلک ہے)۔ یہی ہر اسباب ہے،

  
01/02/2017  
(Muhammad Arif Khan)  
Secy Law

ATTESTED



38

**PW 1: Statement of Syed Ayaz Hussain Shah Chowkidar,**  
**Directorate of Human Rights on oath**

Stated that I am Chowkider of DHR since 2013. I am performing my duty well. It is incorrect that one of the offices of DHR was allotted to Akbar Ali then Deputy Secretary Assembly for his residential purpose.

ایاز

Syed Ayaz Hussain Shah,

Chowkidar DHR

Dated: 18-01-2017

Verified.

*Adil Siddiq* 18/1/17

Adil Siddiq,

Director General Prosecution

I do not the cross examine of p.p. *gives*

*S*  
18/1/17

ATTESTED

*[Signature]*

39

**PW 2: Statement of Akbar Ali then Deputy Secretary Assembly**  
**on oath.**

Stated that assumptions of Secretary Law leveled against me are incorrect. I am living in Peshawar since 2012 with my family in my owned house at Banglaw No. 7/3 Khushal Bagh Peshawar. My kids are reading in different schools i.e. Happy Day, ICMS, Allied school etc. No room of DHR was allotted to me neither I am residing in DHR.

*Verified.*

*Adil Siddiq 18/1/17*

Adil Siddiq,

Director General Prosecution

*U-7/B*  
Akbar Ali

2017

Deputy Director Human Rights

Dated: 18-01-2017

*No. Cross Promoted  
gives  
18/1/17*

ATTESTED

*[Signature]*

**VAKALATNAMA**

IN THE COURT OF KP Service Tribunal Peshawar  
OF 2018

Noor Zaman

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

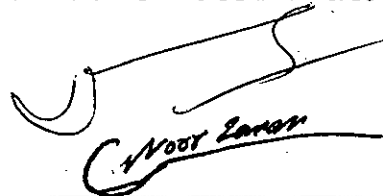
Govt of KPK

(RESPONDENT)  
(DEFENDANT)

I/We Noor Zaman

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. 14 / 2 / 2018



**CLIENT**

**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**  
**(ADVOCATE)**

OFFICE:

Room No.1, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

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

Service Appeal No.261/2018

Mr. Noor Zaman Khattak District Attorney.....Applicant.

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary Khyber  
Pakhtunkhwa and others

.....Respondents.

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1

**Before the Service Tribunal Khyber Pakhtunkhwa, Peshawar.**

Service Appeal No. 261/2018

Mr. Noor Zaman Khattak District Attorney..... Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary & Others..... Respondents

**Para wise Comments on behalf of Respondents No. 1 to 3.**

**Respectfully Sheweth.**

**Preliminary Objection:**

- a. That the appeal is not maintainable in its present form.
- b. That the appellant is estopped by his own conduct to file the subject appeal.
- c. That the appellant has got no cause of action and locus standi to file the subject appeal.
- d. That the appellant has not come to the Tribunal with clean hands.
- e. That the appellant has concealed material facts from honorable Tribunal while filing the subject appeal.
- f. That the Hon'able Service Tribunal has no jurisdiction to entertain the instant appeal.
- g. That the appeal is barred by time.

**On FACTS:**

- 1 Correct.
- 2 Para 2 is correct to the extent that statement of allegations and Charge Sheet were served on the appellant however the allegations were not baseless but Proper inquiry was conducted wherein the charges stands proved and as such minor penalty of stoppage of three increments for three years under Rules-14 of Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules, 2011 (Annex-I) was imposed upon the appellant.
- 3 In response to para-3 it is stated that the reply of the appellant was not satisfactory therefore the same was not considered.
4. Para-4 of the memorandum of appeal is incorrect. Infact the initial inquiry was conducted against the appellant by Mr. Faheem Wazir (BPS-21) and Akbar Khan SO(G) being departmental representative, but inquiry committee had not conducted the inquiry in accordance with the provision of Khyber Pakhtunkhwa Government Servant (E&D) Rules 2011, further more the merits of the case has been ignored. Therefore the competent authority empowered under Rule 14(6) of the Rules ibid had directed to conduct De-novo inquiry, through different inquiry committee against the accused official, after recording reason in writing.
5. Para-5 is incorrect, proper show cause notice was served on the appellant (Annex-III) further chance of personal hearing before the De-novo inquiry was not the requirement of law and the rules and the De-novo inquiry a show cause notice was served on the appellant, thereafter the appellant was heard in person, by Secretary Home & T.As Department on behalf of competent authority.
- 6 Para-6 of the appeal is incorrect. The Review Petition was properly examined and the competent authority has filed the same being devoid of merits.
- 7 All opportunities were given to appellant to clear his position.
8. That other points will be raised during the course of arguments.

MAK

2

GROUNDS:

- A. Para (a) is incorrect, both the orders dated 18-10-2017 and 15-01-2018 were in accordance with law facts and the rules. Furthermore the impugned order were passed after affording opportunity to the appellant as per law and the rules.
- B. Para (b) is incorrect. The appellant has been treated in accordance with law and the rules and there was no violation of Article 4 and 25 of the Constitution of Islamic Republic of Pakistan on the part of the respondent.
- C. Para-C of the grounds is incorrect. The appellant has been treated in accordance with law. No discrimination has been caused to the appellant. The impugned order was based on law and the rules.
- D. Para (d) is incorrect. The allegation against the appellant has been proved on the basis of evidence produced before the inquiry committee.
- E. Para (e) is incorrect. The inquiry committee provided opportunity to the appellant to cross examined the witnesses but the appellant inspite of the opportunity had not cross examined some of the witness..
- F. Para (f) is incorrect. The inquiry officer submitted his report vide letter No.DP/E&A/1(16)73 dated 16-02-2017 (Annex-V) alongwith the inquiry report. The statement of witness Anwar Akbar was not recorded afterward. Furthermore there was no malice on the part of the inquiry officer or respondents.
- G. Para (g) is incorrect. The reply of the appellant was not satisfactory therefore the same was not considered by the inquiry committee. Furthermore the inquiry was conducted in accordance with law and the rules.
- H. Para (h) is not correct. All the charges against the appellant had been proved in the light of the evidence of the witness. All the legal requirements had been adopted by the inquiry committee.
- I. Para (i) is not correct. As already stated in the above para's that the appellant had not been exonerated by the initial inquiry committee but due to some irregularities the competent authority directed for De-novo inquiry. The De-novo inquiry was in accordance with law and the rules.
- J. Para (j) is incorrect. As stated in the above para's opportunity of cross examination was provided to appellant on the witnesses.
- K. Para (k) is incorrect. Proper inquiry was conducted against the appellant and the allegation had been proved against him.
- L. Incorrect. The reason regarding disagreeing with the report of initial inquiry report had been mentioned in the above para's.
- M. That the respondent seeks permission of the Tribunal to advance other points at the time of arguments.

PRAYER:

It is therefore, most humbly prayed that on acceptance of this parawise comments, the appeal being devoid of legal footings and merit may graciously be dismissed with cost.



Secretary to Govt. of Khyber Pakhtunkhwa,  
Law Department,  
Respondent No.3  
On behalf of Respondent No. 1 to 3.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT

SUMMARY FOR CHIEF MINISTER

Subject: DISCIPLINARY ACTION AGAINST MR. NOOR ZAMAN KHATTAK DIRECTOR HUMAN RIGHTS LAW DEPARTMENT

The Administration Department and Home Department have intimated the following complaints against the Director Human Rights of Law Department:-

- a. A notice has been sent by Director Human Rights against Estate Officer, Administration Department directing him to appear in person on 3.08.2015 to join enquiry proceeding along with NOC without failure vide Directorate of Human Rights complaint No.HDR/112-2015/3339-40 dated 27.7.2015 at F/A.
- b. Similarly notice has been sent by Director Human Rights to Addl: Secretary Home Department in a subjudice case of Ex-SGP Mr. Ghulam Mustafa in Khyber Pakhtunkhwa Services Tribunal, Vide Directorate of Human Rights letter No.DHR/93-2015/3284-85 dated 13.7.2015 at F/B.
- c. During visit of Secretary Law to Directorate of Human Rights Khyber Pakhtunkhwa on 2<sup>nd</sup> November, 2015 it was confirmed that Director Human Rights allotted one Room unlawfully in the Office of Directorate of Human Rights Khyber Pakhtunkhwa to Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department for residential purpose since February, 2015.
- d. With the connivance of Private Secretary to Minister for Law, the Director Human Rights for getting illegal gratification obtained illegal orders from Minister Law to accompany him during his visit to District Karak on 2.5.2015 vide letter No.PS/Minister for Law/2015/ dated 29.4.2015 F/C for which Minister for Law was not competent under Khyber Pakhtunkhwa Travelling Allowance Rules, 1980
- e. The Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 were issued on 22.6.2015 vide F/D, but after its issuance the Director Human Rights has failed to dispose off any complaint uptil now i.e for the last five months, which is his mandate and nothing has been reported to government as required under the aforesaid rules.

- (A)
- f. The Director Human Rights after dismissal of Mr. Akbar Zaman, Naib Qasid of the Directorate appointed another Naib Qasid in his place without waiting for disposal of appeal of ex-Naib Qasid.

2. Background of cases at "a" and "b" as per para-1 of the summary is as follows:-

- a. Notice issued to Estate Officer Administration Department by Director Human Rights to appear in person with NOC for the purpose of Pension of Ms: Nageen Begum Ex-SST E&S Department

It is submitted that Ms: Nageen Begum, Ex SST, Elementary and Secondary Education Department had filed a complaint in Directorate of Human Rights Khyber Pakhtunkhwa regarding issuance of NOC for the purpose of her pension. In response the Director Human Rights issued notice to Estate Officer to appear in person on 3.8.2015 along with NOC without failure. According to Administration Department the ex-teacher had subletted government accommodation for three years w.e.f 20.5.2011 to 12.3.2014 and she had been directed by Administration Department to deposit the amount in Government treasury due to subletting of the government accommodation before issuing NOC in her favour. Law Department examined the case and observed that Director Human Rights has gone beyond his jurisdiction in this case. The case relates to maladministration and does not fall in the domain of Human Rights.

- b. Complaint against Muhammad Arif Addl: Secretary Home Department by Ghulam Mustafa, Ex- Sr. Government Pleader.

In a similar case Home and Tribal Affairs Department has referred complaint against Director Human Rights vide F/B. To recapitulate briefly it is added that Mr. Ghulam Mustafa Ex-Government Pleader had lodged a complaint against Mr. Muhammad Arif, Additional Secretary Home Department in Khyber Pakhtunkhwa Services Tribunal. The matter is subjudice in the said Tribunal and Director Human Rights has no power to intervene in a subjudice matter. To this effect Director Human Rights has been asked by Law Department that in which capacity and under what rule explanation of Addl: Secretary Home Department has been called vide F/E. Response of the Director Human Rights to this effect is still awaited.

3. In view of the above, Director Human Rights has violated the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 as under:

- a. Notice to Estate Officer, Administration Department by Director Human Rights is violation of Rule 4(e) of Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015. (F/D)
- b. Notice to Addl: Secretary Home Department is violation of Rule 4 (b) of aforesaid rules.(F/D)

- (5)
- c. Director Human Rights cannot provide one of the rooms in the Office of Directorate of Human Rights to Mr. Akbar Ali, Deputy Secretary (Assembly) for residential purpose under any rule as the Directorate is meant for Official purpose and not for residential purpose.
  - d. According to Rule-4 of Govt: of Khyber Pakhtunkhwa Rules of Business, 1985 Administrative Secretary shall be the official head of the department and Private Secretary to Minister for Law cannot issue such orders in favour of Director Human Rights by bypassing Secretary Law.
  - e. Failure to dispose off complaints under the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 by Director Human Rights is his incompetence and gross negligence and warrants strict E&D proceedings against him.
  - f. Appointment of a Naib Qasid in place of dismissed employee namely Mr. Akbar Zaman, Naib Qasid of the Directorate of Human Rights without waiting for disposal of his appeal in violation of Rules.

4. By virtue of the above facts the Director Human Rights has become in-efficient and has rendered himself liable to be proceeded under E&D Rules, 2011.

5. The Law Department, therefore proposes that formal/ departmental enquiry may be conducted against Mr. Noor Zaman Khattak Director Human Rights under E&D Rules, 2011. In terms of Sub-rule (1) (a) (b) of Rule 5 of the aforesaid rules, if on the basis of its own knowledge or information placed before it, the Competent Authority is of the opinion that there are sufficient grounds for initiating proceedings against a Government servant under these rules, it shall either proceed itself against the accused by issuing a show cause notice under rule 7 and, for reasons to be recorded in writing dispense with enquiry or get an enquiry conducted into charge or charges against the accused by appointing an enquiry officer or any enquiry Committee, as the case may be, under rule 11 thereof, whereas rule 6 provides that a Government servant against whom action is proposed to be initiated under rule 5 may be placed under suspension for a period of ninety days, if in the opinion of the Competent authority, suspension is necessary or expedient.

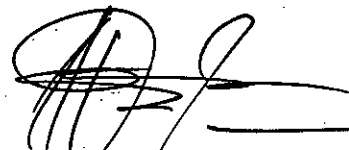
6. Law Department proposes Mr. Akbar Khan (BPS-17) Section Officer(G) Law Department as Technical member and Establishment Department may nominate DMG/PCS Officers (BPS-20) in addition to above Officer of Law Department in the panel to head the Enquiry Committee.

6

7. The Chief Minister Khyber Pakhtunkhwa being Competent authority is requested to approve the following:-

1. Order to Conduct formal enquiry against Mr. Noor Zaman Khattak, Director Human Rights Khyber Pakhtunkhwa under E&D Rules,2011
2. Appoint enquiry Officer/ Committee from the panel ( to be proposed by Establishment Deptt) and;
3. Sign the charge sheet at Annex-I and statement of allegations at Annex-II and indicate the name (s) in the space left blank in the statement of allegation at Annex-II.

8. Proposal contained in para-7 is submitted for approval of Chief Minister, Khyber Pakhtunkhwa.



(MUHAMMAD ARIFEEN)

23.11.2015

Secretary to Govt: of Khyber Pakhtunkhwa  
Law, Parliamentary Affairs and  
Human Rights Department

CHIEF SECRETARY

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9. The Summary for Chief Minister, Khyber Pakhtunkhwa has been examined. The Law Department sees the officer (Mr. Noor Zaman, Director Human Rights) in-efficient, therefore has proposed to initiate disciplinary proceeding against him. The Establishment Department endorses the proposal of the Law Department.

10. The Chief Minister, Khyber Pakhtunkhwa, being competent authority may sign the charge Sheet at (Annex-I) and statement of allegations (Annex-II) and appoint enquiry officer/committee from the following panel by inserting his/her /their name(s) in the statement of allegations to conduct the formal inquiry:

- ✓ 1. Mr. Muhammad Faheem Wazir (PAS BS-20),  
OSD, Establishment Department.
- 2. Mr. Nizam-ud-Din (PCS SG BS-20),  
Secretary, Public Health Engineering Department.

Departmental Representative

- ✓ Mr. Akbar Khan, Section Officer (General),  
Law Department.

*[Signature]*  
Secretary Establishment  
18/12/2015

~~Chief Secretary  
Khyber Pakhtunkhwa~~

~~Chief Minister~~

*[Signature]*  
12/12/2015  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

11. *Needful done.*

*Pervez Mansoor*  
22/12/15  
Chief Minister  
Khyber Pakhtunkhwa

*CS*

*[Signature]*  
3/1/17

*Secy/RAW*

*P.T.O*

Chief Secretary  
Govt. of Khyber Pakhtunkhwa

... has exonerated the accused from the charge leveled against him.

8

12. Pursuant to orders of the Competent Authority in para-10 and 11 of summary, Enquiry Committee consisting of Mr. Muhammad Fahim Wazir the then OSD now Chairman Higher Education Regulatory Authority (HERA) and Mr. Akbar Khan Section Officer (General) Law Department conducted enquiry against Mr. Noor Zaman Khattak Director Human Rights Khyber Pakhtunkhwa and submitted report vide F/F. The inquiry report has been delayed inordinately by the Enquiry Committee for the reasons not known. The Enquiry was ordered on 5.1.2016 and Enquiry Committee submitted its report on 27.05.2016.


13. The Enquiry report was examined in the light of Rule 14 of Khyber Pakhtunkhwa (E&D) Rules, 2011 and it was found that enquiry proceedings have not been conducted in accordance with provisions of rules ibid as well as facts and merits of the case have been ignored altogether as follows:

- 1) Only charges "a" and "d" have been given touch in accordance with existing rules and these two charges have been proved against the accused while the other charges against the accused have been dealt with in casual manner as under:
- 2) Charge "b" of Para-1 of summary has been dealt with in an ordinary manner by Enquiry Committee without looking into CMA (Civil Miscellaneous Application) admitted by Khyber Pakhtunkhwa Service Tribunal in Ex-SGP Mr. Ghulam Mustafa Case, which shows it the same case. The Committee has not probed the charge without going into detail against the accused as it was sub-judice case in the said Tribunal and in such cases Director Human Rights cannot take action under Procedure Rules, 2015.
- 3) Similarly in Charge "c" the Committee without recording statement of Secretary Law and cross examining the chowkidar, has exonerated the accused from the charge leveled against him.

*[Handwritten signature]*  
10/6/16

- 4) Likewise charge "e" was not properly attended by Enquiry Committee and the committee did not take into account the implementation of Procedure Rules, 2015 by the Director Human Rights and has exonerated him blindly.
- 5) In the last charge i.e "f" mere reply of Director HR has been based by Committee for his exemption whereas Enquiry Committee should have highlighted that dismissal from service of a Naib Qasid does not accrue a vacancy for fresh appointment. Proceedings under E&D Rules, 2011 against dismissed employee were not finalized but were under process. In such a situation no fresh appointment can be made.

14. According to sub rule (6) of Rule 14 of E&D Rules, 2011, if the competent authority is satisfied that Enquiry proceedings have not been conducted in accordance with provisions of aforesaid rules, then the competent authority may like to give, or may order to de novo inquiry through different inquiry Officer or Enquiry Committee, subject to sub-rule (7) of rule 11 of rules ibid.

  
15/6/16

15. As is evident from para-14 above that enquiry has not been conducted in accordance with provisions of E&D Rules, 2011 therefore, it is proposed that de novo enquiry may be conducted in the matter. Law Department proposes Mr. Shah Jehan Deputy Secretary (Assembly) as Departmental Representative and Establishment Department may propose a panel of Enquiry Officer/Enquiry Committee for the de-novo enquiry. Charge Sheet and statement of allegations afresh are duly flagged as **Annex-III** and **Annex-IV** respectively.

16. The Chief Minister being competent authority is requested to approve the following:-

- a) Order to conduct de-novo enquiry against Mr. Noor Zaman Khattak, Director Human Rights Khyber Pakhtunkhwa under E&D Rules, 2011 (F/G)
- b) Appoint enquiry Officer/Committee from the panel (to be proposed by Establishment Department) and;
- c) Sign the Charge sheet at **Annex-III** and statement of allegations at **Annex-IV** and indicate the name (s) in the space left blank in the statement of allegation at **Annex-IV**.

17. Proposal contained in Para-16 is submitted for approval of Chief Minister, Khyber Pakhtunkhwa.



(MUHAMMAD ARIFEEN)  
Secretary, Law, Parliamentary Affairs and  
Human Rights Department

Chief Secretary

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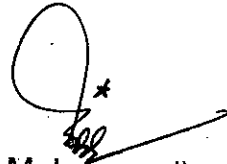


18. The Summary for Chief Minister, Khyber Pakhtunkhwa has been examined. The Law Department proposed to initiate disciplinary proceeding against Mr. Noor Zaman Khattak, Director Human Rights being in-efficient. The competent authority has nominated Mr. Muhammad Faheem Wazir (PAS BS-20) as Enquiry Officer who submitted the enquiry report (Flag-F). The Law Department has observed that the enquiry is not conducted according to provision of Rule-14(6) of the Government Servants (Efficiency & Discipline) Rules, 2011 and found it defective on the grounds mentioned in para 13 of the summary.

19. The Establishment Department endorses the proposal at para 16 of the summary to conduct a de-novo enquiry.

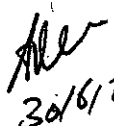
20. The Chief Minister, Khyber Pakhtunkhwa, being competent authority may sign the charge Sheet and statement of allegations (Annex-III) and appoint enquiry officer/committee from the following panel by inserting his /their name(s) in the statement of allegations to conduct the de-novo enquiry:

- ✓ 1) Syed Nazar Hussain Shah (PCS SG BS-20),  
Secretary, Environment Department.
- 2) Syed Hidayat Jan (PCS SG BS-20),  
Director General PERRA.

  
 (Mian Muhammad)  
 Special Secretary Regulation  
 29/6 June, 2016

~~Chief Secretary  
 Khyber Pakhtunkhwa~~

~~Chief Minister~~

  
 30/6/2016  
 Chief Secretary  
 Govt: of Khyber Pakhtunkhwa

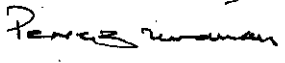
21 - Para 16 read with Para 20 (1) is approved  
 & needful done.

~~C/S~~

~~Secretary~~

P.T.O

  
 1/7/11  
 Chief Secretary  
 Govt: of Khyber Pakhtunkhwa

  
 30.6.2016  
 Chief Minister  
 Khyber Pakhtunkhwa

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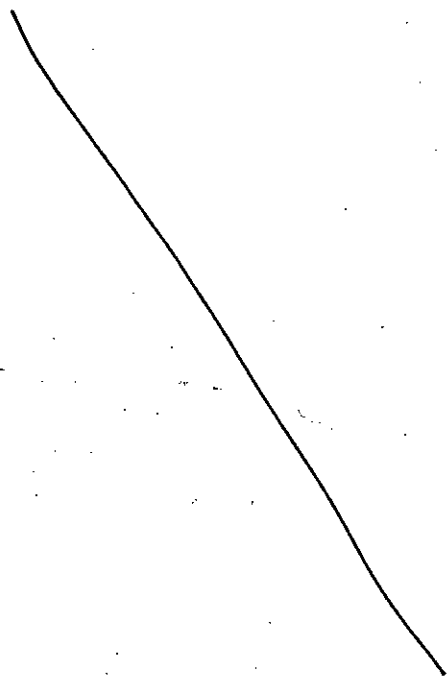
22. The Competent Authority was pleased to nominate Syed Nazar Hussain Shah, Secretary Environment Department to conduct De-novo Enquiry against Mr. Noor Zaman, Director Human Rights. The same was conveyed to Secretary Environment vide letter No.E&A/LD/2-58/2016/21865-69 dated 12.7.2016. Now the Secretary Environment has conveyed his inability to conduct De-novo Enquiry due to his pre-engagement in various functions of the Environment Department. *vide PUC. Charge sheet and Statement of allegations are at F/G.*

23. Establishment Department is requested to put up another panel of Officers to the Competent Authority for conducting De-novo Enquiry and the name of the Departmental Rep. of the Law Department (Mr. Shah Jehan Deputy Secretary, Assembly) may be kept intact.

*[Handwritten Signature]*  
25/7/16

(MUHAMMAD ARIFEEN)  
Secretary, Law, Parliamentary Affairs and  
Human Rights Department

Secretary Establishment



*next page plz*

24. The Summary for Chief Minister, Khyber Pakhtunkhwa has been examined. Law Department proposed to initiate disciplinary proceeding against Mr. Noor Zaman khattak, Director Human Rights being in-efficient. The competent authority nominated Mr. Muhammad Faheem Wazir (PAS BS-20) as Enquiry Officer who submitted the enquiry report (Flag-F). Law Department has observed that the enquiry is not conducted according to provision of Rule-14(6) of the Government Servants (Efficiency & Discipline) Rules, 2011 and found it defective on the grounds mentioned in para 13 of the summary.

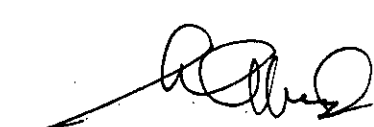
25. However, in order to conduct De-novo enquiry against the above named officer, the Competent Authority nominated Syed Nazar Hussain Shah (PCS SG BS-20) Secretary Environment as Enquiry Officer, who has shown his inability to conduct the said enquiry.

26. The Chief Minister, Khyber Pakhtunkhwa, being competent authority may sign the charge Sheet and statement of allegations (Flag-G) and appoint another enquiry officer/committee from the following panel by inserting his /her /their name(s) in the statement of allegations to conduct the de-novo enquiry:

- ✓ 1) Syed Hidayat Jan (PCS SG BS-20),  
Director General PERRA.
- 2) Mr. Adil Siddique PCS EG BS-20),  
Director General, Local Government & Rural Development  
Department.


Departmental Representative

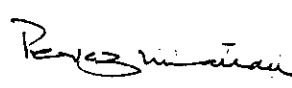
- ✓ Mr. Shah Jehan Deputy Secretary, Assembly),  
Law Department.

  
(Humaira Ahmed)  
Secretary Establishment  
August 16 2016

Chief Secretary  
Khyber Pakhtunkhwa

Chief Minister

  
19/8/2016  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

  
Chief Minister  
Khyber Pakhtunkhwa

27  
c/s  
Para 26(1) Syed Hidayat Jan  
PCS SG (BS-20) DG PERRA  
& Mr. Shah Jehan DS Law  
are appointed as enquiry committee &  
and find done.

14

Allen

v3)8)uH

Chief Secretary  
Govt: of Khyber Pakhtunkhwa

SECP LAW

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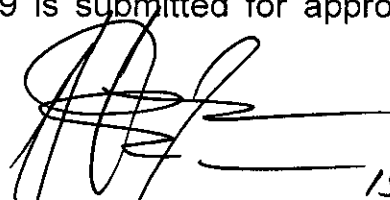
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28. Pursuant to orders of the Competent Authority in para 27 read with para-26 of the summary Enquiry Committee comprising Syed Hidayat Jan PCS (SG) BS-20 DG PERRA and Mr. Shah Jehan Dy Secretary (Assembly) Law Department conducted Enquiry against Mr. Noor Zaman Khattak Ex-Director Human Rights vide F/H wherein 3 charges out of 6 charges have been proved while one charge has been proved partially and another one needs further probe. The report was under examination when Law Department received a letter from Chief Minister's Secretariat vide PUC wherein the accused Officer showed no confidence on the above Enquiry Committee and requested to change panel of Enquiry Committee.

29. In view of the above Chief Minister being competent authority is requested to approve the following:-

- a. Order to conduct de-novo enquiry against Mr. Noor Zaman Khattak, Director Human Rights Khyber Pakhtunkhwa under E&D Rules, 2011 (F/G).
- b. Appoint enquiry Officer/Committee from the panel (to be proposed by Establishment Department) and Section Officer (General) Law Department will act as Departmental representative.
- c. Sign the Charge Sheet at **Annex-V** and statement of allegations at Annex-VI and indicate the name(s) in the space left blank in the statement of allegations at **Annex-VI**.

30. Proposal contained in para-29 is submitted for approval of Chief Minister, Khyber Pakhtunkhwa.

  
15/11/16

(MUHAMMAD ARIFEEN)  
Secretary to Govt. of Khyber Pakhtunkhwa,  
Law, Parliamentary Affairs and  
Human Rights Department

Chief Secretary

P.T.O

31. The Summary for Chief Minister, Khyber Pakhtunkhwa has been examined. Law Department proposed to initiate disciplinary proceeding against Mr. Noor Zaman Khattak, Director Human Rights being in-efficient. The competent authority nominated Mr. Muhammad Faheem Wazir (PAS BS-20) as Enquiry Officer but Law Department has observed that the enquiry was not conducted according to provision of Rule-14(6) of the Government Servants (Efficiency & Discipline) Rules, 2011 and found it defective on the grounds mentioned in para 13 of the summary.

32. However, in order to conduct denovo enquiry against the accused officer, the Competent Authority nominated Syed Hidayat Jan (PCS SG BS-20) Director General PERRA as Enquiry Officer, now the accused officer has shown his no confidence on the enquiry committee(Annex-VII).

33. The Chief Minister, Khyber Pakhtunkhwa, being competent authority may sign the charge Sheet and statement of allegations (Annex-V & VI) and appoint another enquiry officer/committee from the following panel by inserting his /her /their name(s) in the statement of allegations to conduct the de-novo enquiry:

- ✓ 1) Mr. Adil Siddique (PCS EG BS-20),  
Director General, Prosecution, Khyber Pakhtunkhwa.
- 2) Mr. Muhammad Akbar Khan (PCS SG BS-20),  
Coordinator, Provincial Emergency Operation Centre (EOC), Polio Eradication.

*[Signature]*

(Dr. Syed Akhter Hussain Shah)  
Secretary Establishment  
November 29, 2016

~~Chief Secretary  
Khyber Pakhtunkhwa~~

*Ali Iqbal*  
*29/11/2016*  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

Chief Minister

34- Para 33 (1) Mr. Adil Siddique (PCS EG BS-20) is approved as Enquiry Officer. *Pervez Memon*  
*30.11.2016*  
Needful done.

~~SECRETARY LAW~~

P.T.O

Chief Minister  
Khyber Pakhtunkhwa  
*Ali Iqbal*  
*30/11/2016*  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

JUSTICE  
2427

To

The Section Officer (General),  
Govt. of Khyber Pakhtunkhwa,  
Law, P. Affairs & H.R Department,  
Peshawar.

Subject:- DISCIPLINARY ACTION AGAINST MR. NOOR ZAMAN KHATTAK, EX-DIRECTOR, HUMAN RIGHTS, LAW DEPARTMENT.

Please refer to your letter No. SO(G)(LD)1-13/2014/PF/1102-07, dated: 10-01-2017 on the subject noted above.

In this connection, it is stated that the undersigned was accompanying Hon'ble Minister for Law, Khyber Pakhtunkhwa during his visit to U.A.E and U.K and was on Ex-Pakistan Leave w.e.f 27-12-2016 to 15-02-2017.

Further more, I have already given my statement in the subject issue to Ex-Enquiry Officer (Mr. Hidayat Jan) on 06-10-2016 (copies enclosed) which still stands.

Dated 16-02-2017

  
16/02/2017  
(Anwar Akbar)  
Private Secretary  
to Minister for Law

DS (Admin)

16-2-17

17

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35. In pursuance of approval of De-novo enquiry by the Competent Authority(**Chief Minister**) vide Para- 34/S an Enquiry Officer namely Mr. Adil Siddiq, Director General Directorate of Prosecution Khyber Pakhtunkhwas was appointed as Enquiry Officer. The Enquiry Officer conducted the subject inquiry and furnished his Inquiry Report vide **Annex-VIII**.

36. The Enquiry Officer has made the following findings after going through evidence on record and relevant documents, the departmental representative and prosecution witnesses and statement of the accused:

S.No	Charges	Findings
1	That you issued Notice to Estate Officer, Administration Department in violation of Rule 4(e) of Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 directing him to issue NOC without fail to MS. Nageen Begum Ex-SST in her pension case.	Since the matter falls within the domain of Ombudsman so I am of the view that the officer under inquiry being a senior Law Officer as well was not required to interfere; I am of the firm view that this is also misuse of the authority and interference in the business of some other department. The relevant documents showing the pendency of the issue with Provincial Ombudsman are enclosed in the E. Reort. <b>The Charge stands proved.</b>
2	That you have issued Notice to Addl: Secretary Home Department in violation of Rule 4(b) of aforesaid rules in a subjudice case of Ex-Senior Government Pleader Mr. Ghulam Mustafa in KP Service Tribunal	The matter wherein, the officer under inquiry issued notice to the Additional Secretary Home was admittedly subjudice before the competent forum i.e. Khyber Pakhtunkhwa Service Tribunal; he was not required to initiate parallel proceedings, knowingly, when the matter has already been pending in the Court/Tribunal. <b>The Charge stands proved.</b>

*[Handwritten signature]*  
17/2

stands



31. The Summary for Chief Minister, Khyber Pakhtunkhwa has been examined. Law Department proposed to initiate disciplinary proceeding against Mr. Noor Zaman Khattak, Director Human Rights being in-efficient. The competent authority nominated Mr. Muhammad Faheem Wazir (PAS BS-20) as Enquiry Officer but Law Department has observed that the enquiry was not conducted according to provision of Rule-14(6) of the Government Servants (Efficiency & Discipline) Rules, 2011 and found it defective on the grounds mentioned in para 13 of the summary.

32. However, in order to conduct denovo enquiry against the accused officer, the Competent Authority nominated Syed Hidayat Jan (PCS SG BS-20) Director General PERRA as Enquiry Officer, now the accused officer has shown his no confidence on the enquiry committee(Annex-VII).

33. The Chief Minister, Khyber Pakhtunkhwa, being competent authority may sign the charge Sheet and statement of allegations (Annex-V & VI) and appoint another enquiry officer/committee from the following panel by inserting his /her /their name(s) in the statement of allegations to conduct the de-novo enquiry:

- ✓ 1) Mr. Adil Siddique (PCS EG BS-20),  
Director General, Prosecution, Khyber Pakhtunkhwa.
- 2) Mr. Muhammad Akbar Khan (PCS SG BS-20),  
Coordinator, Provincial Emergency Operation Centre (EOC), Polio Eradication.

(Dr. Syed Akhter Hussain Shah)  
Secretary Establishment  
November 29, 2016

~~Chief Secretary  
Khyber Pakhtunkhwa~~

Ali Iqbal  
29/11/2016  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

Chief Minister

34- Para 33 (1) Mr. Adil Siddique (PCS EG BS-20)  
is appointed as Enquiry Officer? Pervaiz Mansoor  
30.11.2016  
Needful done.  
Chief Minister  
Khyber Pakhtunkhwa

~~SECRETARY / LAW~~

Ali Iqbal  
30/11/2016  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

P.T.O

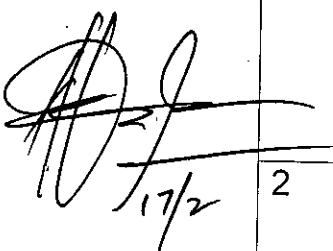
F/1

19

35. In pursuance of approval of De-novo enquiry by the Competent Authority(**Chief Minister**) vide Para- 34/S an Enquiry Officer namely Mr. Adil Siddiq, Director General Directorate of Prosecution Khyber Pakhtunkhwas was appointed as Enquiry Officer. The Enquiry Officer conducted the subject inquiry and furnished his Inquiry Report vide **Annex-VIII**.

36. The Enquiry Officer has made the following findings after going through evidence on record and relevant documents, the departmental representative and prosecution witnesses and statement of the accused:

S.No	Charges	Findings
1	That you issued Notice to Estate Officer, Administration Department in violation of Rule 4(e) of Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 directing him to issue NOC without fail to MS. Nageen Begum Ex-SST in her pension case.	Since the matter falls within the domain of Ombudsman so I am of the view that the officer under inquiry being a senior Law Officer as well was not required to interfere; I am of the firm view that this is also misuse of the authority and interference in the business of some other department. The relevant documents showing the pendency of the issue with Provincial Ombudsman are enclosed in the E. Reort. <b>The Charge stands proved.</b>
2	That you have issued Notice to Addl: Secretary Home Department in violation of Rule 4(b) of aforesaid rules in a subjudice case of Ex-Senior Government Pleader Mr. Ghulam Mustafa in KP Service Tribunal	The matter wherein, the officer under inquiry issued notice to the Additional Secretary Home was admittedly subjudice before the competent forum i.e Khyber Pakhtunkhwa Service Tribunal; he was not required to initiate parallel proceedings, knowingly, when the matter has already been pending in the Court/ Tribunal. <b>The Charge stands proved.</b>

  
17/2

19

Department of Pensions

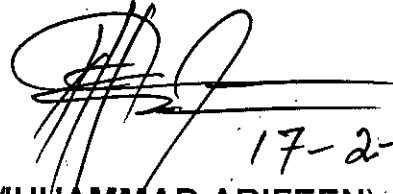
3	That you have provided one of the rooms in the Office of Directorate of Human Rights to Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department for residential purpose since February, 2015 in violation of rules.	Since the office of the Director Human Rights was personally visited by the Secretary Law and that the keys of the room were found to be with the DS Assembly Mr. Akbar Ali who was not supposed to retain the same as having nothing to do withit; in the given scenario I am convince that this charge also stands proved.
4	That you misguided PS to Minister for Law to pass an order bypassing Secretary Law for getting illegal gratification for accompanying him during his visit to District Karak on 2.5.2015 for which Minister Law was not competent under KP Travelling Allowance Rules, 1980	Since the officer under inquiry could not provide any permission letter from the Law Department to proceed with the Law Minister which was required; being a Civil Servant he was required to take on board the Administrative Secretary which he failed. The Charge stands proved and it is recommended that the recovery of the TA/DA so received may be made.
5	You appointed a Naib Qasid in place of a dismissed employee namely Mr. Akbar Zaman Naib Qasid of the Directorate without waiting for disposal of his appeal in violation of rules.	The fact of appointing the Naib Qasid before the finalization of the appeal of dismissed employee namely Akbar Zaman is not disputed. The officer under inquiry was required to take into loop the Administrative Department before appointing the Naib Qasid which he failed resulting into such an ugly situation. The Charge stands proved.
6	That you failed to implement the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 for disposal of complaints since 22.6.2015 which is your incompetence and gross.	No doubt the Officer under Inquiry might have received complaints but from the perusal of the record available on file I could not find any report presenting to the Government as required by the Directorate of Human Rights (Procedure) rules 2015. The Charge stands

*[Handwritten Signature]*  
17/2

proved.

37. Keeping in view findings of the Enquiry Officer which shows that all the charges( six in number) have been proved <sup>against the accused,</sup> competent authority may like to impose tentatively any penalty in terms of Rule-4 of the Khyber Pakhtunkhwa, Government Servants E&D Rules, 2011 ( **Annex-IX**) and insert the same on the show cause added at **Annexure-X**.

38. Para-37 above is submitted for orders of the competent authority as deemed appropriate.



17-2-2017

**(MUHAMMAD ARIFEEN)**

Secretary to Govt. of Khyber Pakhtunkhwa,  
Law, Parliamentary Affairs and  
Human Rights Department

Chief Secretary

NPP

39. The Summary for Chief Minister, Khyber Pakhtunkhwa has been examined. The Law Department has proposed to initiate disciplinary proceeding against Mr. Noor Zaman khattak, ex-Director Human Rights being in-efficient. The competent authority at Para 34 of the summary has ordered to conduct a de-novo Enquiry.

40. Mr. Adil Siddiq, Director General Directorate of Prosecution, Khyber Pakhtunkhwa was appointed as Enquiry Officer who furnished his inquiry report (Annex- VIII). All allegations leveled against the accused officer have been proved. Law Department has recommended imposition of Minor/Major penalty whichever is deemed appropriate by the competent authority upon the Officer.

41. The Chief Minister, Khyber Pakhtunkhwa, being competent authority may sign the show cause notice at annex-X and insert any penalty from the list at Annex-IX, as deemed appropriate please.

(Dr. Syed Akhter Hussain Shah)  
Secretary Establishment  
February 23, 2017

~~Chief Secretary  
Khyber Pakhtunkhwa~~

Ali Iqbal

23.2.2017

Chief Secretary  
Govt of Khyber Pakhtunkhwa

~~Chief Minister~~

Needful done.

42-

~~CP~~

Pervez Mansoor

1.3.2017

Chief Minister  
Khyber Pakhtunkhwa

Ali Iqbal

01.3.2017

Chief Secretary  
Govt. of Khyber Pakhtunkhwa

Secretary Law

P.T.O

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**GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT**

43- In pursuance of action taken by the Competent Authority in para-42, a tentative major penalty of "Removal from Service" was imposed upon the accused vide Annex-X. In response the accused has submitted his reply vide Annex-XI.

44. On analysis of his reply it seems that he had denied all the charges without any justification to prove himself absolve of all the charges. Rather he has challenged the Competent Authority for not following the recommendations of Enquiry Committee or Enquiry Officer according to wishes of the accused. Being a Law Officer he is unable to differentiate between maladministration and violation of Human Rights in both Laws i.e the KP Provincial Ombudsman Act, 2010 and Khyber Pakhtunkhwa Protection & Enforcement of Human Rights Act, 2014. He has made different statements (replies) in both enquiries. This contradiction shows his guilt without any doubt. He should have presented documented reply in accordance with allegations leveled against him which he failed to do so.

45. Before confirming tentative penalty upon the accused it is imperative to provide a chance of personal hearing to the accused in terms of Rule-15 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.

46. It is proposed that opportunity of personal hearing may be granted by the competent authority to the accused under the aforesaid rules.

  
(MUHAMMAD ARIFEEN)

Secretary to Govt. of Khyber Pakhtunkhwa,  
Law, Parliamentary Affairs &  
Human Rights Department

22/03/2017

Secretary Establishment

O.T.O

23

Reference Para-43-46 of the Summary.

F/IV  
2A

47. The Summary for Chief Minister, Khyber Pakhtunkhwa has been examined. The Law Department has proposed to initiate disciplinary proceeding against Mr. Noor Zaman khattak, ex-Director Human Rights being in-efficient.

48. According to De-novo inquiry report allegations leveled against Mr. Noor Zaman Khattak, ex-Director Human Rights have been proved and the competent authority has imposed tentative penalty of "Removal from Service" upon the accused officer.

49. Show Cause notice issued to Mr. Noor Zaman Khattak, ex-Director Human Rights, has been replied to (Annex-XI). The accused officer has denied all allegations leveled against him and requested for exoneration from the charges. Administrative Department in comments contained in para-43-46 of the summary has found the reply unsatisfactory and unconvincing.

50. Chief Minister, Khyber Pakhtunkhwa being competent authority in terms of Rule-4(1)(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 may afford an opportunity of personal hearing to the accused officer under Rule 15 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, before final decision.

(Dr. Syed Akhter Hussain Shah)  
Secretary Establishment  
March 30, 2017

Chief Secretary  
Khyber Pakhtunkhwa

Ali Iqbal

01.4.2017

Chief Secretary  
Govt. of Khyber Pakhtunkhwa

Chief Minister

51-

Secretary Home is authorized to give opportunity of personal hearing to the accused ~~Person~~ officer on my behalf.

6.4.2017

Chief Minister  
Khyber Pakhtunkhwa

Ali Iqbal

07/4/2017

Chief Secretary  
Govt. of Khyber Pakhtunkhwa

C/S

SECRETARY HOME

P T O

2A

52. Brief facts leading to this Personal Hearing have been recounted in considerable detail in the preceding paras and need not thus be mentioned here *in extenso*. In compliance with the directions of the worthy Chief Minister at para 51 ante, the undersigned held personal hearing of the accused officer on 26.9.2017 at 1400 hrs. The accused officer was given ample opportunity to proffer his defense. Notwithstanding the plethora of refutations by the accused officer, his following contentions discussed in seriatim appear to be substantiated by the officially admissible record:

- a) No instances of corruption, illegal gratification, embezzlement or misappropriation have been proved against him.
- b) The Enquiry Officer recommended Minor Penalty against him but it was changed to Major Penalty of Removal from Service later on by the Competent Authority
- c) That he was not given the opportunity to cross-examine Mr. Muhammad Arifeen, the then Secretary Law though his statement was recorded by the Enquiry Officer as a prime witness.
- d) In connection with allegation / charge at serial number "c" of the Charge Sheet, the Enquiry Officer overlooked the assertion made by Mr. Syed Ayaz Hussain Shah, Chowkidar of Directorate of Human Rights in his statement that no one was residing in the official premises of Directorate of Human Rights and the material fact that no articles such as personal belongings were taken into official custody by Mr. Arifeen, the then Secretary Law during his surprise inspection which could prove that the office was being used for residential purposes.
- e) Regarding the allegation / charge at serial number "d" of the Charge Sheet, no evidence has been placed on record to prove the allegation that he maneuvered to accompany the Law Minister on the official visit with the intent to get illegal gratification.
- f) Concerning allegation / charge at serial number "e" of the Charge Sheet, the Enquiry Officer ignored the fact that the accused officer mentioned in the appointment orders issued to Mr. Labidullah Naib Qasid that in case of reinstatement of previously dismissed Naib Qasid, Mr. Akber Zaman, the appointment order of Mr. Labidullah would be cancelled.
- g) In respect of allegation / charge at serial number "f" of the Charge Sheet, the Enquiry Officer discounted the letter placed on record by the accused officer in his reply to the Charge Sheet, officially conveying to the Law Department the accused officer's disposal of 203 complaints / cases out of the total of 228 lodged in the year 2015.

53. While these contentions do not carry enough weight to absolve him of the allegations, they do seem to indicate that being devoid of any proven instances of corruption, his acts of misconduct might not be so iniquitous as to deserve the Major Penalty of Removal from Service. Relying on the dictum that punishment should not be disproportionate to the crime, I am therefore of the opinion that the Competent Authority may consider to transpose the Major Penalty tentatively awarded to the accused officer with any of the Minor Penalties mentioned under the Efficiency and Discipline Rules, 2011. Furthermore, as the Enquiry proceedings confirm lack of the required management skills leading to incompetence on part



of the accused officer, it is proposed that he may not be considered for any management position for at least the next 3 years.

*Shakeel Qadir Khan*  
29.9.17  
Shakeel Qadir Khan  
Secretary, Home Department

Chief Secretary

*[Signature]*  
29/9/17  
Chief Secretary  
Govt. Of Khyber Pakhtunkhwa

Chief Minister

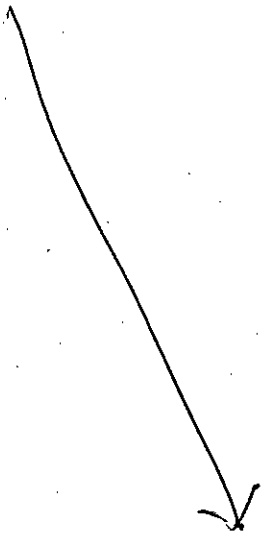
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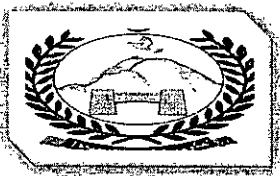
Para 53 is approved. Three increments be with held for three years.

CS

*[Signature]*  
13-10-2017

Chief Minister  
Khyber Pakhtunkhwa





GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS &  
HUMAN RIGHTS DEPARTMENT

27

**SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA**

**Subject: REVIEW APPEAL BY MR. NOOR ZAMAN KHATTAK DISTRICT ATTORNEY (B-19) LABOUR COURT PESHAWAR.**

55. Minor penalty of "withholding three increments for three years" was imposed on Mr. Noor Zaman Khattak District Attorney Labour Court Peshawar (Annex-XII). He has submitted Departmental appeal / review against the penalty (Annex-XIII) to the Chief Minister / Competent Authority. Ground, raised in the appeal has been examined as under :-

S.No	Legal point	Law department views
1	That the applicant / petitioner has been serving as a District Attorney labour Court Peshawar.	Correct.
2	That the applicant / petitioner was got involved in flimsy / concocted baseless allegation, which has no factual and legal backing. The inquiry report is worth, perusal.	Proper inquiry was conducted in which he was held guilty of misconduct.
3	After de novo inquiry, one inquiry officer namely Adil Sadeeq DG Prosecution nominated. The inquiry report submitted on dated 15-2-2017 and the undersigned recommended for minor penalty, copy enclosed for your kind perusal please Flag "A".	The inquiry report was submitted by the Inquiry Officer vide No. DP/F&A/1(16 )73 dated 16-2-2017, by proposing therein minor penalty (Annex-VIII). The case was submitted to the competent authority to insert any penalty to the officer at Para 41 of the summary and the competent authority approved tentative major penalty to the officer conveyed to the officer in show cause notice (F-III),
4.	It is brought to your notice that once two senior judges has decided the case then how one junior judge can set a side the decision of the senior judges. once the inquiry committee exonerated / absolved the appellant then how one junior officer at what law and ground set aside the inquiry committee decision / report.	Incorrect, the enquiry was transferred on the request of appellant received through Chief Minister's Secretariat letter No. SOIV/CMS/KPK/LAW/2016/4463, dated 08-11-2016 (Annex-VII).
5	It is also pertinent to mention that during inquiry proceeding, I have not been given opportunity / chance to cross examine the secretary law. Statement of secretary law is enclosed as Flag "C" it is clear violation of law rules. According qanun e shahadat order 1984 cross examination of PW is mandatory.	According to the inquiry officer he was invited to cross examine the witnesses but he refused / forgo this opportunity at the last page of Flag-A of the inquiry report. ←
6	It is also brought to your notice that the inquiry officer submitted inquiry report on 15.2.2017 whereas the witness Anwar Akbar statement attached / appended with the inquiry report on 16-2-2017 after submission of inquiry report. It is manifestly malafide / malice intention of inquiry officer. Copy enclosed as Flag "D" fo your kind perusal.	The statement of Mr. Anwar Akbar Private Secretary to Minister for Law was enclosed with the inquiry report submitted on 16-02-2017 as mentioned at reply at Sr. No.3 above. &

27

7	The undersigned had submitted detail reply of all the unsubstantiated allegation leveled by inquiry officer in enquiry proceedings. The inquiry officer neither considered my reply nor has rebutted the same.	All allegations were elaborated by the appellant before competent authority during personal hearing and Major penalty was converted to Tentative Minor Penalty of withholding three increment for three years.
8.	During inquiry proceedings nothing was proved against the undersigned in light of PWs statement enclosed as Flag "E".	Already explained in the Final enquiry.
9	It is pertinent to mention that after completion of inquiry proceedings, the inquiry officer did not record my statement. Hence not adopted inquiry proceedings according to law and rules.	Incorrect, the petitioner appeared before the inquiry officer and not raised the same.
10	It is also worth mentioning that Mr. Faheem Wazir (BPS-21) and Akbar Khan SO(G) law department has exonerated the undersigned and not recommended for any punishment. It is pertinent to mention here that the undersigned was earlier exonerated by inquiry committee consisting of two officers but later on de novo inquiry, single junior officer overturn the decision of earlier inquiry committee report without legal justification and principal. How is it legally justifiable to overturn / reverse the decision of inquiry committee by single junior inquiry officer on same charges / allegations	De novo inquiry was ordered under provision of Rule-14(6) of the E&D Rules 2011 as the already conducted inquiry Mr. Fahim Wazir (BPS-21) and Akbar Khan was found defective.
11	Earlier inquiry committee recorded the detail statement of all PWs alongwith the statement of law department representative. After completion of all PW statements the statement of the undersigned was recorded without affording the opportunity of cross examining the PWs to the applicant.	It is contradicted to Sr. No.9 of the appeal that he was not given opportunity for cross examination. On the other hand the statement of the appellant was recorded by the Inquiry officer wherein the appellant stated that he relied on the statements of Mr. Anwar Akbar PS to Minister Law, recorded before enquiry committee of Faheem Wazir and Akbar Khan SO (G) Law department.
12	Whereas the present inquiry officer recorded four PWs statement namely Akbar Ali former Deputy Secretary Assembly, Ayaz Hussain Chowkidar, Directorate of Human Rights, representative of Estate officer and secretary law. Meanwhile recording the statement of Secretary Law, no opportunity of cross examine was given to the undersigned, which is clear violation of Qanun e shahadat order-1984.	He was required to cross examine the statement of Secretary law at the time of it's recording but he forego the opportunity.

56. Since reply of Mr. Noor Zaman, District Attorney Labour Court Peshawar is devoid of facts and is mere repetition of old points / justification already submitted to inquiry officer and considered during personal hearing.

57. Therefore, Law Department does not endorse the same and opines that the same may be filed.

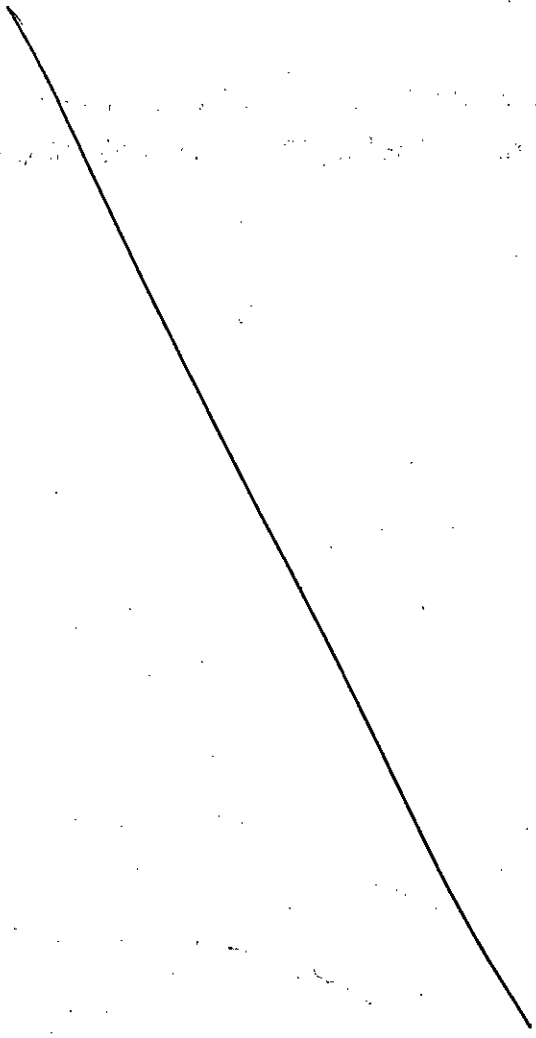
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58. The case is submitted to Chief Minister Khyber Pakhtunkhwa being Revision Authority in terms of rule 17(2) Khyber Pakhtunkhwa Government servant E&D Rules 2011 for perusal /approval.


*Asghar Ali*  
(ASGHAR ALI) 15/12/17  
SECRETARY LAW

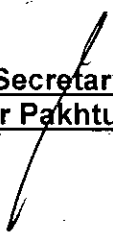
Chief Secretary.

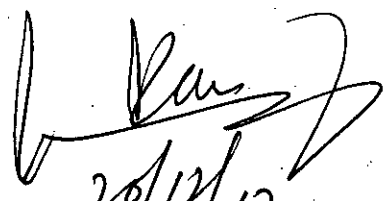


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59. The Summary has been examined. The proposal at Para-57 is endorsed for approval.

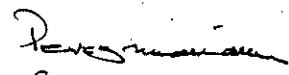
  
(Arshad Majeed)  
Secretary Establishment  
December 20, 2017

  
**Chief Secretary**  
**Khyber Pakhtunkhwa**

  
20/12/17  
**Chief Secretary**  
Govt: Of Khyber Pakhtunkhwa

Chief Minister

Para 59 is approved.

  
3-1-2018  
**Chief Minister**  
**Khyber Pakhtunkhwa**

CS

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA**  
**ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.**

**NOTIFICATION**

*Peshawar dated the 16<sup>th</sup> September, 2011.*

**No.SO(REG-VI)E&AD/2-6/2010.**-In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

1. **Short title, application and commencement.**---(1) These rules may be called the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

(2) These shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with affairs of the Province.

(3) These shall come into force at once.

2. **Definitions.**---(1) In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "accused" means a person in Government service against whom action is initiated under these rules;
- (b) "appellate authority" means the authority next above the competent authority to which an appeal lies against the orders of the competent authority;
- (c) "appointing authority" means an authority declared or notified as such by an order of Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder or an authority as notified under the specific laws/rules of Government;
- (d) "charges" means allegations framed against the accused pertaining to acts of omission or commission cognizable under these rules;

- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be the judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

**13. Duties of the departmental representative.**---The departmental representative shall perform the following duties, namely:

- (a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused, and with the permission of the inquiry officer or inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and
- (c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

**14. Order to be passed on receipt of report from the inquiry officer or inquiry committee.**---(1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rule.

(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall-

- (a) Inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;

- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him: provided that the accused shall, in his reply to show cause notice, indicate as to whether he wants to be heard in person or not;
- (c) Provide a copy of the inquiry report to the accused; and
- (d) Direct the departmental representative to appear, with all the relevant record, on the date of hearing.

(5) After affording personal hearing to the accused the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or inquiry committee, as the case may be, facts of the case and defense offered by the accused during personal hearing, by an order in writing-

- (i) Exonerate the accused if charges had not been proved; or
- (ii) Impose any one or more of the penalties specified in rule 4 if charges have been proved.

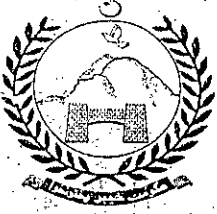
(6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee.

(7) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the competent authority shall decide the case within a period of fifteen days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.

(8) If the case is not decided by the competent authority within the prescribed period of fifteen days, the accused may submit an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period.

**15. Personal hearing.**---The competent authority may, by an order in writing, call the accused and the departmental representative, alongwith relevant record of the case, to appear before him, for personal hearing on the fixed date and time.





GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS AND HUMAN  
RIGHTS DEPARTMENT

Dated Peshawar the October 18, 2017.

NOTIFICATION

NO.So(G)/LD/1-13/2014/PF

WHEREAS Mr. Noor Zaman Khattak District Attorney (BS-19) Ex Director Human Rights, Presently working as District Attorney Labour Court Peshawar was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011.

2. AND WHEREAS, Mr. Adil Saddique, (PCS EG BS-20) Director General, Prosecution, Govt: of Khyber Pakhtunkhwa was appointed enquiry officer to conduct inquiry against the accused officer.

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

4. AND WHEREAS, the competent authority afforded the opportunity of personal hearing to the accused officer on 26-09-2017, at 02:00 PM.

5. NOW, THEREFORE, the Competent Authority, after having considered the charges, evidence on record, the explanation of the accused officer and defense offered by the accused officer during personal hearing and exercising his powers under Rule-14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 has been pleased to impose minor penalty of **withholding increments for three years** upon Mr. Noor Zaman Ex Director Human Rights, Presently working as District Attorney Labour Court Peshawar with immediate effect.

SECRETARY  
Govt: of Khyber Pakhtunkhwa,  
Law, Parliamentary Affairs and Human  
Rights Department

Endst: of Even No. & Date: 28383-90

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Principal Secretary to Chief Minister Khyber Pakhtunkhwa Peshawar.
- 3- PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 4- PS to Secretary Establishment Department Khyber Pakhtunkhwa.
- 5- PS to Secretary Law Department Khyber Pakhtunkhwa.
- ✓ 6- Officer concerned.
- 7- The Manager, Govt Printing Press, Peshawar.
- 8- Personal file.

ATTESTED

*[Handwritten signature]*

*Momin Khan*  
(Momin Khan)  
Section Officer (General)

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SHOW CAUSE NOTICE

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Noor Zaman Khattak, Ex Director Human Rights (Now SGP Labour Court Peshawar as follows:

- (i) That consequent upon the completion of inquiry conducted against you by the Inquiry Officer and you were given opportunity of hearing as required under the rules.
- (ii) On going through the findings of the Inquiry Officer, the material on record and other connected papers including your defence before the Inquiry Officer.

2. I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules:

- (a) ceased to be efficient
- (b) guilty of misconduct

3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the following penalty under rule 4 of the said rules.

- (i) Removal from Service
- (ii) \_\_\_\_\_

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

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

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

*Pervez Khattak*  
(PERVEZ KHATTAK)  
CHIEF MINISTER, KHYBER PAKHTUNKHWA/  
COMPETENT AUTHORITY

Mr. Noor Zaman Khattak  
Ex-Director Human Rights  
Now Senior Govt: Pleader  
Labour Court, Peshawar

**DISCIPLINARY PROCEEDINGS**

Against Mr. Noor Zaman, Director (BS-19),  
Directorate of Human Rights, Khyber Pakhtunkhwa

**INQUIRY REPORT**

By

Muhammad Fahim (BPS-20)

Chairman, Higher Education Regulatory Authority,  
Khyber Pakhtunkhwa Peshawar,

&

Mr. Akbar Khan

Section Officer (General), Law, Parliamentary Affairs and Human  
Rights Department.

INQUIRY REPORT

The competent authority was pleased to chargesheet Mr. Noor Zaman Khattak, Director (BS19) Directorate of Human Rights Khyber Pakhtunkhwa for the following irregularities under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011:

- a. That you issued notice to Estate Officer, Administration Department in violation of Rule 4(e) of Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 directing him to issue NOC without fail to Mrs. Nageena Begum Ex-SST in her pension case.
- b. That you have issued Notice to Addl: Secretary Home Department in violation of Rule 4 (b) of the aforesaid rules in a subjudice case of Ex-Senior Government pleader Mr. Ghulam Musthafa in Khyber Pakhtunkhwa Services Tribunal.
- c. That you have provided one of the rooms in the office of Directorate of Human Rights to Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department for residential purpose since February, 2015 in violation of rules.
- d. That you misguided PS to Minister for Law to pass an order bypassing Secretary Law for getting illegal gratification for accompanying him during his visit to District Karak on 2/5/2015 for which Minister for Law was not competent under Khyber Pakhtunkhwa Travelling Allowance Rules, 1980.
- e. You appointed a Naib Qasidin place of a dismissed employee namely Mr. Akbar Zaman of the Directorate without waiting for disposal of his appeal in violation of rules.



That you failed to implement the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules 2015 which is your incompetence and gross negligence tantamounting to misconduct.

The copies of the Charge Sheet and Statement of Allegations, duly signed by the Chief Minister Khyber Pakhtunkhwa, were handed over to Mr. Noor Zaman the accused officer. Mr. Noor Zaman submitted his written reply(F/A) in his defense along with relevant documents. The inquiry committee, after perusal of the written reply and Annexures, considered it appropriate to call Estate Officer, Addl: Secretary Home Department, Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department, Mr. Anwar Khan PS to Minister for Law and Mr. Ayaz Khan Chowkidar. The Department of Law and Parliamentary Affairs nominated Mr. Kaibaz Kahn, Deputy Secretary as Departmental Representative.

A. Estate Officer (EO) stated that the Estate Office issue No-Objection Certificates (NOC) to government servants, on their retirement in respect of their house subsidy or government accommodation. He presented a Circular of Administration Department (Ex-P/A) where in procedure/policy of House Subsidy was circulated.

He further stated that on 04/3/2014 Mrs. Nageena Begum, Rtd-SST teacher, submitted an application (Ex-PB) to issue NOC in respect of her house located in Gulberg No:4, Swati Pathak Peshawar for which she was receiving house subsidy.

As per procedure the Estate Office deputed Hamidullah Constable for verification.

According to his report (Ex-PC) the said house was partitioned in two parts. For further verification another team consisting of Hamid Constable, Tariq

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Annex-VI

Stenographer and Rasool Muhammad which reported that both the portions were occupied by two different persons as tenants. One of the portions was occupied by Muhammad Rafique for the last three years as tenant, while the other portion by one Muzzafer. The team further reported that the owner, Mrs. Nagina, was living somewhere else (Ex-PD). The Estate Officer further disclosed that on receipt of the notice from the Human Rights Directorate, Assistant Estate Officer and Muhammad Rasool subsidy Assistant attended the Directorate on 27/7/2015. They informed the Director that as per reports (Ex-PC & D) NOC could not be issued in violation of the rules.

During cross examination the Estate Officer further disclosed that the agreement deed for renting out the house, between the tenants and Mrs. Nagina, was executed on 17/6/2014 and attested the same day (Ex-PE). The Administration Department vide their letter (Ex-PD/1) requested the Elementary & Secondary Education Department and local police to intimate the exact date of subletting the house by Mst. Nagina as the Estate Officer did not know as to when the house was rented out. In cross examination the Estate Officer contradicted the proposal that Mrs. Nagina has submitted an application to the Estate Office to issue NOC while the application (Ex-PB) bears signature of the EO who had marked the same to Assistant Estate Officer on 03/4/2014 and the inspections of the house were conducted after one and a half month on 11/5/2014 and 20/5/2014. It is noteworthy that Mst. Nageena submitted application for NOC on 04/3/2014 and the agreement deed for renting out the house was attested on 17/6/2014 which can be presumed that she partitioned and rented out her house after retirement. It is the duty of the Estate Office to check such houses on regular basis. The Director Human Rights

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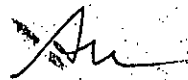
was obligated by the Law to intervene and inquire into the matter. So the issuance of notices is according to the law and rules framed there under. It is also noted that directing the Estate Officer to join the proceedings along with NOC was against the spirit of the law and natural justice.

B. The second charge against the accused officer is that he issued a notice to Mr. Arif Khan Addl: Secretary in a *sub judice* case of Ex- Government Pleader Mr. Ghulam Musthafa.

While recording his statement Mr. Arif presented the inspection report (Ex-PW-2/1), which he submitted to Secretary Law on 16/7/2011 (Ex-PW-2/3) and his reply to Director Human Rights (Ex-PW2/4). He stated that he conducted inspection in 2011 while the complaint was lodged with the Directorate of Human

Rights in 2015 which was time barred. Mr. Arif further deposed that at the time of lodging complaint the case of Mr. Ghulam Musthafa was *sub judice* in Khyber Pakhtunkhwa Service Tribunal but in his cross examination he admitted that notice to him was issued in another case which was not *sub judice*. He also informed that Mr. Ghulam Musthafa and Director Human Rights are very close friends and that was why Mr. Ghulam Musthafa lodged the complaint after laps of four years. As the subject matter was not *sub judice* before any court of Law the Director Human Rights has followed the provisions of Rule 4(b). Hence the charge is not proved against the accused officer Mr. Noor Zaman Director Human Rights in the light of the provisions of Rule 4(b) of the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015.

C. The third charge against Mr. Noor Zaman, the accused officer, is that he has provided one room in the office of the Directorate of Human Rights to Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department, for residential purpose. Mr. Akbar Ali in his statement deposed that his kids are studying in various educational institutions and he was living with his family in a house located in Khushal Bagh Colony near Chinar House Opposite Madrassa Banath Peshawar. In reply to the question whether Secretary Law himself visited the Directorate of Human Rights? He replied that he came to know about the visit of the Secretary when his explanation was called. He further deposed that nothing was taken in custody any of his belongings to prove that he was living in one of the room. To get further information the committee considered it appropriate to record statement of the Chowkidar of the Directorate. Mr. Ayaz Khan Chowkidar in his statement deposed that the offices of the Directorate consist of five flats while in one of the flats office of the Government Pleader has been established. He further stated that no one was residing in any room of the office including Mr. Akbar Ali. In reply to the question, 'Did Secretary Law visit the Directorate when you were on duty?' He confirmed that Secretary Law once came to the office at about 8.00 or 8.30 in the morning and he could not remember the exact date of Secretary's visit to the directorate. He also deposed that Secretary Law met him outside the directorate. The representative of the department failed to extract anything from Mr. Akbar Ali and the Chowkidar which could prove the charge against the accused officer.



Section Officer (General)



D. The fourth charge against the accused officer is that he misguided PS to Minister for Law to pass an order bypassing Secretary Law for getting illegal gratification for accompanying him during his visit to District Karak on 2<sup>nd</sup> May, 2015 for which Minister Law was not competent under Khyber Pakhtunkhwa Travelling Allowance Rules, 1980.

The PS to Minister Law stated that keeping in view the establishment of regional offices by the Directorate of Human Rights in various districts the Minister Law desired that the Director Human Rights should accompany him. Therefore on the directions of the Minister Law he issued a letter (Ex PW-4/1) conveying the directives of the Minister that the Director Human Rights and Deputy Secretary (Assembly) Law Department should be present during his official visit to District Karak on 02/5/2015. "As a PS, for better coordination do you issue directives through the head of the department or you directly convey directives of the Minister of Law to a particular officer, if so would it be legal?" The PS to Minister replied that on directions of the Minister he used to inform an officer directly and indirectly and he was not bound to obey any illegal orders of the Minister. He further stated that he did not inform the Secretary Law about the Minister's visit to district Karak, neither in writing nor verbally, and all the subordinate offices and staff was bound to obey the orders of the Minister as in charge of the department. So for the actions of the PS to Minister Law the Director Human Rights cannot be held responsible. The representative of the department could not place any document to prove the allegations of illegal gratifications with reference to Khyber Pakhtunkhwa Travelling Allowance Rules.

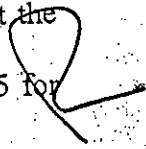
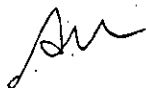
Section Officer (General)

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1980. However if any TA/DA was claimed by the accused officer should immediately be recovered and PS to Minister of Law should be warned and directed to strictly follow the Rules of Business

E. The fifth charge against the officer is that he appointed a Naib Qasid in place of a dismissed employee namely Mr. Akber Zaman Naib Qasid of the Directorate without waiting for disposal of his departmental appeal in violation of rules. It is pertinent to mention here that Representative of the Department in his cross examination stated that Mr. Noor Zaman, the accused officer, dismissed from service the above named Naib Qasid and appointed Mr. Labidullah s/o Muhammad Younis without waiting for the outcome of the appeal of Mr. Akber Zaman which was filed on 07/10/2015. But the representative failed to produce any paper to prove that the Directorate was informed about the appeal or sought any comments from the Director Human Rights which are mandatory under the rules. The representative also confirmed that in the appointment orders of Mr. Labidullah it was mentioned that in case Mr. Akber Zaman was reinstated the orders bearing No: DHR/1-7/A&T/2012 Dated 13/10/2015 (Ex DW2/3) should be considered cancelled and on acceptance of appeal Mr. Akber Zaman was reinstated. This charge is also not proved in light of the above as the Directorate was unaware of the appeal.

F. The sixth and the last charge is that the accused officer failed to implement the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 for



Section Officer (General)

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sal of complaints since 22/6/2015. The representative was particularly quoting referring to Rule 6 which provides:

"Every report or recommendation shall be sent to the Government within seven (7) days of completion of the proceedings before the Directorate and on receipt of the comments of the Government the Directorate shall publish such reports within seven (7) days after receiving it"

Rules 10 and 11 of the Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules 2015 are in respect of annual and special reports respectively. Annual reports are mandatory to be presented to the Government by the end of May every year. While under rule 11 Directorate may furnish special report to the Government on specific matters. Rule 6 does not provide any guidance whether the report should be published in a booklet form or in print media after receipt of comments of the government. It is also worthwhile to note that the accused officer was appointed as Director, Directorate of Human Rights in the month of March, 2015 while the rules were framed on 22/6/2015. At the initial stage of any institution such teething problems may occur. The accused officer placed on record (Ex-DW2/2) which shows that in the year 2012, 24 complaints were received and all were disposed of, in the year 2013, 37 complaints were lodged and 30 were disposed, in 2014, 57 were received out of which 50 were disposed of. In the same year one inspection and 8 international days were observed. In the year 2015 the Directorate received 228 complaints out of which 203 were disposed of, two seminars, 12 inspections were conducted and 32 international days were observed. The performance of the Directorate Human Rights seems satisfactory. The accused officer deposed that he had submitted special report to

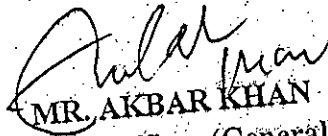
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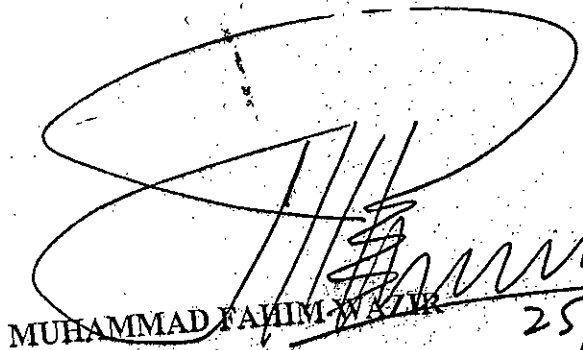
the Supreme Court and government on inspection of Central Jail Peshawar. No material was presented by the representative of the Department to prove the charge against the officer.

**FINDINGS AND CONCLUSION:**

The Inquiry Committee has carefully examined all the relevant record, perused the statements recorded and government instructions. It is observed that the accused officer has exceeded his powers while directing Estate Officer to issue NOC and before proceeding on tour to District Karak he should have informed his administrative Secretary.

  
MR. AKBAR KHAN

Section Officer (General),  
Law, Parliamentary Affairs and Human Rights Department,  
Khyber Pakhtunkhwa, Peshawar.



MUHAMMAD FAHIM WAZIR  
Chairman,  
Higher Education Regulatory Authority,  
Khyber Pakhtunkhwa, Peshawar. 25/5/16

Section Officer (General)

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### Inquiry report

Brief Facts given raise to the instant Inquiry are that in the Inquiry in hand earlier Mr. Muhammad Fahim Chairman Higher Education Regularity Authority Khyber Pakhtunkhwa was appointed as an Inquiry Officer against the defaulting Officer (Mr. Noor Zaman vide **Flag A**), who submitted his findings vide **Flag B**, the Law Department vide **Flag C** requested for the denovo Inquiry, Vide **Flag D** denovo Inquiry was ordered.

The Inquiry Committee completed the proceedings however in this round the Officer under Inquiry expressed his lack of confidence upon the same and thus the committee was changed and the undersigned was nominated as an Inquiry Officer.

20/11/17

Before discussing the statements of the defaulting Officers and the witnesses produced in support of the Allegations it is pertinent to highlight; the Allegations and the defenses by the defaulting Officers.

S.#	Allegations	Reply of the accused	Evidence	Finding of the Inquiry Officer
A.	That you issued Notice to Estate Officer, Administration Department in violation of Rule 4(e) of Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 directing him to issue NOC without fail to Ms. Nageen Begum Ex-SST in her pension case.	<p>That the allegation leveled against me in Para (a) is incorrect. Directorate of Human Rights, Khyber Pakhtunkhwa issued notice to Estate Officer as per Human Rights Act, 2014, in the case of Mst: Nagina Begum.</p> <p>Succinct facts of the case are that the complainant got retired from service as SST (BPS-17) w.e.f 12-03-2014 and approached the Directorate of Human Rights, Khyber Pakhtunkhwa on dated 19-05-2015 for request of issuance of NOC for the purpose of pension.</p> <p>The Directorate of Human Rights, Khyber Pakhtunkhwa is a statutory body and as per section 5 and section 10, of Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Rights Act, 2014, it may proceed to inquire into the complaint on its own or having regard to the nature of the complaint, it may initiate an inquiry. (Enclosed Human Rights Act as Annexed A section 5 and 10 of the said Act may please be perused and also read procedure rule 2015 section 5 read with section 8,9,10,11,15 etc.</p> <p>It is crystal clear/apparent that Estate Officer falls under the definition of public servant and any violation of Human Rights at his hand is amenable to the jurisdiction of Directorate of Human Rights, Khyber Pakhtunkhwa.</p>	<p>The charges level against the accused is correct according to Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 22-6-2015. Moreover it is a case of maladministration and falls in the domain of Provincial Ombudsman. Previously she had lodged complaint in the Ombudsman Secretariat. Later on she lodged complaint in the Directorate of HR not falling in is domain. He should not</p>	<p>Since the matter falls within the domain of Ombudsman so I am of the view that the officer under inquiry being a senior law officer as well was not required to interfere; I am of the firm view that this is also misuse of the authority and interference in the business of some other department. The relevant documents showing the pendency of the issue with Provincial Ombudsman are attached.</p> <p><b>The charge stand proved.</b></p>

ATTESTED  
[Signature]

FA

2015. In compliance with the provisions of the law of reference on the part of

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	<p>That no illegality or irregularity has been committed by the undersigned as it is come within the domain of the Directorate and so far no finding whatsoever has been passed/made by the Directorate in the instant case. The matter is still pending before the Directorate. It would not be out of place to mention that no NOC was issued by the Estate Office to date to the complainant. (Notice 1,2,3,4 is enclosed for your kind perusal) If there is any allegation against the complainant regarding any illegality committed by the complainant pertaining to subsidy of the said house then in that case the estate officer was duty bound to forthwith cancel the allotment of subsidy prior to her retirement. It is the right of complainant to receive the pension regularly after retirement according to government rules, which is also guaranteed/safeguard by the Constitution of the Islamic Republic of Pakistan 1973.</p>	<p>entertain the complaint.</p>	<p>the</p> <p><i>15/12/17</i></p>
<p>B. That you have issued Notice to Addl: Secretary Home Department in violation of Rule 4 (b) of aforesaid rules in a subjudice case of Ex-Senior Govt: Pleader Mr. Ghulam Mustafa in KP Services Tribunal:</p> <p>ATTESTED</p> <p><i>[Signature]</i></p>	<p>That the allegation leveled against me in Para (b) of the said charge sheet is incorrect, baseless, fabricated and not within purview of the 4(b) of the said Act. According to the statement of allegation given to Mr. Ghulam Mustafa (Senior Govt Pleader) by the Chief-Minister Mr. Pervaz Khattak on dated 07-02-2014 the matter has been totally different as per to the statement of allegations.</p> <p>That on 20-04-2015 Mr. Ghulam Mustafa had submitted a complaint against the Muhammad Arif Khattak the then Additional Secretary Opinion Law Department pertaining to a fake and fabricated inspection report presented by the Mr. Muhammad Arif on 16-07-2011 (2-11-17 annexed for your kind perusal).</p> <p>That the removal of Ghulam Mustafa (Senior Govt-Pleader) from service was not the consequences of the said inspection report, rather the order sheet dated 16-01-2014 of District &amp; Session Judge Dir Lower was the caused/basis/ground of said removal of Ghulam Mustafa from service.(charge sheet of Chief Minister enclosed for your kind perusal as Annexed B). According to his complaint dated 20-04-2015 to this directorate, the complainant stated that his reputation has been very much damaged due to the said fake and fabricated inspection note. The</p>	<p>The complaint was entertained in violation of Rule 4 (b) of Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 as in a rejoinder submitted by Mr. Ghulam Mustafa SGP Law Department was allowed and case became sub-judice in Service Tribunal. Directorate HR was not competent to entertain the notice in terms of aforesaid rules.</p>	<p>The matter wherein, the officer under inquiry issued notice to the Additional Secretary Home was admittedly subjudice before the competent forum i.e. Khyber Pakhtunkhwa Services Tribunal; he was not required to initiate a parallel proceedings, knowingly, when the matter has already been pending in the Court/Tribunal.</p> <p><b>The Charge stand proved.</b></p>

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PROSECUTION

Min. of Human Rights (Khyber Pakhtunkhwa) was informed that the above mentioned

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instant matter come within the domain/purview of human rights Directorate, because the District and Session Judge Malakand not only denied the said inspection note but also stated that I have/had never met with Muhammad Arif during my tenure as District and Session Judge Malakand and the said inspection note was declared fake and fictitious one which is also apparent/evident from written certificate (enclosed for your perusal as Annexed C).

On 20 August, 2015 the reply of the subject complaint was send to Secretary Law up till now no reply were given by the Secretary Law in instant case (letter of the Directorate is enclosed as Annexed C-1)

It is also pertinent to mention here that there is no such provision available in Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Rights Act, 2014 to direct/advice or interfere during the pendency of the inquiry proceeding.

The charges leveled against the accused are correct according to Khyber Pakhtunkhwa Directorate of Human Rights (procedure) Rules, 22-6-2015. Moreover it is a case of maladministration and falls in the domain of Provincial Ombudsman. Previously she had lodged complaint in the Ombudsman Secretariat. Later on she lodged complaint in the Directorate of HR not falling in his domain. He should not entertain the complaint.

Arif 15/2/17

ATTESTED

*[Signature]*

C. That you have provided one of the rooms in the Office of Directorate of Human Rights to Mr. Akbar Ali, Deputy Secretary (Assembly) Law Department for residential purpose since February, 2015 in violation of rules.

That the allegation leveled against me in Para No(c) of the said charge sheet is incorrect, fake/fabricated and based upon mere presumption/conjecture/surmises as no documentary evidence produced to substantiate the allegations. It is beyond imagination that the government office/room has been provided to Mr. Akbar Ali for residential purpose. The undersigned time and again requested/suppllicated/entreated for inspection of the said Directorate to verify it (letter is annexed D).

The Secretary Government of Khyber Pakhtunkhwa, Law Department have given his statement wherein he stated that he personally visited the office of Directorate of Human Rights as there were

Since the office of the Director Human Rights was personally visited by the Secretary Law and that the keys of the room were found to be with the DS Assembly Mr. Akbar Ali who was not supposed to retain the same as having nothing

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		lot of complaint; the Deputy Secretary Assembly Mr. Akbar Ali who used to reside in a room of the Directorate, he asked for the key of the room from Chowkidar who told that the same is with D.S Assembly Akbar Ali.	to do with it; in the given scenario I am convince that this charge also stand proved.  Ar 15/2/17
D. That you misguided PS to Minister for Law to pass an order bypassing Secretary Law for getting illegal gratification for accompanying him during his visit to District Karak on 2.5.2015 for which Minister Law was not competent under KP Travelling Allowance Rules, 1980.	That the allegation leveled against me in Para No(d) is not correct hence denied. The PS to Minister Law through letter No. PS/Minister for Law/2015/dated 29-04-2015 requested the undersigned to accompany with Minister Law, Parliamentary Affairs and Human Rights Department to attend different programs arranged by the District Bar Association, Karak. The undersigned just obey/ comply with lawful order of the Minister Law, Parliamentary Affairs and Human Rights in charge of the department and by doing so committed no misconduct/wrong doing which would amount to illegality or irregularity (letter is annexed E).  <b>ATTESTED</b>  A	The accompanying of officer with Minister Law without permission of Secretary law is not covered under Khyber Pakhtunkhwa Travelling Allowance Rules 1980.	Since the officer under inquiry could not provide any permission letter from the Law Department to proceed with the Law Minister which was required; being a Civil Servant he was required to take on board the Administrative Secretary which he failed.  The Charge stand proved and it is recommended that the recovery of the TA/DA so received may be made.



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<p>You appointed a Naib Qasid in place of a dismissed employee namely Mr. Akbar Zaman Naib Qasid of the Directorate without waiting for disposal of his appeal in violation of rules.</p>	<p>That the allegation leveled against me in Para No.(e) is not correct. The undersigned removed Mr. Akbar Zaman Naib Qasid from services dated 8th September 2015 due to the long absence from duty (order is annexed-F). Mr. Akbar Zaman submitted a departmental representation dated 07-10-2015 against his removal from services before the Secretary Law without informing the Director Human rights. That the office of the Secretary Law when duly received the department appeal of the Akbar Zaman was duty bound to inform/apprise the Directorate about the appeal but despite the lapse of so many days, the office of Secretary Law did not inform the Directorate of Human Rights about the pendency of the said appeal.</p> <p>That due to rush of work in the Directorate, the undersigned appointed a Naib Qasid conditionally after lapsing 36 days in the best interest of public and by doing so not committed any illegality (Order annexed H).</p> <p>That after receiving the re-instatement order of the Mr. Akbar Zaman, the undersigned re-instated the dismissed employee and sent a copy of acknowledgment to the office of Secretary Law for information and also provided a copy of the said reinstatement order to the Mr. Akbar Zaman which has also been duly signed by him (annexed G), but to date Mr. Akbar Zaman did not join/assume his duty in this directorate yet. That the Directorate duly inform the Secretary Law office pertaining to the said matter and the office of Secretary Law gave the undersigned full authority to deal with the matter as per law. (Letters is annexed I-J).</p>	<p>The appointed made by the appointment officer in case of Naib Qasid in place of dismissed employee namely Mr. Akbar Zaman Naib Qasid of Directorate of Human Rights is totally unlawful/ without waiting for disposal of his appeal. No one can be appointed in place of dismissed employee under the Khyber Pakhtunkhwa APT, Rules, 1989. The Director exceeded his power in this appointment.</p>	<p>This fact of appointing the Naib Qasid before the finalization of the appeal of dismissed employee namely Akbar Zaman is not disputed. The officer under inquiry was required to take into loop the Administrative Department before appointing the Naib Qasid which he failed resulting into such an ugly situation.</p> <p><b>The Charge stand proved.</b></p> <p><i>[Signature]</i> 15/2/17</p>
<p>F. That you failed to implement the Khyber-Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 for disposal of complaints since 22.6.2015 which is your incompetence and gross</p>	<p>That the allegation leveled against me in No. (f) of the said charge sheet/statement of allegation is not correct, hence denied. The Directorate of Human Rights, Khyber Pakhtunkhwa received approximately 228 complaints in year 2015 out of which 25 complaints were still pending during year 2015 since I assumed the charge, the remaining were dispose of according to law. That since the establishment of Directorate of Human Rights, Khyber Pakhtunkhwa in 2012 and I posted as Director Human Rights in February, 2015, within span of one year I conducted/arranged so many events i.e. conduct</p>	<p>The Director Human Rights may be asked to present any case which has been decided according to Khyber Pakhtunkhwa Directorate of Human Rights (Procedure) Rules, 2015 and report</p>	<p>No doubt the Officer under Inquiry might have received complaints but from the perusal of the record available on file I could not find any report presenting to the Government as required by the Directorate of</p>

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negligence amounting to misconduct.	tent seminars, jails visits, meetings with different sections of the society etc. My performance/achievements as being Director of Human Rights to date is excellent/up to the mark and the performance of my tenure can be compared with tenure of my predecessors in office. (Annexed, F) It is therefore most humbly requested that the undersigned my please be exonerated from the charges leveled against him.	Submitted to Government in each case as per provision of aforesaid rules.	Human Rights (Procedure) rules 2015. <b>The charge stand proved.</b>
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I have recorded the statements of Syed Ayaz Hussain Shah, Chowkidar, Directorate of Human Rights and Estate Officer, Peshawar along with Akbar Ali, then Deputy Secretary Assembly; the officer under inquiry was invited to cross examine the witnesses but he refused to avail this opportunity, his statement to this effect was recorded at the bottom of the statements of the above officers/official.

I am affirm on the opinion that the statements of the above in the light of statement by the Secretary Law appears to be a menavoring. Further the Chowkidar surprisingly is negating the stance of Secretary Law and is standing as defense for the defaulting Officer. Despite of all that I could not find any stuff on record which could defend the defaulting officer.

For the reasons above I am inclined to say that all the charges as discussed above stand proved. During the course of drafting this report I came across the track service record of the officer under inquiry, he was earlier charge-sheeted and was found guilty of with-holding of three increments for three years vide notification No. SO(G)/LD/1-13/2014/PF-dated-12-03-2015.

**Recommendation:**

I hold the officer under inquiry guilty of Misconduct within the meaning of section 3(b) of Khyber Pakhtunkhwa, Efficiency & Discipline Rules 2011 and propose Minor penalty for the officer within the meaning of section 4 of the Khyber Pakhtunkhwa, Efficiency & Discipline Rules 2011 before parting with the Inquiry report I would like to highlight the conduct of Syed Ayaz Hussain Shah, Chowkidar who attempted to defend the accused Officer and did not mention about the Secretary visit to the Directorate of Human Rights, asking of key etc.

I recommend that he may also be proceeded accordingly.

**Certificate:**

My Inquiry report consist of 6 pages all signed by me.

ATTESTED



*Adil Siddiq* 15/04/17  
Adil Siddiq

Director General Prosecution/Inquiry Officer.

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

Service Appeal No.261/2018

Mr. Noor Zaman Khattak District Attorney.....Applicant.

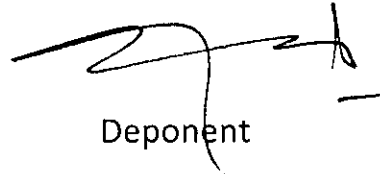
VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary Khyber  
Pakhtunkhwa and others

.....Respondents.

**AFFIDAVIT**

I, Mr. Muhammad Ismail Superintendent (Lit) Government of Khyber  
Pakhtunkhwa Law, Parliamentary Affairs and Human Rights Department, do  
hereby solemnly affirm and declare on oath that contents of Comments on behalf  
of Respondents No.1-3 are true to the best of my knowledge and belief that  
nothing has been concealed from this Hon'ble Tribunal.



Deponent

NIC No. 17301-0876331-9

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

**APPEAL No.261/2018**

**NOOR ZAMAN**

**VS**

**GOVT: OF KP**

**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE**  
**TO THE REPLY SUBMITTED BY THE RESPONDENTS**

**R/SHEWETH:**

**(A TO F):**

All the preliminary objections raised by the respondents are incorrect, baseless and not in accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the appeal.

**ON FACTS:**

- 1- Admitted correct by the respondents, hence need no comments.
- 2- Admitted correct to the extent of charge sheet and statement of allegation which was properly replied by the appellant and denied all the allegations leveled against the appellant while the remaining Para is incorrect and misconceived. That the charges leveled against the appellant have not been proved and as such in the mentioned inquiry the inquiry officer exonerated the appellant from the charges leveled against him. Moreover the appellant has been punished on baseless allegations. Copies of the relevant documents are attached as annexure ..... **R.**
- 3- Incorrect and not replied accordingly. That in response to the charge sheet and statement of allegation the appellant submitted his detailed reply along with documentary proofs but the respondents malafidely did not considered the same satisfactory and punished the appellant in hasty manner.
- 4- Incorrect and not replied accordingly. That after inquiry both the inquiry officers has exonerated the appellant from the charges and not recommended for punishment.
- 5- Incorrect and not replied accordingly. That no show cause notice has been served on the appellant and as such the appellant has been condemned unheard.
- 6- Incorrect and replied accordingly. That review petition of the appellant has not been properly examined and without touching the merits of the case the respondent No.1 straight

away issued the appellate order hereby the review petition of the appellant has been regretted.

- 7- Incorrect and not replied accordingly hence need no comments.
- 8- Incorrect and not replied accordingly hence need no comments.

**GROUND:**

**(A to M):**

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondent are incorrect, baseless and not in accordance with law and Rules. That the impugned order dated 18.10.2017 has been issued on the ground of baseless allegations which have not been proved against the appellant by the respondents. That appellant wa got involved in flimsy/concocted baseless allegation, which has no factual and legal backing. The inquiry report is worth, perusal. That it is pertinent to mention that during inquiry proceedings, the appellant have not been given opportunity/chance to cross examine the Secretary Law and other witness produced by the respondent Department. That it is clear violation of law and rules and according to the Qanun-e-Shahadat order 1984 cross examination of PW is mandatory.

It is therefore, most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may be accepted in favor of the appellant.

**APPELLANT**



**NOOR ZAMAN**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

**BEFORE THE CHAIRMAN SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA**

Service Appeal No: 261/2018

*Put up to the court  
with relevant appeal.* Noor Zaman.....VS.....Government

**APPLICATION FOR EARLY HEARING OF THE ABOVE TITLED APPEAL**

*24/9/18.*

Respectfully Sheweth:

- Read*
1. That the above mentioned appeal is pending before the Honorable Tribunal which is fixed for 29.10.2018.
  2. That upgradation process of the appellant is in process and due to pending of the instant appeal the same process would be suffered hence valuable right of the appellant is at risk.

It is therefore, requested that the application may kindly be accepted and an early date may kindly be fixed for hearing.

*Aktar  
on 16.10.2018. Be fixed.  
be given to the appellant  
for the new date.*

*24.9.2018.*

*S*  
Appellant *17.9.18*  
**Noor Zaman**  
District Attorney Labour  
Court, Peshawar

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 250 /ST

Dated 12-2- / 2019

To


The Secretary Law, Parliamentary Affairs and Human Rights Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 261/2018, MR. NOOR ZAMAN KHATTAK.

I am directed to forward herewith a certified copy of Judgement dated  
01.02.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.