


11.01.2023

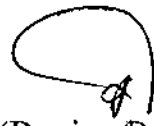
Appellant present in person.

Muhammad Riaz Khan Paindakhel learned Assistant Advocate General alongwith Ahmad Yar Khan A.D for respondents present.

Case was called time and again with direction to appellant to produce her counsel but despite efforts she failed to produce her counsel Asif Yousafzai Advocate and Noman Ali Bukhrai Advocate. Both counsel are given last chance for arguments on 06.02.2023 before D.B.

SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E)

  
(Rozina Rehman)  
Member (J)

06.02.2023

Junior to learned counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.

Former requested for adjournment on the ground that learned senior counsel for the appellant is busy before the Honourable Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 09.032023 before the D.B.

SCANNED  
SI  
Peshawar

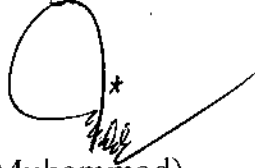
  
(FAREEHA PAUL)  
Member (E)

  
(ROZINA REHMAN)  
Member (J)

13.10.2022

Syed Noman Ali Bukhari, Advocate Junior of learned counsel for the appellant present. Mr. Ahmad Yar, Assistant Director alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Supreme Court of Pakistan. Adjourned. To come up for arguments before the D.B on 23.11.2022.



(Mian Muhammad)  
Member (E)



(Salah-ud-Din)  
Member (J)

23.11.2022

Junior of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Ahmad Yar, Assistant Director for the respondents present and submitted copy of enquiry record consisting of (298) pages, which are placed on file subject to all valid and legal objections. Copy of the same handed over to junior of learned counsel for the appellant, who requested for adjournment on the ground that learned counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 11.01.2023 before D.B.

SCANNED  
KFST  
Peshawar



(Mian Muhammad)  
Member (E)




(Salah-Ud-Din)  
Member (J)


21.07.2022

Junior to counsel for appellant present.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for respondents present.

Former made a request for adjournment as senior counsel is busy before august Peshawar High Court Peshawar. Adjourned. To come up for arguments on 28.09.2022 before D.B.

  
(Fareeha Paul)  
Member(E)


  
(Rozina Rehman)  
Member (J)


28.09.2022

Appellant alongwith counsel present.

Naseer Ud Din Shah learned Assistant Advocate General alongwith Ahmad Yar Focal Person for respondents present.

Both the parties were ready for arguments but Focal Person requested for adjournment in order to produce complete inquiry record in order to show real facts; allowed. To come up for arguments on 13.10.2022 before D.B.


  
(Fareeha Paul)  
Member (E)

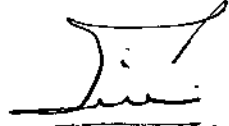
  
(Rozina Rehman)  
Member (J)

18.11.2021

Junior of learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned senior counsel is busy before the Peshawar High Court, Peshawar. Granted. To come up for arguments on 22.02.2022 before the D.B.

  
(Mian Muhammad)  
Member(E)

  
(Salah-Ud-Din)  
Member(J)

22.02.2022

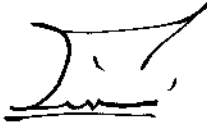
Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 19.05.2022 for the same as before.

  
Reader.

19.05.2022

Learned counsel for the appellant present. Mr. Sagheer Musharaf, A.D alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned Member (Judicial) Ms. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 21.07.2022 before the D.B.

  
(Salah-ud-Din)  
Member (Judicial)

28.01.2021 Due to pandemic of Covid-19, the case is adjourned to  
15.04.2021 for the same.

  
Reader

15.04.2021 Due to demise of the Worthy Chairman the Tribunal is  
defunct, therefore, case is adjourned to 09.07.2021 for the same  
as before.

  
Reader

09.07.2021 Nemo for appellant.

Muhammad Adeel Butt learned Additional A.G for respondents  
present.

Notice be given to appellant/counsel for 18.11.2021 for hearing  
before D.B.

  
(Rozina Rehman)  
Member(J)

  
Chairman

*Adel*  
*26-08-21*  
*Recd*  
*13-7-21*

20.07.2020

Junior counsel for appellant is present. Notices to respondents could not be issued due to public holidays on account of COVID-19, therefore, fresh notices be issued to the respondents for submission of written reply/comments. To come up for written reply/comments on 07.09.2020 before S.B.

(MUHAMMAD JAMAL KHAN)  
MEMBER

07.09.2020

Appellant alongwith counsel and Addl. AG alongwith Masroor Ahmad, Junior Clerk for the respondents present.

The respondents have furnished reply/comments which are made part of the record. To come up for arguments before D.B on 13.11.2020. The appellant may furnish rejoinder, within a fortnight, if so advised.

Alongwith the appeal an application for restraining the respondents from effecting recovery, required through impugned order, has also been submitted. Notice of the application be given to the respondents for the date fixed. In the meanwhile, the respondents shall not make the impugned recovery.

Chairman

13.11.2020

Junior to counsel for the appellant and Asstt. AG alongwith Masroor Ahmad, J.Clerk for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 28.01.2021 for hearing before the D.B.

(Atiqur Rahman Wazir)  
Member

Chairman

10.03.2020

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant has filed the present service appeal against the order dated 27.03.2019 whereby minor penalty of stoppage of one annual increment for three years was imposed upon the appellant moreover full recovery of the illegally/unauthorizingly collected amount was ordered. Vide office letter dated 28.11.2019 it was conveyed that departmental appeal filed by the appellant was filed.

Submissions made by the learned counsel for the appellant, need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 23.04.2020 before S.B.

10/3/20

  
Member

23.04.2020

Due to COVID19, the case is adjourned to 20.07.2020 for the same as before.




  
Reader

Form- A

FORM OF ORDER SHEET

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

Case No.- 335/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/01/2020	<p>The appeal of Mst. Roheela Malik resubmitted today by Mr. Muhammad Af Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 14/01/2020</p>
2-	15/01/20  23.01.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23/01/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Nemo for appellant. Notices be issued to appellant/counsel for preliminary hearing on 10.03.2020 before S.B.</p> <p style="text-align: right;">Chairman </p>

P-1



The appeal of Mst. Roheela Malik Warden RTI Abbottabad received today i.e. on 27.12.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

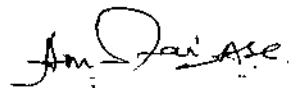
- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 5- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2256 /S.T,

Dt. 27/12 /2019.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Muhammad Asif Yousafzai Adv. Pesh.

Sir, All objections are removed and resubmitted  


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Appeal No. 335 /2020

Mst. Roheela Khan

V/S


Population Welfare Deptt:


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3.	Copy of Charge sheet	- A -	06
4.	Copy of statement of allegation	- B -	07
5.	Copy of reply	- C -	08-18
6.	Copy of finding	- D -	19
7.	Copy of show cause	- E -	20
8.	Copy of reply	- F -	21-30
9.	Copy of impugned order	-G-	31
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12.	Copy of rejection order	- J-	41
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APPELLANT  
Roheela Malik

THROUGH:

  
(M. ASIF YOUSAFZAI)  
Advocate, Supreme Court.

  
(SYED NOMAN ALI BUKHARI)  
Advocate, High Court

  
Taimur Ali Khan  
Advocate, High Court

①

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 335 /2019

79

Mst Roheela Malik, Warden BPS-12,  
Regional Training Institute (RTI), Abbottabad.

(APPELLANT)

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 2336

Dated 27/12/19

VERSUS

1. The Secretary Population Welfare Department, KPK, Peshawar.
2. The Director General, Directorate Population Welfare department, Peshawar.
3. The Principle, Regional Training Institute (RTI), ~~Peshawar~~ Peshawar.

(RESPONDENTS)

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APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 27.03.2019 COMMUNICATED TO THE APPELLANT ON 28.08.2019 WHEREBY THE MINOR PENALTY OF STOPPAGE OF INCREMENT OF ONE ANNUAL INCREMENT FOR THREE YEARS AND FULL RECOVERY @ 100 P.M /STUDENT HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST THE ORDER DATED 28.11.2019 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

Filed to-day

Registrar

27/12/19

PRAYER:

Re-submitted to -day THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER and filed. DATED 27.03.2019 AND 28.11.2019 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY BE DIRECTED TO

Registrar

14/01/2020

(2)

**RESTORE ONE ANNUAL INCREMENT OF THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS ALONG WITH SETTING ASIDE RECOVERY ORDER. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

**RESPECTFULLY SHEWETH:**

1. That the appellant was joined the Population Welfare Department in the year 1993 and has more than 20-Years Service at her credit with good service record throughout, except the impugned incident.
2. That while serving as Warden at Regional Training Institute (RTI), Hayatabad Peshawar, the appellant was served with a charge sheet & statement of allegations wherein various baseless charges were leveled against the appellant. **Copies of Charge Sheet and Statement of Allegations are attached as Annexure-A & B.**
3. That the appellant categorically denied all the allegations and submitted her detailed and well reasoned reply to the charge sheet. **Copy of reply to charge sheet is attached as Annexure-C.**
4. That thereafter, one sided inquiry was conducted in which neither statements of concerned persons were recorded in presence of appellant, nor the appellant was allowed to cross examined the concerned. **Copy of Inquiry Report is attached as Annexure-D.**
5. That then final Show Cause Notice served upon the appellant which was also properly replied and the appellant against denied all the allegations. **Copies of Final Show Cause Notice and reply are attached as Annexure-E & F.**
6. That then the impugned penalty order was passed on 27.03.2019 and as the appellant, in meanwhile, was transferred to Abbottabad, therefore, the same impugned order was communicated to appellant on 28.08.2019 her application. **Copies of order and communication letter are attached as Annexure-G & H.**
7. That the appellant filed departmental appeal on 19.09.2019, after communication of order on 28.08.2019, but the same was rejected for no good grounds on 28.11.2019. Hence, the present appeal on the following grounds amongst the other. **Copies of appeal and rejection order are attached as Annexure-I & J.**

**GROUNDS:-**

- A) That the impugned penalty order and final rejection order are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set-aside.
- B) That the appellant has neither given a chance to cross examine the evidence/persons nor any evidence was recorded in the presence. Thus the basic E&D Rules have been violated by the respondents.
- C) That even, chance of personal hearing was not provided to the appellant which was in violation of principle of justice and violation of statute also.
- D) That even the final rejection order is not a speaking order, which is in violation of Supreme Court's verdict report as 1991 SCMR-2330
- E) That even the inquiry committee did not observe E&D Rules, 2011 nor proved any guilt against the appellant beyond the shadow of doubt.
- F) That the appellant was not treated in accordance with Law, and Spirit of Article-10-A of the Constitution.
- G) That the previous complaints of the appellant were totally ignored which were submitted against the miscreant, hostilities.
- H) That all paras of reply to charge sheet and departmental appeal may also be considered as integral part of this service appeal.
- I) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

**APPELLANT**  
*Roheela Malik*  
Roheela Malik

THROUGH:

*M. Asif Yousafzai*  
**( M. ASIF YOUSAFZAI )**  
**ADVOCATE SUPREME COURT,**  
**OF PAKISTAN.**

**(TAIMUR ALI KHAN)**  
**ADVOCATE HIGH COURT**  
& *Syed Noman Ali Bukhari*  
**(SYED NOMAN ALI BUKHARI)**  
**ADVOCATE HIGH COURT**

(u)

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

Service Appeal No. \_\_\_\_\_/2019

Roheela Malik

V/S

Population Welfare Department etc.

**APPLICATION RESTRAINING THE RESPONDENT TO  
STOP RECOVERY FROM THE APPELLANT TILL THE  
DECISION OF MAIN APPEAL.**

**RESPECTFULLY SHEWETH:**

1. That the appellant has filed the instant appeal against the order dated 27.03.2019 whereby the penalty of stoppage of one annual increment for three years and recovery of money has been imposed upon the appellant in this august Service Tribunal in which no date is fixed so far.
2. That due to above mentioned penalty regular recovery has been made from the salary of the appellant.
3. That as the appellant has penalized without adopting proper procedure therefore stoppage of recovery from the appellant is necessary.

It is therefore most humbly prayed that on acceptance of this application the respondents may kindly be restrained to stop recovery from the appellant till the decision of main appeal.

**APPELLANT**

*R. Malik*  
Roheela Malik

THROUGH:

*M. Asif Yousafzai*  
**( M. ASIF YOUSAFZAI )  
ADVOCATE SUPREME COURT,  
OF PAKISTAN.**

**(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT**

*& N. Ali Bukhari*  
**(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT**

5

AFFIDAVIT

It is solemnly affirm that the contents of this application are true and correct  
nothing has been concealed from this august Tribunal.

*R. Malik*  
DEPONENT.

A (6)

[Faded text, likely the main body of a letter or report, containing several paragraphs of illegible content.]

required to provide a written defense within 17 days of the  
[Faded text]

Asst. Dir.  
Ph3  
Assistant Director (Admin)  
Population Welfare Department  
Khyber Pakhtunkhwa  
Peshawar.



B

07

## DISCIPLINARY ACTION

I, Fazal Nabi Khan, Director General, Population Welfare Department Khyber Pakhtunkhwa, as competent authority, am of the opinion that Miss. Roheela Malik, Warden (BPS-12), Regional Training Institute, Peshawar, has rendered herself liable to be proceeded against as she has committed the following acts/omission within the meaning of Rule-3 of the Khyber Pakhtunkhwa, Govt. Servants (Efficiency and Discipline) Rules, 2011:-

### STATEMENT OF ALLEGATIONS

- a) That she physically assaulted Miss. Qurat-ul-Ain and Miss. Sobia with curtain rod by hurting and bruising their arms and abuse them verbally.
- b) That she involved in collection of illegal funds from hostel students in the name of cleanliness, security and fines.
- c) That she use to take half stipend from Miss. Maimona student of senior batch and also took loans from students and never returned back.
- d) That she allow late entry of Chowkidar and Driver in the hostel without any reason.
- e) That she is involved in sexual harassment, blackmailing and character assassination of students.
- f) That she compelled students for homosexuality by inviting them for night stay at her room.
- g) That she threatened Miss. Sidra and Miss. Qurat-ul-Ain through fake ISI Captain i.e. Waqar Cell No. 03330060603 CNIC # 11101-6303913-5 and Mr. Zahir Ullah, Cell No. 03369739699 CNIC # 11101-3830038-9 of District Bannu to withdraw complaint and make settlement with her.
- h) That she has provided personal information regarding hostel students to unauthorized persons to blackmail and harass them.

2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/inquiry committee, consisting of the following, is constituted under Rule 10 (1)(a) of the ibid rules.

- i. Dr. Noor Afzal DPNE
- ii. Mr. Ghulam Farid DAEFC
- iii. Dr. Farina Basir DD(M)

3. The Inquiry Officer /Inquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, report within thirty days of the receipt of this order.

4. The accused and a well conversant representative of the Department shall join the proceedings on the date, time and place fixed by the Inquiry Officer / Inquiry Committee.

*[Handwritten signature]*

08

To,

The Inquiry Committee,

Subject: REPLY TO CHARGE SHEET

Dear Sir/Madam,

This is in reference to the subject noted above. Enclosed please find herewith the reply/defence of undersigned in response to the subject charge sheet in connection with Inquiry initiated vide office order F.No.4(21)/2018/Admn: dated Peshawar the 4/12/2018 8744-51 constituted by the Competent Authority under Rule 10(1)(a) of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules 2011, to probe the allegations of **Misconduct** against the undersigned.

Faithfully Yours,

*R. Roheela Malik*

Miss Roheela Malik, Warden (BPS-12),  
Regional Training Institute, Hayatabad,  
Peshawar.

Copy for information to the Inquiry Committee:

- 1- Director General, PWD, Peshawar.
- 2- Mr. Noor Afzal, Director (PME) PWD, Peshawar.
- 3- Mr. Ghulam Farid, Deputy Director (FWC), PWD, Peshawar.
- 4- Dr. Farina Basit, Deputy Director (Medical), PWD, Peshawar.
- 5- Principal Regional Training Institute, Hayatabad, Peshawar
- 6- Deputy Director (Admn) PWD, Peshawar.

*[Signature]*  
ATTESTED

9

To,

The Hon'ble Inquiry Committee,

Subject: Written Reply to the charge Sheet in Inquiry vide Office

Order No.F.No.4(21)/2018/Admn: dated Peshawar the 14/12/2018.

Respected Sir/Madam,

With reference to the subject noted above and charge sheet, I most humbly submit my Para wise replies for your kind perusal and consideration:

1. That, firstly, I want to bring the relevant fact on record that I have applied twice for providing the copies of all necessary documents of the preliminary Fact Finding Inquiry and the evidence related thereto, but my request has not been honored, therefore, the aforementioned replies are most humbly submitted on the basis of the charges mentioned in the charge sheet.
2. That the undersigned was appointed as instructor BPS-11 on 25-10-1993, in Regional Training Institute (hereinafter referred to as RTI), Population welfare Department, Peshawar, Khyber Pukhtunkhwa. Ever since my appointment I have always discharged my duties with zeal, zest and utmost dedication. Having devoted 25 precious years of my life to the RTI, I consider the hostel as my second home and the students as my children. During their stay at the hostel I have tried my level best to provide the students maximum comfort so that they would feel themselves at home and concentrate on study and learning.
3. That, it is necessary to mention that the propriety of relevant Rules requires that only the Competent Authority (Directorate General of Population Welfare) has the authority to initiate Fact Finding Inquiry in the matter in hand against the undersigned. The Fact Finding Inquiry, referred to in the charge sheet, was conducted against the undersigned on the order of the principal RTI, without the approval and recommendation of the Competent

ATTESTED

than on their entrusted responsibilities. This group has crippled the RTI Administration and the principal has become hostage of their proverbial palace intrigues. It merits mentioning here that Mrs. Naheed has already been caught red-handed while coercing one of her students in writing complaint against the principal during the class. But the principal couldn't dare take any action.

7. That, Ms. Qurat-ul-Ain, Miss Sobia and Miss Sidra has long licentious history of insubordination and disobedience ever since their admission in the hostel. Before the alleged incident, I had already filed various complaints against their contumacious conduct and involvement in various instances of Hostel Rules violation: late night video calling through their smart phones, meeting and outing with unauthorized and shady visitors other than family members, the arrival of expensive gifts (clothes etc) and food parcels from their **Friends** and paramours. These activities have been reported and recorded from time to time by me and the watchmen on duty. (The complaint register and evidence of the watchmen can be referred to as documentary evidence in support thereof).
8. That, on the date of the alleged incident, these students had arranged **WOOFER SPEAKERS** for their dance party in their room. They were dancing to the loud music after 12:00 a.m. I received complaints against their disturbance from the students as well as from the neighborhood. I went up to their room and found them hysterical, intoxicated and frenzied by the dance and music. I ordered them to stop the insanity. However, instead of paying heed and being ashamed of their recklessness, they started arguing and abusing me. During the heat of the moment they threatened me of baleful consequences. Miss Qurat-ul-Ain especially threatened me, in categorical terms that her friend, who is an Army Major, will make me disappear like the **MISSING PERSONS**.
9. That, the allegation of physical torture with curtain rod is also grotesque and travesty of the actual fact, added to spice up their false and deceptive version of the incident. Since they were already harboring grudges against me

TESTED

Authority; hence, the proceedings conducted in pursuance thereof are **void** **ab initio**, having no legal affect whatsoever upon the undersigned. Furthermore, the illegal inquiry was conducted through those RTI staff members, who are known for harboring grudges, hostility and biases against me. From the very beginning I vehemently but most humbly recorded my protest against the bias and partiality of the inquiry panel but in vain.

دافل

سرنا

پر زور طریق

بنیاد

بھوئے دستاویزات

4. That, at the very outset I vehemently denounce the charges as being wrong, false and fabricated; a bundle of consummate lies. These charges are based on malafide, ulterior motives and integral part of malicious campaign perpetrated to malign my reputation and spotless career. The replies to all the charges are as follows:

5. That, the charge at Para a. is wrong, concocted and against facts, hence, denied. The allegations of physical and mental tortures against Miss Qurat-ul-Ain and Miss Sobia are fake, frivolous and fictitious. The allegations are manufactured to malign and defame my character and reputation. The malicious story is part of witch hunt connived by some **staff members** of RTI. It is necessary to appreciate the actual facts behind the alleged incident.

6. That, I have 25 years of immaculate services as Warden of the RTI to my credit. There has never been any instance or complaint of misdemeanor or misdeed against me, either from the principal or the students. But ever since the arrival of Dr. Uzma, Mr. Basit and Mr. Amin to the RTI and the synchronization of their characters and devilish mentalities with Mrs. Naheed, they have now formed the axis of evil against me. This group of staff members is led by Mrs. Naheed. Due to their schemes and spiteful plots, this group of staff members has now started to portray me as the most evil person to have ever existed in RTI. They are the masterminds of this conspiracy. The complaint and the Fact Finding Inquiry is the epitome of their malafide and disgusting ulterior motives. These staff members are coercing the students to employ their sophisticated sleights. The complainant students are being obliged and given active support and protection by this group of staff members. Therefore, the complainant students have now developed the habit of flouting the discipline, rules and regulations of hostel with impunity. These staff members are more focused on hatching conspiracies behind closed doors

وامانگ امام وقت پر ثابت کرنا

Handwritten signature and stamp

and aggrieved of my discipline in the hostel, therefore, the facts of the alleged incident were twisted with the help of Mrs. Naheed, Dr. Uzma and Mr. Basit; hence, the present complaint. Had these students been hit with the curtain rod, they should have sustained **blunt injuries** or at least some **bruises**. There is no medical evidence on record proving that they had been subjected to physical torture or any kind of torture for that matter. These allegations are fictional and fanciful, having no independent and neutral eye witness to corroborate.

10. That, the charge at **Para b.** is wrong and against facts; hence denied. The allegation of collection of funds from students is baseless. As per direction of the principal of RTI all hostel students, after their arrival, contribute Rs.100 in the fund, specifically collected to purchase necessary items for their wash rooms etc. This fund is collected and maintained on the direction of the principal and it is being managed under her supervision. All the purchases are recorded in a dedicated register along with all receipts of the purchased items. Had there been any intention of embezzlement of the collected money, the record of its spending would not have been recorded along with receipts, (The register along with all receipts is available for perusal and reference).

11. That, the charge at **Para c.** is wrong and against facts, hence denied. The allegation of taking stipend from Ms. Mamoona and loan from students is also wrong, unfounded and without evidence. **Allahumdulilah** I belong to a well off respectable family. Besides, getting salary of more than Rs.50000/-, I have also inherited property, worth millions of Rupees and considerable amount of cash from my father. The allegation of embezzlement of few thousand rupees of stipend is absurd and baseless. The reality of the matter is that Ms. Mamoona was absent in the month of October and her stipend was handed over to me by the accountant to be given to her on her arrival. I return the same to her by obtaining a receipt as token of receiving her stipend. (The receipt in her own hand writing is annexed for perusal and reference). But unfortunately Mr. Basit twisted the episode. He called the student to his room and coerced her to distort the real facts.

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12. That, since his arrival, Mr. Basit has earned the reputation of **friendly teacher** only among charming students within a short span of time. Before his posting, the principal had received several complaints of his being a known womanizer and a person of lecherous character. Even though he was not officially part of the Fact Finding Inquiry, yet for the sake of Mrs. Naheed, he went at considerable length in collecting evidence against me and managed to put his signature on the Final Report of the Fact Finding Inquiry, though he was not authorized to do so. In short it is reiterated that the receipt of Ms. Mamoonah handed over to me, in her own handwriting, as aforementioned, is an ample proof of his malafide and evil endeavors to make the matter in hand controversial.
13. That, the charge at **Para No.d**, is wrong and against facts, hence denied. The allegation is ridiculous. A wicked person always sees wickedness in others. There is no cogent evidence that the chowkidaars or the driver have ever entered the hostel premises unnecessarily or without plausible and probable cause. The entry gate of the hostel is locked from the outside and inside, from evening till morning. Secondly, and most importantly, now RTI administration has installed CCTV cameras on every nook and corner of RTI, **especially** on the main entrance gate of the hostel. Every one going in and outside the hostel is being watched and recorded 24/7. The inquiry members may summon the record of these CCTV cameras and judge the veracity of the charge.
14. That, it is also necessary to mention that the employees in question are obliged under the direction of the principal to help me in taking care of the students in cases of emergencies, like taking the ailing ones to the hospital for emergency medical treatment and other emergencies like fixing problems of water, electricity, gas etc in the hostel at night. Whenever an ailing student requires medical checkup at night, the principal is always informed. Secondly, being in-charge of the hostel affairs I have to communicate with chowkidaars and drivers whenever it is necessary. My communication with these employees is part of my job description and the same is unavoidable. The chowkidaars and the driver do enter the hostel premises but only in cases of acute emergencies. The time and date of these emergencies are duly recorded

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by me in the register and intimated to the principal the next day. (The relevant register is available for perusal and reference).

15. That, the charge at **Para No.e** is wrong and against facts, hence denied. There is no iota of cogent and material evidence, oral or documentary, in support of the charge. It is worth mentioning that the complaint had no such allegation, nor was it the mandate of the Fact Finding Inquiry panel; nevertheless the biased panel extended its scope to their own liking and conducted the inquiry on these filthy and lewd charges. The intention behind this wickedness is to malign and damage my reputation. The allegation is the product of their filthy minds and a clear reflection of their malicious character and their brought up.

16. That, the Fact Finding Inquiry failed to substantiate the charge with credible evidence. I have always considered my students as my own children and have treated them with utmost motherly care, affection and benevolence. I have never thought of blackmailing, harassing or torturing my own children. I have always tried to provide them the environment where they could feel themselves at home. It is the reason that all senior and junior students have always unanimously supported my administrative role, discipline and discharge of duties as their warden. Therefore, I earnestly request the Inquiry Panel to seek the opinion of every student about my role as warden of the hostel.

17. That, the charge at **Para f** is wrong, horrendous and disgusting, hence denied. I belong to a conservative Pathan family and therefore, I am ashamed and deeply hurt to even discuss the disgusting word of *homosexuality*. The allegations are imputed without credible and substantive evidence. Since the honour of my whole family is at stake now, therefore, I most humbly request the Hon'ble Inquiry Committee to fulfill their **solemn obligation** and direct the Fact Finding Inquiry Members to furnish cogent evidence in support of this vile and obnoxious allegation. I also most humbly submit that I reserve the right to seek my remedy before The Federal Ombudsman through petition/complaint under section **8 of The Protection Against Harassment of Women At Workplace Act, 2010**, against the persons responsible.

Attested



rules and discipline. It is pertinent to mention that before the alleged incident, I confiscated two smart phones (iphone 7 and Nokia from Miss Sidra and Samsung smart phone from Miss Sobia; whereas before my inspection of the rooms, Miss Qurat-ul-Ain managed to return her smart phone to her boyfriend through watchman Shehreyar), however, Mrs. Naheed and Mr. Basit intervened. The same were immediately returned to them with impunity. This episode is yet another irrefutable proof of their clout among the RTI staff. The return of confiscated cell phones is a classic example of mockery of the rules and notifications.

25. That, thirdly, the allegation of threatening calls by *Fake ISI Captain CNIC No.11101-6033913-5 from cell No.0333-0060603 and Mr. Zahirullah CNIC No.11101-3830038-9 cell No. 0336-9739699* is bizarre and absurd. The allegation is without proof and childish. In this modern age of technology and social media, manipulating fake calls and messages can be easily achieved. Furthermore, I voluntarily request the Inquiry committee to summon the aforementioned person and take their statements for the purpose of arriving at a just decision. These students openly and proudly brag among their fellow students about keeping a long list of circle of friends of various categories. Keeping their character and reputation in view, it is quite an easy task for them to ask one of their **friends** to call them and stage the drama of threatening calls from my side.

26. That, the charge at **Para h.** is wrong, absurd and preposterous; hence denied. It is relevant to mention that I have ensured strict implementation of the rules regarding prohibition on keeping cell phones. I have time and again confiscated the cell phones and deposited the same with the principal. But the management always gives in to the pressure and influence of interested parties and always returns the phones immediately; hence, taking benefit of such relaxation now almost all students are illegally in possession of their own cell phones.

27. That, it is needless to mention that the students and officials of RTI know the personal information and cell numbers of every other student. Therefore, it is not a rocket science to conceive that anyone can pass on the desired information to the interested party and, put blame on the other. Keeping in

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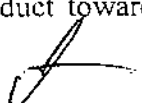
my family, the principal and staff concerned. Instead of keeping her house in order, Mrs. Nahced openly declared me responsible for bringing up the evil deeds of her husband in public and threatened me of baleful consequences; hence the frivolous complaint on her behest and the resultant biased inquiry.

21. That, secondly, besides poking her **long-crooked-nose** in other hostel affairs, she, being the class teacher, regularly forces her students to come to her house in the garb of attending **MILAD function**. However, in fact they are coerced to do the household chores like cleaning, washing carpets and clothes etc for her. All this is done in the presence of her young husband, who, of course, is a jobless individual. I have always forbidden the students to refrain from visiting her house. However, these helpless students have no option but to obey her orders because the refusal would earn them her hostility and would ultimately cost them their study in the class.

22. That, the charge at **Para g** is wrong, hence denied. It is one of the mandatory rules for all the students not to possess cell phones during their stay at the hostel. This rule is not only written in the admission form of the hostel but has been reiterated from time to time through official notices. The hostel admission form is read and understood by the students and their parents before it is signed. The signing of admission form implies that the student shall abide by the rules and regulations of hostel during their stay. For communication with their parents and spouses, the facility of official landline is available.

23. That, the allegation is self contradictory for various reasons. Firstly, both these students are not legally allowed to possess cell phones in their custody. The possession of cell phone is illegal; therefore, any allegation of receiving calls on these illegal phones and other things related thereto is **inadmissible in evidence**.

24. That, secondly, the possession of cell phones with Miss Sidra and Miss Qurat-ul-Ain is yet another proof of their licentious conduct towards hostel

  
**Attested**

18. That, it is also submitted with due reverence that as per requirements of **ISLAMIC LAW**, the Hon'ble Inquiry Committee are under the obligation to direct the Fact Finding Inquiry Members to produce the person with whom I have allegedly committed the despicable act of homosexuality/*Zina* or as an alternative they are liable to produce at least **Four witnesses** who have seen the commission of the act of homosexuality/*Zina* with their **own eyes**. Otherwise this atrocious allegation is a potential case of **Criminal Proceeding** (registration of FIR) under the **Islamic Law of Qazf** against all those who are the perpetrators of this malicious campaign.
19. That, as mentioned before, even though this allegation was not the subject and scope of the complaint or inquiry, Mrs. Naheed, Dr. Uzma and Mr. Basit showed keen interest in this lecherous topic of homosexuality. During the course of inquiry particularly the questions of Mrs. Naheed were mostly focused and based on sex and homosexuality. When I asked her how a person could possibly think of this shameful act, she took great pleasure in enlightening me on the intricacies and associated pleasures of homosexuality. During the course of Inquiry her appetite and passion for discussion on this obscene topic was clearly visible in her eyes. It is an open secret that Mrs. Naheed was known for her hyper salacious desires in her early days. But now due to her old age these desires have turned into sexual frustration. She is suffering from **Post-Menstrual-Disorder-Depression**. She is a mentally sick and retarded lady and definitely in need of **Clinical-Psychiatric-Sexual-Therapy**. Having crossed the age of 50 and married to a 25 year old man, her sexual frustration is understandable and justified.
20. That, the reason of her hostility towards me has a background and the same needs to be understood in regard to her strained relationship with her young husband. Since she is unable to adequately perform her marital obligations, therefore, her husband has now started looking outside his house. Being our neighbor, he used to sexually harass me by sending me obscene and abominable massages and pictures along with a marriage proposal. I immediately halted his lascivious advances and brought it into the notice of

view, the factual aspect of the matter I am sure that the inquiry committee is mature enough to judge the veracity of the charge and decide the same.

28. That, I also want to be heard in person.

29. That, keeping in view the aforementioned defence against the subject charge sheet, I most humbly request that the same charges be declared baseless and without cogent and material evidence. The charge sheet may be set aside and dropped. It is further earnestly requested that while exonerating the undersigned from the charges, the subject inquiry be closed and filed forthwith without any further action. At the same time I further submit that having found the subject inquiry as bundle of consummate lies, the complainant students along with their schemers and masterminds shall be proceeded against in accordance with law.


Faithfully Yours,



Miss Roheela Malik,

Warden (BPS-11), Regional Training

Institute (RTI), Hayatabad, Peashawar.

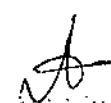
  
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FINDINGS

From the aforementioned proceedings and after examining verbal and written statements of complainants, accused Miss. Roheela Malik, Warden RTI Peshawar, staff members including Faculty & Chowkidars, Drivers and Principal RTI, Dr. Sadia Nawab were cross examined and the following findings were drawn.

- i. From the verbal and written statements of the complainants, personal hearing and written defense of the accused, statements of Principal RTI, faculty members, other hostel students, it has become proved that the accused Miss. Roheela Malik, has committed "physical assault" upon Miss. Qurat Ul Ain & Miss. Sobia Junior Class students of FWW Basic Training Course. Further that according to accused; the complainants Miss. Qurat Ul Ain, Miss. Sobia and Mrs. Sidra Amir Khan have long licentious history of insubordination, disobedience, violation of hostel rules, meeting and outing with unauthorized and shady visitors other than family members, receiving expensive gifts and food Parcels from their friends and paramours. Question arises that why such kind of illegal actions of students have not been reported to principal and why a timely disciplinary action has not been taken. This proved that Mrs. Roheela Malik has become personal and is blaming students, faculty members.
- ii. Miss. Roheela Malik has mentioned in her verbal and written statements that she is receiving Rs 100/- from each student upon their arrival in the hostel for purchasing necessary items for washroom cleanliness. That this fund is maintained on the direction of the principal and it is being managed under her supervision, however upon confirmation from Dr. Sadia Nawab Principal RTI Peshawar, she responded that no such direction has been given in this regard. Dr. Sadia further stated that once I have inquired from the said warden regarding collection of this fund, she replied that the said practice is in vogue since past and it is being used for petty purchases like replacing bulbs, tube lights being broken by hostel students and wash room cleanliness. So it is hereby proved that warden is collecting Rs.100/- per month from each student and administration is aware of the situation.
- iii. It has also been observed that Miss. Roheela Malik has received half stipend of Miss. Maimoona, student of senior class when she was on leave but later on the said amount has been returned, hence allegation in this regard has not been proved.
- iv. Entry of Chowkidars and drivers in the hostel was not found proved and not supported by any evidence.
- v. Sexual harassment, blackmailing, providing personal information of students to unauthorized persons, character assassination of students and allegation of homosexuality is also not supported by any kind of evidence and therefore not proved.

  
Principal

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### SHOW CAUSE NOTICE

1, Fazal Nabi Khan, Director General, Directorate General, Population Welfare Khyber Pakhtunkhwa, as competent authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve you, Miss. Roheela Malik, FWC (BPS-12) posted as Incharge Warden Regional Training Institute, Peshawar as follow:-

1. (i) That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide communication No. 4(21)/ 2018/Admn dated 14.12.2018; and
- (ii) On going through the findings of the inquiry report, the material on record and other connected papers including your defense before the inquiry committee,-

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

- (a) That you while posted as Incharge Warden Regional Training Institute, Peshawar has physically assaulted Miss. Qurat-ul-Ain and Miss. Sobia, Junior Class Student of FWW Basic Training course.
- (b) That you were in practice of illegally and un-authorizedly grabbing/collecting Rs. 100/Month from each Student on the pretext of purchasing items for washroom cleanliness.

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

- (1) Stoppage of one Annual Increment for three years
- (2) Full recovery of the illegally/unauthorizedly collected Rs. one hundred per month from the students/trainees residing in hostel during your period as I/c warden.

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

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

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

*[Signature]*  
**ATTESTED**

*[Signature]*  
27/2/19  
COMPETENT AUTHORITY

F (21)

To,

The Director General, Directorate General,  
Population Welfare KPK (Competent Authority),


Subject: Written Reply to the show cause notice dated 7.02.2019 qua  
Inquiry vide Office Order No.F.No.4(21)/2018/Admn: dated  
Peshawar the 14/12/2018.

Respected Sir,


With profound deference, before submitting my reply to the subject show cause notice, it is pertinent to bring on record some of the **legal** and **procedural** lapses and irregularities committed by Inquiry Committee.

The legal objections on the subject Inquiry are as under:

1. That, I received the subject show cause notice and only the findings of the Inquiry committee on 3<sup>rd</sup> of March 2019.
2. That, to begin with I strongly denounced and excoriated the findings of the Inquiry Committee at Para I & II of their report.

  
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3. Firstly, before advertizing to the charges allegedly proved against me, I am legally obliged to bring into your kind notice that the proceeding conducted by the Inquiry Committee, is festering with glaring illegalities and procedural irregularities. From the beginning, the conduct of the Inquiry committee was discriminatory and partial. It is unfortunate to note that the Inquiry Committee started the proceedings with preconceived notion. So much so that they impliedly condemned me before they even started to collect the evidence.
4. Secondly, it is an undisputed fact that the Competent Authority compelled me to submit my defence without providing me the copies of the relevant record of the Fact Finding Inquiry constituted by the **illegal order of principal RTI** (the statement of the witnesses and the report of fact finding inquiry). As per plethora Judgments of the August Supreme Court of Pakistan, it was my fundamental right to be provided all the record before submitting my defence. It is on record that I had recorded my protest against the illegal status, manner and mode of the Fact Finding Inquiry. But still I applied for its record to submit my defence, through application dated 6<sup>th</sup> of December 2018, but I was refused by your office vide letter dated 14.12.2018.
5. Thirdly, in order to ensure transparency and fairness, the subject Inquiry committee was legally obliged to ensure my participation at every stage of the proceedings of the inquiry and to provide me the list of witnesses (as per requirement of **Rule 10(2)** KPK Government Servants Efficiency and


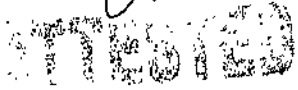
  
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Discipline Rules, 2011), before they were called to record their statements.

But instead, the Inquiry Committee chose to conduct each and everything behind closed doors; one sided and in my absence.

6. Fourthly, the fact that I was illegally ousted from the RTI premises and sent home, without any suspension order, is very well within your kind knowledge. The Inquiry committee made it sure to keep its visits and proceedings secrete. I was neither officially informed about the visit of the Inquiry committee to the RTI nor allowed to witness the proceedings. The report of the Inquiry committee is self evident that it has violated Rule 10(4) of KPK Efficiency and Discipline) Rules, 2011, by **recording the statements of the witnesses in my absence. Furthermore, I was not given the opportunity to cross examine the witnesses** (as per requirement of Rule 11(1) of KPK Efficiency and Discipline) Rules, 2011). **Similarly none of the statements of these witnesses has been recorded on oath.** These lapses has resulted into miscarriage of justice and caused prejudice to the undersigned. As per numerous judgments of the August Supreme Court of Pakistan it is fundamental right of every accused-employee and solemn duty of the Inquiry members/committee that **the entire inquiry proceeding shall be conducted in the presence of the accused employee.** It is also a settled principle expounded by the Apex Court that Inquiry proceedings **conducted in the absence of the accused employee is illegal and defective.**

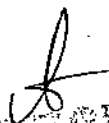
7. It is held by the August Supreme Court of Pakistan in its worthy judgment reported in 1997 SCMR 1073 that "Enquiry proceedings against civil servant---Person facing enquiry had right to be associated with its proceedings and entitled to impeach credit of witnesses produced against him through cross examination---Where neither civil servant was associated with enquiry proceedings nor he was allowed opportunity to cross-examine witnesses produced against him, enquiry proceedings and consequential order regarding his dismissal suffered from inherent legal defects---In view of the situation that inefficiency and total ignorance of person appointed as Enquiry Officer entailed unnecessary litigation between the parties Supreme Court directed that departments should make sure that person being appointed as Enquiry Officer is fully conversant with relevant rules so that unwarranted harassment could be averted."
8. Fifthly, it is astonishing to note the Inquiry committee adopted a novel procedure of selecting the witnesses through secret balloting ( ). This method of **random selection of witnesses from senior and junior students** is alien to the establish principles and norms of equitable justice, therefore, this anomaly alone is enough to declare the findings of the subject Inquiry Committee null and void.
9. Sixthly, Inquiry Committee has deprived me the opportunity to produce evidence in defence. It is undeniable right of every accused person to produce evidence in defence after the prosecution closes its evidence. This gross irregularity and anomaly is a sufficient proof of the fact that the Inquiry Committee was in no mood to hear my version of the alleged incident.



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Now adverting to factual objections against the charges allegedly proved and mentioned in the subject show cause notice, I most humbly submit that again I have not been supplied the copies of the witnesses' statements (recorded in my absence). Nevertheless, in compliance with the directions of your good self, my Para wise reply against the findings of the Inquiry Committee at Para I & II thereof is as follows:

- I. That it is held in Para I of the findings that based on "*the verbal and written statements of the complainant, personal hearing written defence, statement of the Principal of RTI other faculty members of RTI and hostel students the allegation of physical torture has become proved.*"
- II. Both the complainant students and the faculty members have not recorded their statements in my presence nor did I have the opportunity to cross examine them. It is fundamental principal of Qanun-e-Shahadat Order 1984, "**that the veracity and truthfulness of a witness shall be not become established unless he is cross examined by the defence.**"
- III. Ms Qurat-ul-Ain Miss Sobia and Miss Sidra have licentious history of insubordination and disobedience ever since their admission at the hostel. Before the alleged incident I and the watchmen of the hostel had already filed various complaints against their contumacious conduct and involvement in various instances of Hostel Rules violation.
- IV. As I have already stated in my defence that there is no **medical evidence** on record to prove that they had been subjected to physical torture or any

  
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kind of torture; for that matter. Had they been beaten with curtain rod the complainant students should have sustained **blunt injuries** or at least some **bruises**. The allegations of physical torture are, thus, bundle of consummate lies. They are fictional and fanciful; having no independent and neutral eye witness to corroborate.

- V. The findings of the Inquiry Committee qua the charge at Para I are not based on any medical evidence or ocular account. The reason that the allegation of physical torture was excogitated can be gauged from the fact that there is not even a single eye witness to corroborate the baseless allegation, even though at the time of alleged incident there were sixty students present in the hostel. How it is possible that these three students were subjected to physical torture with a curtain rod in the presence of sixty students but there is no eye witness of the occurrence?
- VI. As per Para I of the findings of the Inquiry Committee "*that why such kind of illegal actions of students have not been reported to principal and why a timely disciplinary action has not been taken. This proved that Mrs. Roheela Malik has become personal and is blaming students, faculty members.*"
- VII. The above assessment and conclusion of the Inquiry committee is ludicrous and absurd to say the least. I have no doubt that you being an experienced and senior Civil Servant must be well aware that **the Principal of RTI is the sole authority to initiate disciplinary action against the students regarding hostel Rules violations.** Perhaps the learned Inquiry Committee is oblivious of the relevant Rules of disciplinary

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proceedings against the students. **I being in-charge of the hostel have no authority to start disciplinary proceedings against any student in case of hostel rules violation.** My job is to inform the principal of RTI in writing; which I did. The complaint register duly signed by the principal is available in support of my reply. Before the alleged incident, the watchmen of the hostel had incessantly filed complaints against these students to the principal of RTI. But no action was taken. For the sake of discussion if it is considered that "*I have become personal in highlighting their disobedience and rules violation.*" Then the propriety the rules requires the Inquiry Committee could have at least investigated the complaints of hostel watchmen against these students. There is absolutely nothing in the findings of the Inquiry report regarding the complaints of watchmen. This conduct of the members of the Inquiry Committee is an undeniable proof of the fact that instead of doing justice the members were bent upon convicting me by hook or by crook. The manner and mode of the Inquiry clearly shows that the members of the Committee have proved themselves **to be more loyal to the king than the king himself.**

VIII. In regard to the findings at Para II of the Inquiry Committee, suffice it to mention that they are based on surmises and conjectures. It is golden principle of law that **facts had to be proved and not presumed** particularly when the case is to award punishment to the accused. It is admitted by the Inquiry Committee that Dr. Sadia Nawab the principal of

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RTI is aware of the practice of collection of Rs. 100/- from students upon their arrival for the purpose of purchasing necessary items for washroom cleanliness, replacing blubs tube lights etc. **The logical question here is that if the principal knew that the collection of fund is illegal then why she chose to keep silent and let me do the illegal collection?**

- IX. It is needless to mention that RTI administration is officially responsible for providing maintenance fund for hostel. The real story behind the matter is that I had relentlessly informed Dr. Sadia Nawab the principal of RTI about the need to do maintenance work in hostel premises. She categorically stated to me that the department has stopped providing the maintenance fund for the hostel therefore; the students shall make their own contribution.
- X. The fund was collected in accordance with the directions of Dr. Sartaj the former principal (her verbal direction & approval of collecting the fund is recorded vide audio tape). Similarly Dr. Sadia Nawab, (the present principal) has been in the knowledge of collecting the fund from the start as held by the Inquiry Committee in its findings. I was ordered to keep the register and the receipts of the purchased items. Accordingly the register was maintained and checked by the principal regularly. I also produced the register before the Inquiry Committee. It was thoroughly perused and checked but it is very unfortunate to note that the Inquiry Committee did not utter a single word in this regard in their report. The register is still available for ready reference and perusal.

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- XI. The complicity of Dr. Sadia Nawab principal of RTI by impliedly approving the practice of collecting the fund is clearly mentioned by the Inquiry committee in their words "*so it is hereby proved that warden is collecting Rs. 100/- per month from each student and administration is aware of the situation*". Be that as it may, how can I be made scapegoat for the consequences of an illegal order issued by the head of the institute. I being employee of inferior grade was only following the directions of the head of the Institute and had no knowledge that whether the order of collection of Rs. 100/- is legal or otherwise.
- XII. That, I also want to be heard in person.
- XIII. That, according to Article 10-A of The Constitution of Islamic Republic of Pakistan, 1973, the opportunity of fair trial had not been afforded to the undersigned. The whole proceeding of the subject Inquiry is lopsided, biased and conducted in my absence. I have been deprived of my right to cross-examine the witnesses. I have not been allowed to produce evidence in my defence. In this view of the matter it is abundantly clear that the principles and procedure of due process of law and fair trial had not been followed.
- XIV. Thus keeping in view the aforementioned Para wise reply against the subject Show Cause Notice and the charges at Para No. I & II of the findings, it is most humbly submitted that the lapses, irregularities and omissions committed by the Inquiry Committee is in total violation of the principle of natural justice enshrined in the maxim: "**audi alteram partem**". I most humbly prayed that the findings of the Inquiry Committee be declared null.

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and void being based on discrimination and prejudice, therefore, the proposed punishment may be annulled and the undersigned be exonerated from all the charges.

R. Malik

Faithfully Yours,

Miss Roheela Malik, Warden (BPS-12),  
Regional Training Institute (RTI),  
Hayatabad, Peshawar.

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
DIRECTORATE GENERAL POPULATION WELFARE  
Plot No. 18, Sector E-8, Phase-VII, Hayatabad, Peshawar  
\*\*\*\*\*

Dated Peshawar the 27/03 2019.

OFFICE ORDER

F.No.4(21)/2017/Admn/KC:- Whereas, Miss Rohila Malik, previously posted as Warden (BPS-12) in R.T.I, Peshawar was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the statement of allegations;

AND WHEREAS, inquiry committee comprising of Mr. Noor Afzal, Director (PME), Mr. Ghulam Farid, Dy. Director (FWC) and Dr. Farina Basit, Dy. Director (Medical) was constituted to conduct inquiry against the said official for charges leveled against her in accordance with rules;

AND WHEREAS, The inquiry committee, after having examined charges, evidence on record and explanation of the accused official, submitted their report.

AND WHEREAS, on the basis of findings of the inquiry committee, Show Cause Notice was serve upon the accused official to which she replied;

NOW, THEREFORE, The Competent Authority after having considered the charges, evidence on record, findings of the inquiry officer, the explanation of the accused official to the Show Cause Notice & hearing her in person on 21/03/2019 and exercising the powers under Rule-14 (5) (ii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 has been pleased to impose minor penalty of stoppage of one annual increment for three years & full recovery of the illegally/unauthorizingly collected amount @ Rs. One hundred per month from the students/trainees residing in the Hostel during period as Incharge Warden upon Miss. Rohila Malik, Warden (BPS-12) with immediate effect.

(Director General)  
Population Welfare Department  
Khyber Pakhtunkhwa  
Peshawar.

Copy to:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Principal, R.T.I, Peshawar with the request that as per direction of the Competent Authority, "calculation be made @ Rs. 50/- Per month trainee for the period of her stay as warden before 2016 and @ Rs.100/- per month per trainee for the period there after" and submit report to this office within 03-days positively for further necessary action please.
3. Director Technical, Directorate General of Population Welfare, Peshawar.
4. PS to Director General, PW, Khyber Pakhtunkhwa, Peshawar.
5. Accountant (fiscal), R.T.I, Peshawar for necessary action.
6. Official concerned for compliance.

Assistant Director (Admn)

**ATTEST**

27/03/19

Communicated on 28.03.2019

**REGISTERED**

(39)

M

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/4647-49

F.No.4(21)/2018/Admn  
Dated Peshawar the 22/8/2019.

GOVERNMENT OF KHYBER PAKHTUNKHWA  
DIRECTORATE GENERAL POPULATION WELFARE  
Plot No.18, Sector E-8, Phase-VII, Hayatabad, Peshawar

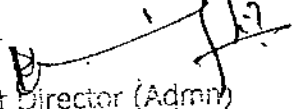
To

Miss. Roheela Malik  
Warden (BPS-12)  
C/O Principal, R.T.I, Abbottabad.

Subject: - PETITION FOR COPY OF FINAL ORDER OF INQUIRY OFFICE  
ORDER NO.F.NO4(21)/2018/ADMN DATED:04/12/2018.


I am directed to refer to your application dated:17/08/2019 on the subject noted above and to state that final outcome of the inquiry conducted against you has already been communicated to you through DAK & Principal, R.T.I, Abbottabad vide letter No.1(1) RTI-2019/977-90 dated:31/07/2019 wherein your signature on the receipt clearly tells the story.


However copies of the both correspondence are re-enclosed as per your request.

  
Assistant Director (Admn)

Copy to:-

1. Principal, R.T.I, Abbottabad with the request to properly handover the requisite information to the official concerned & receipt in this respect be sent to this Directorate please.
2. P.S to Director General, PW, Khyber Pakhtunkhwa, Peshawar.

  
Assistant Director (Admn)

  
ATTESTED

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D.A. 19.9.19.

I  
LAST DATE  
30/12/19

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**Before The Secretary Population Welfare Department,**  
**Khyber Pakhtunkhwa, Peshawar (Appellate Authority).**

**THROUGH PROPER CHANNEL.**

Subject: Departmental Appeal/presentation of Miss Rohecla Malik, Warden (BPS12), Regional Training Institute (RTI), Abbotabad (appellant) against the impugned Order F.No. 4(21)/2017/Admn/KC dated Peshawar the 27.03.2019 of Director General Directorate General Population Welfare Department Khyber Pakhtunkhwa, Peshawar whereby he has imposed minor penalty of stoppage of one annual increment for three years and full recovery of the illegally/unauthorizingly collected amount @ Rs. One hundred per month from the students/trainees residing in the Hostel during period as in-charge Warden with immediate effect.

**PRAYER:**

Respected Sir,


On acceptance of this departmental appeal, the Order of Director General Directorate General Population welfare Department Khyber Pakhtunkhwa vide Endst. No. F.No. 4(21)/2017/Admn/KC dated Peshawar the 27.03.2019 (impugned order) whereby minor penalty of stoppage of one annual increment for three years and full recovery of the illegally/unauthorizingly collected amount @ Rs. one hundred per month from the students/trainees residing in the Hostel during period as in-charge Warden with immediate effect was imposed against the appellant. The impugned order being illegal and against facts may kindly be set-aside along with any other relief which your honour may graciously deem proper and fit in the circumstances,

*J*  
**ATTESTED**

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**BRIEF FACTS:**


1. The appellant was appointed as warden BPS-11 on 25-10-1993, in Regional Training Institute (RTI), Population welfare Department, Peshawar, Khyber Pukhtunkhwa. Ever since my appointment I have always discharged my duties with zeal, zest and utmost dedication.
2. On 5<sup>th</sup> of October 2018 a frivolous complaint was filed by two students/trainees before the principal RTI, Hayatabad Peshawar, alleging therein physical and mental torture. The principal constituted probe committee vide letter/Notification No. 2(15)/87/RTI488 dated 5<sup>th</sup> Oct, 2018 *to probe the matter*. It is very important to note that the principal RTI had **no authority** to constitute inquiry committee into the matter because the authority lies with Director General Population Welfare Department KPK.
3. After completion of the illegal inquiry, the probe committee sent its report to the competent authority. It is disappointing to note that the competent authority, instead of rejecting the illegal report, decided to constitute a formal inquiry vide office order No. F.No.4(21)/2018/Admn: dated Peshawar the 4/12/2018.
4. The students/trainees had only imputed physical/mental assault/torture against the appellant but when the charge sheet was received it was astonishing to know that it contained eight allegations. Some of them were extremely filthy and lewd, to say the least. The allegations in a nutshell are as follows:
  - a) That the appellant assaulted Miss Qurat-ul-Ain and Miss Sobia with curtain rod by hurting and bruising their arms and abuse them verbally.
  - b) That the appellant use to take half stipend from Miss Maimona student of senior batch and also took loans from students and never returned back.

  
**ATTESTER**

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- c) That the appellant is involved in sexual harassment, blackmailing and character assassination of students.
  - d) That the appellant compelled students for homosexuality by inviting them for night stay at her room.
  - e) That she threatened Miss. Sidra and Miss. Qurat-ul-Ain through fake ISI Captain i.e. Waqar Cell No.0333-0060603 CINC No.11101-6303913-5 and Mr. Zahir Ullah Cell No. 0336-9739699 CINC No. 11101-3830038-9 of district Bannu to withdraw complaint and make settlement with her.
  - f) That the appellant has provided personal information regarding hostel students to unauthorized persons to blackmail and harass them.
5. The charges mentioned at Para d, e & f were the figment of competent authority's imagination. These charges had no reference with the complaint.
  6. The formal inquiry was conducted against all norms of justice and fairness. Since the charges at Para d, e, & f were baseless, therefore, the appellant was completely exonerated by the inquiry committee. However, the inquiry committee held that they have found the appellant guilty of the charge of physical assault and unauthorized collection of fund of Rs. 100 from the students. Their findings are clearly based on presumptions, surmises and conjectures.
  7. The competent authority served show cause notice upon the appellant on 3<sup>rd</sup> of March 2019. The appellant submitted reply to the show cause notice wherein the illegalities and irregularities of the inquiry were highlighted in detail. But the competent authority being premeditatedly determined to condemn the appellant; was not impressed.
  8. On 27.03.2019 the appellant was declared guilty and convicted of imposing minor penalty.
  9. The competent authority has been biased and prejudiced towards the appellant since the inception of the inquiry. Under section 17(1) Khyber Pakhtunkhwa Government

  
ATTORNEY

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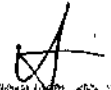
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Servants (Efficiency and Discipline) Rules, 2011, the competent authority was obliged to *officially communicate* the verdict of the formal inquiry to the convict. The hostility of the competent authority can be reflected from the fact that the inquiry was decided on 27.03.2019 and the decision was kept secret from the appellant till 23.07.2109. The letter No.F.No.4(21)/2019/Admn dated Peshawar the 23.07.2109 was issued to principal RTI Abbottabad wherein it was directed to recover Rs.170,000/- from the appellant. The appellant immediately applied for the official copy of the decision in order to seek her legal remedies. Instead of providing the copy of the impugned order forthwith the competent authority reprimanded the appellant and directed to submit explanation for violating the code of conduct etc.

10. Both the inquiries i.e. probe committee vide letter No. 2(15)/87/RTI488 dated 5<sup>th</sup> Oct 2018 and the formal inquiry constituted vide letter No. F.No.4(21)/2018/Admn: dated Peshawar the 4/12/2018 were conducted in cursory and whimsical manner and thus both the proceedings are completely against the established rules and procedure provided by Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. The appellant being aggrieved of the impugned order has decided to file the departmental appeal in hand on the following grounds.

**Grounds:**

1. That the impugned order is wrong, illegal and void ab-initio.
2. That the foundation of the inquiry is based on mala fide and ulterior motives, therefore, liable for rejection. The principle RTI Hayatabad had no authority to

  
**ATTESTED**

(37)

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constitute fact finding inquiry vide letter No. 2(15)/87/RTI488 dated 5<sup>th</sup> Oct, 2018, without getting prior permission from the competent authority.

3. That despite having knowledge of the illegalities and material irregularities being committed by the principal RTI Hayatabad in constituting the fact finding inquiry the competent authority endorsed its report and constituted the subject formal inquiry. The decision of the competent authority shows his bias and prejudice against the appellant.
4. That the appellant was compelled by the Competent Authority to submit defence without providing the copies of the relevant record of the Fact Finding Inquiry (the statement of the witnesses and the report of fact finding inquiry). I applied for the record to submit my defence, through letter dated 6<sup>th</sup> of December 2018, but I was refused vide letter dated 14.12.2018.
5. That in order to ensure transparency and fairness, the subject Inquiry committee was legally obliged to conduct the whole proceedings of the inquiry in the **presence** of the appellant and to provide the list of witnesses, before they were called to record their statements. But instead, the Inquiry Committee chose to conduct each and everything behind closed doors; one sided and in my absence.
6. That the statements of all the witnesses were recorded in the absence of the appellant. Furthermore, the appellant was also deprived of the opportunity of cross examining the witnesses (as per requirement of Rule 11(1) of KPK Efficiency and Discipline) Rules, 2011). Similarly none of the witnesses recorded their statements on oath. These lapses and irregularities have resulted into miscarriage of justice and caused prejudice to the appellant.

  
ATTESTED

7. That as per numerous judgments of the August Supreme Court of Pakistan it is fundamental right of every accused-employee that the entire inquiry proceeding shall be conducted in the presence of the accused-employee. It is also a settled principle that Inquiry proceedings conducted in the absence of the accused employee is illegal and defective.
8. That it is astonishing to note the Inquiry committee adopted a novel procedure of selecting the witnesses through secret balloting ( ). This method of random selection of witnesses from senior and junior students is alien to the establish principles and norms of equitable justice, therefore, this anomaly alone is enough to declare the findings of the subject Inquiry Committee null and void.
9. That the Inquiry Committee has also deprived the appellant the opportunity to produce evidence in defence. This irregularity is sufficient proof of the fact that the Inquiry Committee was in no mood to hear my version of the alleged incident.
10. That both the complainant students and the faculty members have not recorded their statements in my presence nor did I had the opportunity to cross examine them. Ms Qurat-ul-Ain Miss Sobia and Miss Sidra have licentious history of insubordination and disobedience ever since their admission at the hostel. The appellant and the watchmen of RTI Peshawar had already filed numerous complaints against them. In order to take revenge these students stage the drama of physical assault etc. (The complaint register is a ready reference).
11. That there is **no medical evidence** on record to prove that they had been subjected to physical torture or any kind of torture; for that matter. Had they been beaten with curtain rod the complainant students should have sustained blunt injuries

ATTESTED



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or at least some bruises. The allegations of physical torture are, thus, bundle of consummate lies.

12. That unauthorized collection of fund of Rs.100/- was started by the appellant in the year 2017 upon the **directions of Dr. Sartaj** the former principal (her verbal direction & approval of collecting the fund is recorded vide audio tape and available as evidence). Similarly Dr. Sadia Nawab, (the present principal) is aware of collection of fund from the start as held by the Inquiry Committee itself in its findings in Para II of the report.
13. That the appellant has only followed the order of the principal regarding the collection of fund from the students. The logical question would arise when the principal was aware of the collection of fund (as held by the inquiry committee) then why she chose to remain silent and allowed the appellant to do the illegal collection? The fact of the matter is that the collection of fund was approved by both the principals i.e. Dr. Sadia Nawab and Dr. Sartaj. The appellant was only following the orders and had no idea regarding its legality or otherwise.
14. That, according to Article 10-A of The Constitution of Islamic Republic of Pakistan, 1973, the opportunity of fair trial had not been afforded to the undersigned. The whole proceeding of the subject Inquiry is lopsided, biased and conducted in my absence. The appellant has been deprived of her right to cross-examination the witnesses nor allowed to produce evidence in her defence.

Prayer:

ATTORNEY

It is therefore most humbly prayed that on acceptance of this departmental appeal the impugned order of Director General Directorate General Population welfare

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Department Khyber Pakhtunkhwa vide Endst. No. F.No. 4(21)/2017/Admn/KC dated Peshawar the 27.03.2019 may graciously be set-aside and cancelled. Accordingly the minor penalty awarded to the appellant may be declared null and void and she be exonerated from all the charges.

*R. Malik*  
RM/A

Miss Roheela Malik  
Warden (BPS-12), Regional Training  
Institute (RTI), Abbottabad.

*R. Malik*  
ATTORNEY



GOVERNMENT OF KHYBER PAKHTUNKHWA,  
POPULATION WELFARE DEPARTMENT  
02<sup>nd</sup> Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

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No. SOE (PWD) 1-3/2019/Inquiry/637-39  
Dated Peshawar the 28<sup>th</sup> November, 2019

To

The Director General,  
Directorate General PW,  
Khyber Pakhtunkhwa, Peshawar.

Subject: - DEPARTMENTAL APPEAL IN RESPECT OF MS. ROHEELA MALIK, EX-WARDEN (BPS-12), RTI, ABBOTTABAD

Dear Sir,

I am directed to refer to your letter No. 4(21)/2019/Admn/6004-05 dated 21-11-2019 on the subject noted above and to state that the Departmental Appeal of Ms. Roheela Malik, ex-Warden has been thoroughly examined / processed by this Department and the Competent Authority has been pleased to file the same, being devoid of merit.

2. It is, therefore, requested that the applicant may be informed accordingly please.

Yours faithfully,

SECTION OFFICER (ESTT)

Copy to the:-

1. Principal, RTI, Abbottabad w/r to letter No. PF/RTI-2016 dated 19-09-2019.
2. PS to Secretary, PWD, Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (ESTT)

One copy may be handed over to the official concerned.  
21/12/2019.

ATTACHED

**VAKALAT NAMA**

NO. \_\_\_\_\_/20

IN THE COURT OF KP Service Tribunal Peshawar

Rohela Malik.

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Population Welfare Deptt

(Respondent)  
(Defendant)

I/We, Rohela Malik.

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

Rohela Malik

(CLIENT)

ACCEPTED

Asad Mahmood

Asad Mahmood  
Advocate

M. Asif Yousafzai

M. ASIF YOUSAFZAI  
Advocate Supreme Court  
Peshawar.

B.C NO# 10-7327

CNIC # 17301-5106574-3

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)

Syed Noman Ali Baloch