

24.01.2023


Proper D.B is not available, therefore the case is
adjourned to 14.04.2023 for the same as before.



Reader

20th Oct, 2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the case. To come up for arguments on 11.11.2022 before D.B.



(Fareeha Paul)
Member(Executive)



(Kalim Arshad Khan)
Chairman

11.11.2022

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

Learned Asstt. Advocate General requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 07.12.2022 before the D.B.


(Fareeha Paul)
Member (E)

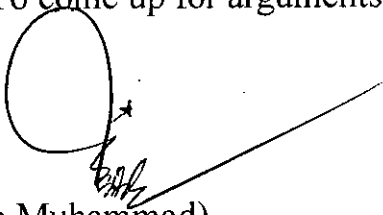

(Rozina Rehman)
Member(J)


07.12.2022

Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments.

Adjourned. To come up for arguments on 24.01.2023 before D.B.


(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)

SCANNED
KPST
Peshawar

SCANNED
KPST
Peshawar

06.04.2022

Appellant present in person. Mr. Kabirullah Khattak

Adl. AG present for respondents present.

Counsel are at strike. Therefore the case is adjourned to 27.04.2022 before D.B.

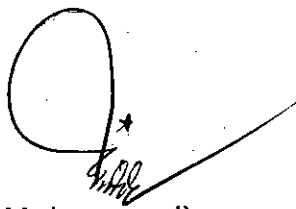


Chairman

27.04.2022

Mr. Mujeeb Ur Rehman, junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Junior of learned counsel for the appellant sought adjournment on the ground that learned counsel for the appellant is unable to appear today due to death of his close relative. Adjourned. To come up for arguments before the D.B. on 07.06.2022.



(Mian Muhammad)
Member(E)



(Salah Ud Din)
Member(J)

20.06.2022

Learned counsel for the appellant present. Mr. Ahmad Yar, Assistant Director (Legal) alongwith Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Learned counsel for the appellant sought adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 09.09.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

9-9-22

Proper DB not available the case is adjourned to 20-10-22


Registrar

23.06.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Ahmed Yar, Assistant Director (Litigation) alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not ^{made} preparation for arguments, due to non-availability of copies of complete record. Adjourned. To come up for arguments before the D.B on 07.10.2021.

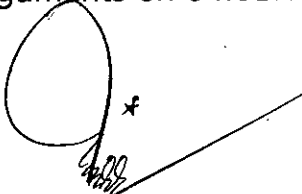

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

07.10.2021

Learned counsel for the appellant present. Mr. Javed Ullah, Assistant Advocate General for respondents present.

Learned counsel for the appellant seeks adjournment as he has not made preparation for arguments. Accorded. To come up for arguments on 04.01.2022 before the D.B.



(Mian Muhammad)
Member(E)


Chairman

04.01.2022

Counsel for the appellant and Mr. Javidullah, Asstt. AG for the respondents present.

Former seeks adjournment in order to further prepare the brief. Request accorded. To come up for arguments on 06.04.2022 before the D.B.


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


Chairman

Postscript

26.05.2021

The order dated 24.03.2021 was written but could not be signed by the D.B including the then Chairman who due to unforeseen reason could not attend the office in coming days. He died in the meantime and the order sheet was left unsigned. To bring the proceedings of appeal on track, it is become expedient for ex-post facto completion of the order sheet. The unsigned order dated 24.03.2021 is reproduced below which be given effect accordingly:-

"Appellant in person and Addl. AG alongwith Ahmad Yar Khan, AD (Litigation) for the respondents present.

Former requests for adjournment as his learned counsel is engaged today before the Honourable High Court in various cases. Adjourned to 23.06.2021 for hearing before the D.B."



(Atiq-ur-Rehman Wazir)
Member



Chairman


04.01.2021

Junior to counsel for the appellant present.

Riaz Khan Painsdakhel Assistant Advocate General for respondents present.

Former requests for adjournment as senior counsel for the appellant is not available today.

Adjourned to 24.03.2021 for arguments before D.B.


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


(Rozina Rehman)
Member (J)

24.03.2021

Appellant in person and Addl. AG alongwith Ahmad Yar Khan, AD (Litigation) for the respondents present.

Former requests for adjournment as his learned counsel is engaged today before the Honourable High Court in various cases. Adjourned to 23.06.2021 for hearing before the D.B.

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

Chairman

06.08.2020

Junior counsel for the appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Masroor Ahmad, Junior Clerk for the respondents is also present.

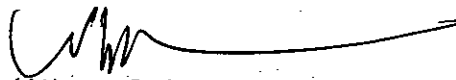
Representative of the department submitted para-wise comments on behalf of respondents No. 2 to 4 which are placed on file. To come up for arguments on 27.10.2020 before D.B. The appellant may submit rejoinder within a fortnight, if so advised.

(MUHAMMAD JAMAL KHAN)
MEMBER

27.10.2020

Junior to counsel for the appellant and Addl. AG alongwith Saghir Musharaf AD for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 04.01.2021 for hearing before the D.B.


(Atiq-ur-Rehman Wazir)
Member


Chairman

25.02.2020

Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Additional AG alongwith Mr. Masroor Ahmed Junior Clerk for the respondents present.

Representative of the respondents seeks time to furnish written reply/comments on the next date of hearing. Adjourned. To come up for written reply/comments on 31.03.2020 before S.B.


(Hussain Shah)
Member

31.03.2020

Due to public holiday on account of COVID-19, the case is adjourned to 23.06.2020 for the same. To come up for the same as before S.B.


Reader

23.06.2020

Junior to counsel for the appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith representative Mr. Ahmad Yar Assistant Director, present and requests for time to submit written reply/comments. Last chance is given. To come up for written reply/comments on 06.08.2020 before S.B.


Member

27.11.2019

Counsel for the appellant present.

Learned counsel referred to the judgment handed down by this Tribunal in Appeal No. 976/2015 on 31.08.2018 and contended that while passing the impugned order dated 25.06.2019, the competent authority disregarded the conclusion in the judgment requiring denovo enquiry against the appellant. It was provided in the judgment that some officials/officers other than the appellant were to be enquired about in the matter of purchase of medicines and equipment while ~~and~~ the appellant was not to be solely held responsible. While not resorting to the proper proceedings, the appellant was wrongly imposed upon major punishment of reduction to a lower grade/post for a period of one year. The impugned order was, therefore, not sustainable, it was argued.

In view of arguments of learned counsel and the referred record the appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 20.01.2020 before S.B.

Appellant Deposited
Security & Process Fee

SCANNED
KPST
Peshawar

Chairman

20.01.2020

Appellant present in person and Addl. AG for the respondents present.

Learned AAG requests for time to contact the respondents and furnish reply/comments on the next date of hearing. Adjourned to 25.02.2020 on which date the requisite reply/comments shall positively be furnished.



Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1299/2019


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/10/2019	<p>The appeal of Dr. Lal Zari resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/11/19</u>.</p> <p> CHAIRMAN</p>
2-	14/10/19	

The appeal of Dr. Lal Zari Ex-Deputy Director population Welfare Department received today i.e. on 02.10.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexure-I of the appeal is illegible which may be replaced by legible/better one.
- 2- Copy of charge sheet (Annexure-A) is incomplete which may be completed.

No. 1685 /S.T.

Dt. 02/10 /2019.



REGISTRAR >110119.
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note:

Sir,

Objection No. 1 has been removed
while in objection No. 2 complete copy
of the charge sheet is not available,
hence re-submitted today dated
8/10/2019.


8/10/2019.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1299 /2019

DR. LAL ZARI

V/S

GOVT: OF KP & OTHERS

INDEX

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5	Review	D	28- 32.
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7	Service appeal	F	34- 39.
8	Judgment	G	40- 44.
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APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2019

Dr. Lal Zari, Ex: Deputy Director (BPS-18),
Population Welfare Department FATA (Merged Area),
Merged Area Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar
.....**APPELLANT**

VERSUS

- 1- The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
- 3- The secretary population welfare Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Director General Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 25.06.2019 WHEREBY MAJOR PENALTY OF REDUCTION TO LOWER GRADE HAS BEEN IMPOSED ON THE APPELLANT AND AGAINST THE IMPUGNED APPELLATE ORDER DATED 06.09.2019 WHEREBY REVIEW PETITION OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned orders dated 25.06.2019 and 06.09.2019 may very kindly be set aside and the appellant may be restored on her original post i.e. Deputy Director (BPS-18) with all back benefits including seniority. That the respondents may further please be directed to grant back benefits to the appellant for the intervening period i.e. w.e.f. the date of dismissal (21.5.2015) till the date of re-instatement (25.6.2019). Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

1. That the appellant was appointed as Assistant Director in the Population Welfare Department (FATA) now (Merged Area) vide

order dated 26.07.2006 and since from appointment the appellant served the Department with devotion and commitment.

2. That during service the appellant was allowed promotion to the single cadre post of Deputy Director (BPS-18) in the Population Welfare Department (FATA) on the proper recommendation of Departmental Promotion Committee vide Notification dated 30.04.2013.
3. That during service the appellant was suspended vide order dated 18.02.2014 on some baseless allegations. That where after an inquiry was conducted and as such the appellant was charge sheeted along with statement of allegations. That in response the appellant submitted her detailed reply along with documentary proofs and denied the allegations leveled against her. Copies of the charge sheet/statement of allegations and reply are attached as annexure.....**A & B.**
4. That in the so called inquiry the responsible officers who were actually involved were given safe passage while the appellant was made scapegoat by imposing major penalty of Dismissal from service vide Notification dated 21.5.2015. Copy of the dismissal order is attached as annexure.....**C.**
5. That feeling aggrieved the appellant filed review petition against the Notification dated 21.05.2015 before the appellate authority but the same was rejected by the appellate authority. Copies of the review petition and rejection order are attached as annexure.....**D & E.**
6. That where after the appellant filed Service Appeal before the august Service Tribunal, Khyber Pakhtunkhwa against her dismissal Notification dated 21.05.2015 and appellate order. That the august Service Tribunal judgment dated 31.8.2018 accepted the service appeal of the appellant with the direction to the authorities to conduct Denovo inquiry against the appellant and conclude the same within a period of ninety days. Copies of the service appeal and judgment are attached as annexure.....**F & G.**
7. That the authorities failed to conduct Denovo inquiry within the stipulated period of ninety days, hence the appellant filed implementation petition before the august service Tribunal and as such during the pendency of the said implementation petition the respondents produced the present impugned Notification dated 25.6.2019 whereby another major penalty of Reduction in lower grade for the period of one year has been imposed on the appellant without conducting regular inquiry in the matter and without associating the officers who were actually involved in the

alleged misconduct. So much so the issue of intervening period i.e. w.e.f the date of dismissal till passing of this impugned Notification has not been decided though the appellant is fully entitled for the same. Copy of the implementation petition & impugned order are attached as annexure.....**H & I.**

8. That feeling aggrieved from the impugned order dated 25.06.2019 the appellant filed the review petition but the same has been rejected vide appellate order dated 06.09.2019 on no good grounds. Copies of the review petition and rejection are attached as annexure.....**J & K.**

GROUND:

- 1- That the impugned Notification dated 25.6.2019 whereby major penalty of Reduction in lower grade for one year has been imposed on the appellant is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- 2- That the Denovo inquiry so conducted by the Secretary irrigation is against the law, Efficiency and Disciplinary Rules, 2011 and spirit of judgment dated 31/08/2018 passed by the august service Tribunal, Khyber Pakhtunkhwa.
- 3- That in the judgment dated 31.8.2018 it was observed by the Honorable Tribunal, that statements of Secretary Social Welfare and members of procurement committee as well as technical committee should have been recorded in front of appellant with opportunity to cross examine them but in spite of the clear directions of the august Service Tribunal the statements of the above mentioned members were not recorded nor the appellant was allowed to cross examine them.
- 4- That once again a deliberate attempt has been made by the inquiry Officer to give safe passage to the responsible Officers by making the appellant as scapegoat for the second time.
- 5- That the inquiry which has been made a ground for the impugned Notification is vague and based on previous inquiries which has already been set aside by the honorable Service Tribunal.
- 6- That appellant is fully entitled for the back benefits of her intervening period but the authority has malafidely withheld the same.
- 7- That no regular inquiry has been conducted in the matter which is as per Supreme Court Judgments is necessary in punitive actions against the Civil Servants.

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

Dated: 30.09.2019

APPELLANT

DR. LAL ZARI

THROUGH:

NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

&

**MIR ZAMAN SAFI
ADVOCATES**



SECRETARIAT

ADMIN, INFRASTRUCTURE & CO-ORDINATION DEPARTMENT
WARSAK ROAD, PESHAWAR

CHARGE SHEET

A-5

I, Engineer Shaukat Ullah as competent authority, hereby charge you, *Dr. Lal Zari Deputy Director Population Welfare Directorate FATA Secretariat, Peshawar* as following.

1. That you, while posted as Deputy Director Population Welfare Directorate FATA committed the following irregularities in procurement process during Financial Year 2012-13:
 - a) While procuring medicines of millions of rupees you violated the Procurement Policy of Government of Pakistan of PPRA Rule 12 Sub para 1 & 2, Rule 22 Para 1 & 2, Rule 28, Rule 31 & Rule 39.
 - b) Increased member of purchase committee without approval and did not obtain signature on each page of the comparative statement from the members of Purchase Committee. Constituted Technical Committees of non-technical persons.
 - c) You nominated Dr. Rooh-ul-Ala WMO Khyber vide letter No. F.No1(1)/2012-13 POP/7761-65 dated 17-05-2013 but obtained signature from Dr. Naila Wadood AD PWD on comparative statement of purchase committee without lawful authority.
 - d) Failed to maintain proper store record as per instructions contain at Para 148, 149, 151 & 152 of GFR.
 - e) Received misbranded medicines in term of Drug Labeling Packing Rule 1956 & Section 23(1) a iii Drug Act 1976.
 - f) Violated ToR No. 4 of Tender by not entering into an agreement with the suppliers and depositing 10% amount as security from the successful bidders.
 - g) Received millions of rupees from State Bank in cash and made cash payment to the suppliers before completion of delivery. (Delivery not yet completed).
 - h) Violated Para 117 CPWD Code and Para 6.51 a Hand Book for DDO 2003 and made payment before obtaining report from Drug Testing Laboratory of Khyber Pakhtunkhwa.
 - i) Ignoring MCC List and made purchase from unknown companies and violated the instruction / Notification of Government of Khyber Pakhtunkhwa void No. 1676-1926/MCC dated 22-12-2011.

ATTESTED

[Signature]

[Signature]

Peshawar

[Signature]



A SECRETARIAT

PLANNING & CO-ORDINATION DEPARTMENT
MARKSAP ROAD, PESHAWAR

DISCIPLINARY ACTION

I, Engineer Shaukat Ullah as competent authority, am of the opinion that Dr. Lal Zari Deputy Director Population Welfare Directorate FATA Secretariat, Peshawar has rendered himself liable to be proceeded against, as she committed the following acts / omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS.

That you, while posted as Deputy Director Population Welfare Directorate FATA committed the following irregularities in procurement process during Financial Year 2012-13.

- m) While procuring huge medicines worth of millions of rupees you violated the Procurement Policy of Government of Pakistan of PPRA Rule 12 Sub Para 1 & 2, Rule 22 Para 1 & 2, Rule 28, Rule 31 & Rule 39 and other relevant rules for the purpose.
- n) Increased members of the purchase committee without approval of the competent authority and did not obtain signature on each page of the comparative statement from the members of Purchase Committee as required. Constituted Technical Committees of non-technical persons unnecessarily.
- o) You nominated Dr. Rooh-ul-Ala WMO Khyber vide letter No. F.No1 (1)/2012-13 POP/7761-65 dated 17-05-2013 but obtained signature from Dr. Naila Wadood AD PWD on comparative statement of purchase committee in lieu of Dr. Rooh-ul-Ala.
- p) Failed to maintain proper store record required under Paras 148, 149, 151 & 152 of GFR.
- q) Received misbranded medicines in term of Drug Labeling Packing Rule 1956 & Section 23(1) a iii Drug Act 1976.
- r) Violated NIT TOR No. 4 of Tender by not entering into an agreement with the suppliers and depositing 10% amount as security from the successful bidders which was essential.

ATTESTED

[Handwritten signature]

Chief Secretary, Khyber Pakhtunkhwa

Additional Chief Secretary FATA
Additional Chief Secretary
FATA Secretariat
Peshawar

[Handwritten signature]

[Handwritten signature]

7

102

- s) Received millions of rupees from State Bank in cash and made cash payment to the suppliers before completion of delivery (Delivery not yet completed) against the rules.
- t) Violated Para 117 CPWD Code and Para No. 6.51 of (A) Hand Book for DDO 2003 and also made payment before obtaining report from Drug Testing Laboratory of Khyber Pakhtunkhwa.
- u) Ignored MCC List and made purchases from unknown companies and violated the instructions / Notification of Government of Khyber Pakhtunkhwa vide No. 1676-1926/MCC dated 22-12-2011.
- v) Violated office procedure as per Para 35C and 38 of the Secretariat, Manual by passing higher officer and submitting file to higher authority (Secretary) directly.
- w) That you purchased the following 10 No's medicines which have been declared sub-standard / spurious and manufacturer of some of which are in bulk unknown in which food supplements.
- xi. Capsules Active C, B.No. Nil.
 - xii. Tablets Ascorbic Acid, B. No. 725.
 - xiii. Tablets Rumin 400mg, B. No. 1111.
 - xiv. Infusion Azogyl, B. No. SL 04.
 - xv. Tablets Folic Acid 5mg, B. No. 41
 - xvi. Tablets Biprim-DS, B. No. 276.
 - xvii. Tablets Rumin-400 (ANKAZ Pharmex Pvt. Ltd.
 - xviii. Inj. Diazepam (S,J&G Fazal Elahi, Pvt. Karachi).
 - xix. Inj. Dexone (Uni-Tech Pharmaceutical Pvt. Ltd. Karachi, Pakistan).
 - xx. Food Supplement (Milko Max).
- x) Made procurement of Millions of rupees by recommending tender of family members and extended undue favor and give benefits to near and dears.

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

- i. Mr. Zahid Shah
- ii. Mr. Akhtar Ali Khan

ATTESTED

[Signature]

The inquiry officer / committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record statements its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer / inquiry committee.

Competent Authority.

ATTESTED

Governer

Responsible
W. H. L. S.

7/12

Q (D)

B-9

To:

The Enquiry Committee.

1. Mr. Sikandar Qayyum ,
Secretary Finance Department, FATA Secretariat.
2. Mr. Shakeel Qadir Khan,
Secretary Law & Order, FATA Secretariat.

Subject:- REPLY TO THE CHARGE SHEET / STATEMENT OF ALLEGATIONS

Sir,

Kindly refer to the order No. PS/FS/FATA/1-7/Inq:File/2014 dated 21-10-2014, received by the undersigned on 21-10-2014 from the office of the Secretary AI&C, FATA Secretariat, Peshawar alongwith charge sheet & statement of allegations.

Before responding to the specific charges, the undersigned submits the following points for perusal / information and consideration of the Enquiry Committee:-

- (1) Previously the purchase of medicines for the Population Welfare Department were used to be made by the Health Department as this department of the FATA Secretariat was administratively attached to that department. After separation of this department from the Health Directorate of FATA, it was for the first time that the procurement of medicines for Population Welfare setup was made by the Population Welfare Directorate.
- (2) The involvement / participation in the entire procurement proceedings was very meagre as the undersigned in the capacity of Deputy Director, PWD was only a member of the Procurement Committee comprising of the following:-

i	Secretary Social Sector Department FATA	Chairman
ii	Representative of (Admn & Co-ord) Deptt:	Member
iii	Representative of Finance Deptt: FATA	Member
iv	Representative of P&D Deptt: FATA	Member
v	Deputy Director, PWD FATA (The undersigned)	Member
vi	Assistant Director (Med) PWD FATA	Member
vii	APWO (North Waziristan) Agency PWD FATA	Member
viii	APWD Bajaur PWD FATA	Member

Attested
[Signature]

It is evident that in the 8 members Procurement Committee, the undersigned was a member but she has been singled out for disciplinary action for the allegations never committed by her, if at all there were certain flaws / irregularities in the proceedings, the committee is collectively responsible for it not only a member thereof which is a discriminative treatment under the law against the canons of justice & equity.

- (3) A technical committee was constituted by the Competent Authority with the following TOR:-
 - a. Selection of the item as required per agency.
 - b. Quantification of the item per agency and total.
 - c. Asking the lowest bidders to produce their sample.
 - d. Approval of the sample and recommendation to issue supply order.
 - e. Once the supply is completed the items will be verified by the same committee; per supply order and specification.
 - f. Submission of final report.

3. As such from the comparative list prepared by the purchase committee, the specification and quantification of the medicines as per requirement of the various Agencies and recommendations for issuance of the supply order was the domain of technical committee as cited above and the undersigned does not come within picture in this entire process except as one of the 8 members purchase committee.

4. It is pertinent to mention at this juncture that the entire proceedings of this inquiry were initiated in response to a baseless anonymous complaint that led to an unauthorized raid of AC Peshawar on the store of Population welfare FATA in August 2013. Many anonymous letters were also submitted against the undersigned with the sole intention of blackmailing and pressuring the respondent, the proof of which was submitted in the form of CDs to the then concerned quarters such as ACS FATA, Secretary Social Sector FATA and members of first preliminary committee but no attention was paid to them.

5. In spite of several written requests for provision of certain documents required for drafting this reply, the undersigned has just been provided with the second preliminary enquiry report on the enquiry of MISBRANDED DRUGS. Furthermore the undersigned

Attested
[Signature]

11 13

has also been deprived of access to some personal documents lying in the office of Population welfare directorate, which could help me draft this reply.

However, replies to the charges are given below in seriatum in annotated form:-

	Charge	Reply
(a)	While procuring medicines of millions of rupees you violated the Procurement Policy of Govt of Pakistan of PPRA Rule 12 Sub para 1&2, Rule 22 para 1&2, Rule 28, Rule 39	(a) It may be mentioned that the PPRA ordinance 2002 has not yet been extended to FATA as required under Article-247 (3) of the constitution of Islamic Republic of Pakistan 1973 and as such not legally applicable to the affairs of FATA. However it is on record that proper advertisement was sent to Information Department of FATA Secretariat (Annex-1) which was duly floated in the news papers. If the tender requires uploading in PAPRA system. It is the responsibility of Director Information FATA for such up loading the same (Annex-11) The bids were received in sealed envelopes and there was no ambiguity of its confidentially neither any of the bidders made objection on the sealed bids at the time of its opening. The bids were opened under the directives of the competent authority i.e. Secretary (SSD) (Annex-111) in presence of Representative of Finance Department FATA and Administration Infrastructure & Coordination Department in the office of Deputy Sec (Admin). Minutes of tender opening were submitted to the

Attested
up
g.

12

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Charge	Reply
	<p>competent authority i.e. Secretary SSD and was approved by the Secretary SSD and approval was granted for further processing the purchase process (Annex-<u>IV</u>).</p> <p>It is further submitted that it is the duty of all members of purchase committee and its Chairman to ENSURE observance of rules at all levels. The members who opened the bids, have duly signed each paper of bid have also signed last page of the comparative statement (Annex-<u>V</u>). These honorable members are all well experienced on the subject and no one raised any objection in this regard. It is further added that This was first ever tender experienced of the undersigned and I have tried to observe/follow rules to the best of my abilities and knowledge. The presence of other senior officers including Secretary SSD in the process reveals that the process was transparent and was above any doubt. Thus none of the rules as mentioned in Para 1(a) of the allegation has been violated but implemented in letter and spirit and as such the charge is unfounded, baseless and the undersigned cannot be held responsible for violation thereof as mentioned in the charge sheet.</p>

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Charge	Reply
<p>(b) Increased member of purchase committee without approval and did not obtain signature on each page of the comparative statement from the members of Purchase Committee. Constituted Technical Committee of non-technical persons.</p> <p style="text-align: center;">copy.</p>	<p>(b) (a) The undersigned has not increased the membership of the committee. However, the representative of A&C Departmental was invited to participate in the bedding process as a co-opted member as required under the relevant notification for constitution of the Procurement Committee. The inclusion was made on verbal advice of Secretary Social Sector (Annex-VI_) Dept: As such, the inclusion of this member has not played any negative role rather enhanced the competency of the committee. All the committee members have signed the last page of the comparative statement, which means that they were satisfied / agreed with all entries of the statement. Moreover the undersigned has not constituted any technical committee of non-technical persons as per PC-I (Annex- V11_) Population Welfare Program FATA, the Family Welfare Workers/LHV cadre is technical whereas Family Welfare Assistants are the skilled work force (with the knowledge of family planning). Both technical and skill workforce can prescribe and or dispense general medicines, food supplements and contraceptives for certain general health problems to the target population according to their job descriptions</p>

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Charge	Reply
	<p>mentioned in PC-1. Since the medicines purchased will be prescribed by this technical work and skilled workforce force therefore their inclusion in the technical committee is logical. However, it is pertinent to mention here that Assistant Director Medical/Technical who is a medical doctor chairs this technical committee. Thirdly there is no bar on second specialized committee for verifying supplies and determining the requirement of the directorate. They rather assisted the Purchase committee during the procurement process. Constituting of Technical Committee was approved by the Competent Authority i.e. Secretary (SSD) in the public interest (Annex-VIII), And All the members were technical and professional in the field of population welfare.</p>
<p>(c) You nominated Dr. Rooh-ul-Ala WMO Khyber vide letter No.F.No.(1)/2012-13 POP/7761-65 dated 17-05-2013 but obtained signature from Dr. Naila Wadood AD PWD on comparative statement of purchase committee without lawful</p>	<p>(c) The nominated member of the purchase committee was Dr. Rooh-ul-Ala, WMO Khyber Agency whereas she did not attend the meeting because she sent telephone message that she would not be able to attend due to illness therefore another technical officer of the same category but senior in rank (Assistant Director population welfare) who was</p>

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Charge	Reply
authority.	already notified as member/ secretary of the Population Welfare Program FATA purchase committees up to 1.5m and above 1.5 m (Annex-1X), was asked to be part of this purchase committee Therefore the charge of obtaining signature from Asstt: Director (Med) PWD Dr. Naila Wadood without lawful authority is contrary to facts. It is further submitted that instead of decreasing the member of technical members, a more relevant officer was included in the process. In case, her participation was anyway against any law or exigency of services, the Purchase Committee, or the chairman would have raised objection on it, which was not done by any. The charge is therefore unfounded and may be dropped.
(d) Failed to maintain proper store record as per instructions contained at Para 148, 149, 151&152 of GFR.	(d) The stock of medicines was properly supplied by the lowest bidder except two minor items but despite the repeated verbal and written advice to the concerned storekeeper namely Mr. Fakhle-Alam to take the received items on Stock Register as the same were properly examined counted and evaluated by the technical committee constituted for the purpose (Annex-X). The Storekeeper failed in doing the needful due to which he was suspended by the

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Charge	Reply
	<p>Competent Authority vide order No.SO(SSD)FS/5-1/2012-13/5253-60 dated 3/9/2012 (Annex- X1) for the same charge on the report of the undersigned. However, the responsibility was assigned to Mr. Muhammad Kamran, (Annex-X11) who consequently took the stock of medicine on stock register accordingly and as such no instructions contained in Rule-148 of GFR have been violated. As for Rule-149 is regarding issuance of stores which is not relevant in the case at this stage as no items of the procured medicines have so far been issued / distributed from the main stores and agency stores to the service delivery outlets. Rule-151&152 have also not been deviated from as the goods are safely stocked in the store and accounts thereof shall be properly maintained as and when the stage of issuance / distribution to the service delivery outlets comes.</p>
<p>(e) Received misbranded medicines in term of Drug Labeling packing Rule 1956 & Section 23(1) a iii Drug Act 1976.</p>	<p>(e) No misbranded or the unbranded medicines have been received in stock by the storekeeper.</p> <p>However, all the medicines received by the storekeeper were properly branded and contained proper branded name, proportionate ingredients and name/ address of the manufacturing pharmaceutical firms. However, some of</p>

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Charge	Reply
	<p>the items had not been labeled as "Not for Sale" as pointed out by the technical committee while scrutinizing the stock. ^{Chairman} The undersigned therefore asked the supplier concerned vide letter No.2(1)/2013-14/POP/8423 dated 4/7/2013 (Annex-X111) for the needful and he brought requisite stamp & pad and informed the department accordingly but by then the store was sealed and the needful could not be done. The supplier concerned had also recorded his statement before the committee and committed to do the needful but due to the instant enquiry proceedings, the same cannot be done so far. However, it may be pointed out that since no issue / distribution has so far been made from the said stock, so no harm or financial loss has been incurred to the department, hence the charge has no locus standii and the undersigned has committed no wrong in this regard.</p>
(f) Violated TOR No.4 of Tender by not entering into an agreement with the suppliers and depositing 10% amount as security from the successful bidders.	(f) No doubt that proper 10% security was not deposited by the successful bidder before supply. however, a security despite of Rs. 0.100 (Million) was already made by the supplier and the supply was also made in time by him, hence no loss has been sustained by the Govt exchequer. Moreover, it was not the

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Charge	Reply
	exclusive responsibility of the undersigned to check each & every minutest details of the procured items. Specific responsibility was also assigned to the properly technical committee and account section on whose recommendations the supply orders were issued.
(g) Received millions of rupess from State Bank in cash and made cash payment to the suppliers before completion of delivery. (Delivery not yet completed).	(g) It may be pointed out that all the bills of the procured items were prepared in the names of the concerned vendors and submitted to the sub office of AGPR, Pakistan (Annex-XIV). However, the AGPR issued the cheques in the name of the DDO concerned. It was not only made by the AGPR in case of PWD but all other Deptts were also dealt with in the same manner probably AGPR sub office itself. As such the cheques issued in the name of the DDO is not a wrong practice on the part of the Deptt but, if it may be considered an irregularity, it was committed by the sub office of AGPR, Peshiwar and not by the DDO. As DDO the undersigned had submitted bills on 15 th of June in the name of Vendors, however the bills were passed on 29 th of June and cheques were issued in late afternoon. Since the following day was Sunday and Monday July 1 st was a bank holiday, therefore the undersigned could

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Charge	Reply
	<p>not return cheques issued in the name of DDO because the budget would have lapsed for which the undersigned would have been held responsible. So the undersigned was in a tight situation and acted only in the best interest of the department.</p> <p>Since the supply was mostly completed except some minor items, which were promised by the suppliers to be made shortly, and the amount was ignorable keeping in view the quantum of supplied items, the account office therefore made payment to the supplier (Annex-XV), as the government money could not be retained beyond 3 days as per the procedural requirements.</p>
<p>(h) Violated Para 117 CPWD Code and para 6.51 a Hand Book for DDO 2003 and made payment before obtaining report from Drug Testing Laboratory of Khyber Pakhtunkhwa.</p>	<p>(h) It may be clarified to the best of my knowledge that in the context of both Para 117 CPWD Code and Para 6.51 a Handbook of DDO2003 it is not mentioned that payments shall only be made after receiving report from Drug Testing Laboratory of Khyber Pakhtunkhwa. However the reports of Drug Testing Laboratory were duly obtained on the medicines supplied in the instant case (Annex-XVI). However, all other aspects of the quality accuracy and good conditions of the supplied items also scrutinized by the concerned</p>

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Charge		Reply	
			technical committee constituted for the purpose before sending bills to the Audit Office. As such, no irregularity / illegality were made in this case.
(i)	Ignoring MCC List and made purchase from unknown companies and violated the instruction /Notification of Govt of Khyber Pakhtunkhwa vide No.1676-1926/MCC dated 22-12-2011	(i)	The list of the firms notified by the Director General, Health Services Khyber Pakhtunkhwa is not mandatory under the law unless all other formalities for pre-qualification of the manufactures/suppliers are fulfilled as per the specific verdict of the judicial authorities. Moreover, the MCC list is initially meant for the Medical and Health Institutions under the administrative control of Director General Health Services Khyber Pakhtunkhwa and not automatically applicable to the FATA sectors unless properly adapted by the Competent Authority, whereas the same has not so far been adapted in FATA.
(j)	Violated office procedure as per para 35C and 38 of the Secretariat. Manual (KPK) by submitting file to higher authority (Secretary) directly.	(j)	The undersigned is of the opinion that all heads of the departments are supposed to address correspondence / submit cases direct to the Administrative Secretary concerned. The Secretary of the Department may at his discretions either accord sanction to the proposal submitted to him or mark the case / correspondence to his lower functionaries in the department for examination and

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Charge	Reply
	<p>submission their opinion (if any) to the secretary concerned.</p> <p>However, about all the cases, it was the verbal directives of Secretary social sectors that all cases shall be submitted through Deputy Secretary and therefore the undersigned used to submit the files to Deputy Secretary and not to the Secretary directly (already at Annex-1). But in cases wherein the position of the Secretary is directly notified as Chairman, as in the instant case being Chairman of the Purchase Committee, the undersigned as Secretary of the said committee was required to submit the recommendations, minutes, comparative lists of bidders or similar other reports direct to the Chairman of the committee not his capacity as Administrative Secretary. As such no hierarchical channel has been by passed by the undersigned.</p>
<p>(k) That you purchased the following 10 No's medicines which have been declared sub-standard / spurious and manufacturer of some of which are unknown in which food supplements is in bulk.</p> <p>i. Capsules Active C, B No. Nil ii. Tablets Ascorbic Acid,</p>	<p>(k) In this connection it may be brought into your kind notice that the supplier concerned is committed under a written agreement with the department (<u>Annex-xvii</u>) to the effect that the drugs supplied by him, if found, not satisfactory at any stage, will be replaced. If the 10 items amongs the total 78 supplied were found sub standard / spurious by the</p>

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Charge	Reply
<p>B.No725.</p> <p>iii. Tablets Rumin 400mg. B.No.1111.</p> <p>iv. Infusion Azogyl, B.No.SL 04.</p> <p>v. Tablets Folic Acid 5mg. B.No41</p> <p>vi. Tablets Biprim-DS. B.No276.</p> <p>vii. Tablets Rumin-400 (ANKAZ Phramex Pvt Ltd.</p> <p>viii. Inj. Diazepam (S.J&G Fazal Elahi, Pvt. Karachi).</p> <p>ix. Inj. Dexone (Un-Tech Phrmaceutical Pvt. Ltd. Karachi, Pak).</p> <p>x. Food Supplement (Milko Max).</p>	<p>preliminary enquiry committee, these can be replaced without a slightest hindrance but since then the drugs in questions have been sealed by the committee. Though the supplier is not manufacturer of the supplied drugs, yet he is duty bound to replace any substandard or spurious items therein as per warranty given by him (Annex-XV111). Furthermore, the undersigned is aware of the following drug reports</p> <p>a) Submitted by Provincial Drug Inspector District Health Officer Peshawar dated 24/09/2014 declaring the following drugs as Substandard</p> <ol style="list-style-type: none">1. Folic Acid2. Pyodine Solution3. Oxytetracycline4. Adrenaline <p>and declaring Tablets Rumin 400mg as Spurious.</p> <p>b) Certificate of Test or Analysis by the Drugs Testing laboratory/Government Analyst dated 18/12/2013 TRA No 31426/DTL, declaring the following drugs as substandard</p> <ol style="list-style-type: none">1) Folic Acid2) Ascorbic Acid

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Charge	Reply
	<p>while declaring Tab Rumin 400 mg as Spurious. However contrary to Provincial Drug Inspector DHO Peshawar, this report has declared OXYTETRACYCLINE as Standard which clearly shows discrepancy among the two reports. Moreover, it has come to the knowledge of the undersigned that codal formalities were not fulfilled during sample collection.</p>
<p>1. Made procurement of millions of rupees by giving tender to family members and extended undue favour and give benefit to nears and dears.</p>	<p>1. The constitution of Islamic Republic 1973 guarantees fundamental right to every citizen. There is no bar in law that relative of an officer is prohibited to participate in lawful activities i.e. participating in bids etc being Pakistani citizen. It may be submitted that the tenders were floated in daily Newspapers and all eligible supplier were at their liberty to submit tenders / offers in response of the advertisements as. The undersigned has never recommended any of her relative for the supply of the items in questions M/S Wajid & Co. is a registered supplier having NTN number (Annex-XIX) and valid license holder to sell, stock and exhibit for sale and distribute drugs by way of whole sale (Annex-XX). As such he was entitled to participate in the bidding proceedings and</p>

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Charge	Reply
	he could not be ousted from the process on any ground. Besides. The undersigned has no relation with him. He was approved as the lowest rate bidder by the Purchase Committee and not by the undersigned. It is further clarified that the undersigned has neither extended any undue favour to any near nor given any benefit to any dear. The aforesaid charge is, therefore baseless and malicious and there, may be dropped.

4. In view of the position explained above, it is crystal clear that all the charges/ allegations contained in the charge sheet and statement of allegations are incorrect, baseless and based on mala fide intention. I therefore request your kind honour that :-

- a) Since all the medicines are time bounded, therefore the department may be allowed to
 - (i) Ask the supplier to replace the spurious drugs (if any) in time and;
 - (ii) Distribute/issue the medicines for the treatment of the patients by the concerned quarters in the best interest of the public as well as to avoid expiry of the drugs.
- b) The charges/ allegations leveled against me may kindly be set aside and the undersigned may be exonerated of these charges.
- c) The undersigned may be allowed to be heard in person to clarify the position further if required.

Your's obediently,

Dated-27/10/2014

Attested


(Dr. LAL ZARI)
Deputy Director, PWD
FATA Secretariat



FATA SECRETARIAT
(SOCIAL SECTORS DEPARTMENT)
WARSAK ROAD PESHAWAR

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NOTIFICATION:-

No.FS/SSD/ 6699-708.

WHEREAS, Dr. Lal Zari (BS-18) Deputy Director Population Welfare (FATA) was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 in inquiry captioned, "Purchase of Misbranded and Spurious Medicines" for the Directorate.

2- She was placed under suspension vide Notification No.400-5 dated 18-02-2014 and served with Charge Sheet and Statement of Allegations vide letter bearing No.FS/E/100-98 (Inq-Medicines)/15910-12 dated 17-10-2014.

3- **AND WHEREAS**, an Inquiry was conducted by a Committee comprising Mr. Sikander Qayyum (PAS BS-20) Secretary Finance Department FATA Secretariat and Mr. Shakeel Qadir Khan (PAS BS-19) Secretary Law & Order Department FATA Secretariat vide Administration, Infrastructure & Coordination Department FATA Secretariat letter No.FS/E/100-98 (Inq-Medicines)/15913-15 dated 17-10-2014 to enquire into charges levelled against her. The charges as provided for in the Charge Sheet and Statement of Allegations are as under:-

S.No of Charge	Text of Charge
(a)	While procuring medicines of millions of rupees you violated the Procurement Policy of Government of Pakistan of PPRA Rule 12 Sub para 1 & 2, Rule 22 Para 1 & 2, Rule 28, Rule 31 & Rule 39.
(b)	She added an extra member in purchase committee without approval and did not obtain signature on each page of the comparative statement from the members of Purchase Committee. Constituted Technical Committees of non-technical persons.
(c)	You nominated Dr. Rooh-ul-Ala WMO Khyber vide letter No. F.No1(1)/2012-13 POP/7761-65 dated 17-05-2013 but obtained signature from Dr. Naila Wadood AD PWD on comparative statement of purchase committee without lawful authority.
(d)	Failed to maintain proper store record as per instructions contained at Para 148, 149, 151 & 152 of GFR.
(e)	Received misbranded medicines in term of Drug Labeling Packing Rule 1956 & Section 23(1) a iii Drug Act 1976.
(f)	Violated ToR No. 4 of Tender by not entering into an agreement with the suppliers and depositing 10% amount as security from the successful bidders.
(g)	Received millions of rupees from State Bank in cash and made cash payment to the suppliers before completion of delivery. (Delivery not yet completed).
(h)	Violated Para 117 CPWD Code and Para 6.51 a Hand Book for DDO 2003 and made payment before obtaining report from Drug Testing Laboratory of Khyber Pakhtunkhwa.
(i)	Ignoring MCC List and made purchase from unknown companies and violated the instruction / Notification of Government of Khyber Pakhtunkhwa vide No. 1676-1926/MCC dated 22-12-2011.
(j)	Violated office procedure as per para 35C and 38 of the Secretariat, Manual (Khyber Pakhtunkhwa) by submitting file to higher authority (Secretary) directly.

ATTESTED

S.No of Charge	Text of Charge
(k)	That you purchased the following 10 No's medicines which have been declared sub-standard / spurious and manufacturer of some of which are unknown in which food supplements is in bulk. i. Capsules Active C, B.No. Nil. ii. Tablets Ascorbic Acid, B. No. 725. iii. Tablets Rumin 400mg, B. No. 1111. iv. Infusion Azogyl, B. No. SL 04. v. Tablets Folic Acid 5mg, B. No. 41 vi. Tablets Biprim-DS, B. No. 276. vii. Tablets Rumin-400 (ANKAZ Pharmex Pvt. Ltd. viii. Inj. Diazepam (S,J&G Fazal Elahi, Pvt. Karachi). ix. Inj. Dexone (Uni-Tech Pharmaceutical Pvt. Ltd. Karachi, Pakistan). x. Food Supplement (Milko Max).
(l)	Made procurement of Millions of rupees by giving tender to family members and extended undue favour and give benefit to nears and dears.

4- The Inquiry Committee finalized its report and determined the following charges as proved:-

S.No of Charges	Text of Charges Proved
(b)	She added an extra member in purchase committee without approval. She did not obtain signature on each page of the comparative statement from the members of Purchase Committee and constituted technical committee of non-technical members.
(c)	She nominated Dr. Rooh-ul-Ala Woman Medical Officer Khyber Agency as member but obtained signature from Dr. Naila Wadood Assistant Director on comparative statement of purchase committee without lawful authority.
(e)	She received misbranded medicines in term of Drug Labeling Packing Rule 1956 & Section 23(1) a iii Drug Act 1976.
(f)	She violated TOR No.4 of Tender by not entering into an agreement with the suppliers and depositing 10% amount as security from the successful bidder.
(g)	She received millions of rupees from State Bank in cash and made cash payment to the supplier before completion of delivery of medicines.
(l)	Made procurement of Millions of rupees by giving tender to family members and extended undue favour and give benefit to near and dears.
(a) Partially Proved	Violation of Procurement Policy of Government of Pakistan of PPRA Rule.
(K) Partially proved	Declaration of 4/5 medicines being food supplements as sub-standard/spurious.

5- The Report was submitted to the Competent Authority (Governor Khyber Pakhtunkhwa) who after perusal and examination of the Inquiry Report as well as giving opportunity of Personal Hearing to the said Deputy Director on 14-05-2015 to defend herself/comment on the findings of the report (already communicated to her in writing). She failed to defend the allegations.

6- In exercise of powers as Appointing/Competent Authority vide Notification No.FS/C-II/52-1/4192-4202 dated 20-08-2010, the Governor Khyber Pakhtunkhwa in his capacity as the Competent Authority, on the basis of inquiry has imposed the major penalty of **Dismissal from Service** on the accused officer under Rule-4 (b)-(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

ATTESTED

7- Foregoing in view the above, Dr. Lal Zari (BS-18) Deputy Director Population Welfare Officer (FATA) is "Dismissed from Service" with immediate effect.

By the Orders of Governor Khyber Pakthunkhwa
(COMPETENT AUTHORITY)

Dated 21/5/2015

Copy to:-

1. Military Secretary to Governor Khyber Pakhtunkhwa
2. Principal Secretary to Governor Khyber Pakhtunkhwa
3. Secretary A,I&C Department FATA Secretariat
4. Director Health Services (FATA)
5. ✓ Additional Accountant General (PR) Sub Office Peshawar
6. Deputy Director Population Welfare (FATA)
7. Section Officer (Estab), A,I&C Department FATA Secretariat
8. All Agency Population Welfare Officers
9. PS to Additional Chief Secretary FATA Secretariat
10. Individual concerned

Secretary Social Sectors (FATA)

ATTESTED

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TO,

D (28) B-60

The Honorable Governor Khyber Pakhtunkhwa,
Peshawar.
(through proper channel)

**SUBJECT: REVIEW/ DEPARTMENTAL APPEAL AGAINST THE
IMPUGNED ORDER DATED 21.5.2015 WHEREBY
MAJOR PENALTY OF DISMISSAL FROM SERVICE
WAS IMPOSED ON THE APPELLANT**

R.SHEWETH:

Most humbly appellant begs to submit as under:

ON FACTS:

- 1- That the appellant was initially inducted/ appointed in the Department of Population Welfare FATA as Woman Medical Officer (BPS-17) vide Notification dated 27.7.2006 on the proper recommendation of Khyber Pakhtunkhwa Public Service Commission.
- 2- That after appointment the appellant submitted her charge report and started performing her duty as Woman Medical Officer (BPS-17) in the Department of population Welfare FATA quite efficiently and up to the entire satisfaction of her superiors.
- 3- That due to excellent record of service and being senior most employee of the population welfare Department FATA the appellant was promoted to the post of Deputy Director Population Welfare Department FATA on the recommendation of Departmental promotion committee vide Notification dated/2012....
- 4- That during service as Deputy Director in the Department of Population Welfare FATA the appellant performed her duty quite efficiently and up to the entire satisfaction of her superiors. That inspite of inexperience to her new job description the appellant performed her duty with all zeal and zest. That it is very pertinent to mention that the appellant was awarded best performance certificate by the then Prime Minister of Pakistan Mr. Yousaf Raza Gilani in the year 2007-08.
- 5- That appellant while serving as Deputy Director Population welfare FATA a charge sheet and statement of allegation

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were issued to her on the basis of an anonymous/ pseudonymous compliant/ letter. That in the said charge sheet and statement of allegation a plethora of charges/ allegations were leveled against the appellant which are as under:

- (i)- While procuring medicines of millions of rupees you violated the procurement policy of Government of Pakistan PPRA.
- (ii)- You added an extra member in purchase committee without approval and did not obtain signature on each page of the comparative statement from the members of purchase committee. Constituted technical committee of non technical persons.
- (iii) You nominated Dr. Rooh Ullah WMO Khyber dated 17.5.2013 but obtained signature from dr. Naila Wadood AD PWD on comparative statement of purchase committee without lawful authority.
- (iv) Failed to maintained proper store record as per instruction contain at Para 148, 149, 151 & 152 GFR.
- (v) Received misbranded medicine in term of drug labeling packing Rule 1956 & Section 23 of Drug Act 1976.
- (vi) Violated TOR No.4 of tender by entering into an agreement with the suppliers and depositing 10% amount as security from the successful bidders.
- (vii) Received millions of Rupees from state Bank in cash and made cash payment to the suppliers before completion of delivery.
- (viii) Violated Para 117 CPWD code and Para 6.51 a Hand Book for DDO 2003 and made payment before obtain report from Drug testing laboratory of Khyber Pakhtunkhwa.
- (ix) Ignoring MMC List and made purchase from unknown companies and violated the instructions of Government of Khyber Pakhtunkhwa.
- (x) Violated office procedure as per Para 35 C and 38 of the secretariat manual by submitting file to higher authority.
- (xi) That you purchased the 10 numbers of medicines which have been declared sub standard/ spurious and manufacturer of some of which are unknown in which food supplements is in bulk.

ATTESTED



(xii) Made procurement of millions of rupees by giving tender to family members and extended undue favor and give benefits to nears and dears.

6- That in response to the above mentioned plethora of baseless allegations/ charges the appellant submitted her reply in detail along with documentary evidence and denied the allegations which have been leveled against her.

7- That inspite of clarifying her position with documentary proofs Your good self issued the impugned Notification vide dated 21.5.2015 whereby major penalty of Dismissal from service was imposed on the appellant without conducting fact finding and regular Departmental inquiries in the matter.

8- That appellant feeling aggrieved from the impugned Notification dated 21.5.2015 issued by your good self against the appellant filed this Review/ Departmental appeal before your good self inter alia on the following grounds.

GROUND:

A- That the impugned Notification dated 21.5.2015 issued by your good self against the appellant by imposing major penalty of Dismissal from service on the appellant is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.

B- That the appellant has not been treated in accordance with law and Rules on the subject noted above and as such Article 4 and 25 of the constitution of Pakistan 1973 has been violated while issuing the impugned Notification dated 21.5.2015.

C- That the procurement committee was constituted under the chairmanship of Secretary Social Sector Department FATA along with seven members including the appellant meaning thereby that all the members are equally responsible for the irregularities/ flaws if any in the proceedings but in this case the appellant have been made scape goat to save the skin of high ups who are actually responsible for the said irregularities/ flaws.

D- That before the separation of the population Welfare Department FATA from the Health Directorate of FATA the purchase of medicines for the population welfare Department were used to be made by the Health Department as this Department by the FATA secretariat was administratively attached to that Department but after

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separation it was for the first time that the procurement of medicines for population welfare set up was made by the population welfare Directorate meaning thereby that all the members of the procurement committee were inexperienced except the Secretary Social sector. That it was the sole responsibility of the high ups to nominate the well experienced members for the procurement committee.

- E- That in the whole case the authorities has been failed to prove/ establish any of the allegations against the appellant but inspite of that your good self issued the impugned Notification dated 21.5.2015 against the appellant in violation of the principle of natural justice.
- F- That the comparative list prepared by the purchase committee, the specification and quantification of the medicines as per requirement of the various agencies and recommendations for issuance of the supply order was the domain of technical committee and the appellant does not come within the picture of this entire process.
- G- That the action has been taken by the authorities against the appellant on the basis of an anonymous/ pseudonymous letter. That according to the Establishment Code an anonymous/ pseudonymous complaint/ letter if any received against the civil servant should straight away be thrown in to the dust bin and no action should be taken on such like complaints but in this case the appellant has been severely punished by imposing major penalty of Dismissal from service.
- H- That the appellant has been discriminated by the authorities because the high ups who are actually responsible for the irregularities have been exonerated but the appellant has been made scape goat without any fault on her part.
- I- That no fact finding inquiry has been conducted in the matter which is mandatory before the initiation of Departmental inquiry against the civil servant.
- J- That no opportunity of cross examination has been provided to the appellant and as such all the proceedings have been conducted and finalized at the back of appellant.
- K- That no regular inquiry has been conducted before issuing the impugned Notification dated 21.5.2015 against the appellant which is as per Supreme Court Judgments is necessary/ compulsory in punitive actions against the appellant.

ATTESTED



L- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly requested that on acceptance of this Review/ Departmental appeal the impugned Notification dated 21.5.2015 may very kindly be set aside and the appellant may very kindly be re-instated with all back benefits. Any other relief which your good self deems fit that may also be awarded in favour of the appellant.

Dated: 25th of May 2015

APPELLANT

alzen 25/05/2015

LAL ZARI, EX: DEPUTY DIRECTOR PWD FATA,
R/O Sector N-1, House No.4, Street No.1,
Phase-IV, Hayat Abad Peshawar.

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GOVERNOR'S SECRETARIAT
Khyber Pakhtunkhwa, Peshawar

No. SO-I/11-5/GS/2015/973-7
Dated: 10-08-2015

E-33



The Additional Chief Secretary (FATA),
FATA Secretariat, Warsak Road,
Peshawar

Subject: INQUIRY INTO PURCHASE OF MISBRANDED MEDICINES
IN POPULATION WELFARE DEPARTMENT.

Dear Sir,

I am directed to refer to the subject noted above and to state that appeal for review against the impugned order dated 21.5.2015 by Dr. Lal Zari, Deputy Director Population Welfare Department FATA has been rejected by the Governor Khyber Pakhtunkhwa.

Yours faithfully,

(Shama Niamat)
Section Officer-I

Copy to:

1. PS to Governor Khyber Pakhtunkhwa.
2. PS to Principal Secretary to Governor Khyber Pakhtunkhwa.
3. Dr. Lalzari, Ex-Deputy Director Population Welfare Department FATA, Sector 1, House No.4, Street No.1, Phase-IV, Hayatabad, Peshawar.

Section Officer-I

ATTESTED

PESHAWAR

APPEAL No. 976 /2015

F-39

Dr. Lal Zari, Ex: Deputy Director (BPS-18),
Population Welfare Department FATA, FATA Secretariat,
Warsak Road, Khyber Pakhtunkhwa Peshawar.

..... **Appellant**

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa Peshawar.
- 2- The Principal Secretary to Governor Khyber Pakhtunkhwa, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Social Sectors Department FATA, FATA Secretariat, Warsak Road, Peshawar.
- 4- The Secretary Finance Department FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa Peshawar.
- 5- The Director, Population Welfare Directorate FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa Peshawar.

..... **Respondents**

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 21-05-2015 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED ON THE APPELLANT AND AGAINST THE APPELLATE ORDER DATED 10.8.2015 WHEREBY THE DEPARTMENTAL APPEAL/REVIEW OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned orders dated 21-05-2015 and 10.8.2015 may very kindly be set aside and the respondents may be directed to re-instate 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.

R/SHEWETH:
ON FACTS:

- 1- That the appellant was initially appointed in the Department of Population Welfare FATA as Woman Medical Officer (BPS-17) vide Notification dated 27.7.2006 on the proper

recommendation of Khyber Pakhtunkhwa Public Service Commission.

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- 2- That after appointment the appellant submitted her charge report and started performing her duty as Woman Medical Officer (BPS-17) in the Department of population Welfare FATA quite efficiently and up to the entire satisfaction of her superiors.
- 3- That due to excellent record of service and being senior most employee of the population welfare Department FATA, the appellant was promoted to the post of Deputy Director Population Welfare Department FATA on the recommendation of Departmental promotion committee vide Notification dated 02-12-2012.
- 4- That during service as Deputy Director (BPS-18) in the Department of Population Welfare FATA the appellant performed her duty quite efficiently and up to the entire satisfaction of her superiors. That inspite of inexperience to her new job description the appellant performed her duty with all zeal and zest. That it is very pertinent to mention that the appellant was awarded best performance certificate by the then Prime Minister of Pakistan Mr. Yousaf Raza Gilani in the year 2007-08.
- 5- That appellant while serving as Deputy Director Population welfare FATA a charge sheet and statement of allegation were issued to her on the basis of an anonymous/ pseudonymous compliant/ letter. That in the said charge sheet and statement of allegation a plethora of charges/ allegations were leveled against the appellant which are as under:
 - (i)- While procuring medicines of millions of rupees you violated the procurement policy of Government of Pakistan PPRA.
 - (ii)- You added an extra member in purchase committee without approval and did not obtain signature on each page of the comparative statement from the members of purchase committee. Constituted technical committee of non technical persons.
 - (iii) You nominated Dr. Rooh Ullah WMO Khyber dated 17.5.2013 but obtained signature from dr. Naila Wadood AD PWD on comparative statement of purchase committee without lawful authority.

- (iv) Failed to maintained proper store record as per instruction contain at Para 148, 149, 151 & 152 GFR.
- (v) Received misbranded medicine in term of drug labeling packing Rule 1956 & Section 23 of Drug Act 1976.
- (vi) Violated TOR No.4 of tender by entering into an agreement with the suppliers and depositing 10% amount as security from the successful bidders.
- (vii) Received millions of Rupees from state Bank in cash and made cash payment to the suppliers before completion of delivery.
- (viii) Violated Para 117 CPWD code and Para 6.51 a Hand Book for DDO 2003 and made payment before obtain report from Drug testing laboratory of Khyber Pakhtunkhwa.
- (ix) Ignoring MMC List and made purchase from unknown companies and violated the instructions of Government of Khyber Pakhtunkhwa.
- (x) Violated office procedure as per Para 35 C and 38 of the secretariat manual by submitting file to higher authority.
- (xi) That you purchased the 10 numbers of medicines which have been declared sub standard/ spurious and manufacturer of some of which are unknown in which food supplements is in bulk.
- (xii) Made procurement of millions of rupees by giving tender to family members and extended undue favor and give benefits to nears and dears. Copies of Charge Sheet, Statement of allegations are attached as annexure **A & B.**

6- That in response to the above mentioned plethora of baseless allegations/ charges the appellant submitted her reply in detail along with documentary evidence and denied the allegations which have been leveled against her. Copy of reply is attached as annexure **C.**

7- That inspite of clarifying her position with documentary proofs the respondents issued the impugned Notification vide dated 21.5.2015 whereby major penalty of Dismissal from service was imposed on the appellant without conducting fact finding and regular Departmental inquiries in the matter. Copy of impugned Notification is attached as annexure **D.**

8- That appellant feeling aggrieved from the impugned Notification dated 21.5.2015 issued by the respondents filed Departmental appeal/ review but the same was rejected on good grounds vide dated 10.8.2015. Copies of Departmental appeal/ review and rejection order are attached as annexure

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..... **E and F.**

9- That appellant having no other remedy filed the instant appeal on the following grounds amongst the other.

GROUND:

A- That the impugned Notifications dated 21.5.2015 and 10.8.2015 issued by the respondents 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 the 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 Pakistan 1973 while issuing the impugned Notifications dated 21.5.2015 and 10.8.2015.

C- That the procurement committee was constituted under the chairmanship of Secretary Social Sector Department FATA i.e. respondent No.3 along with seven members including the appellant meaning thereby that all the members are equally responsible for the irregularities/ flaws if any in the proceedings but in this case the appellant have been made scape goat to save the skin of high ups who are actually responsible for the said irregularities/ flaws.

D- That before the separation of the population Welfare Department FATA from the Health Directorate of FATA the purchase of medicines for the population welfare Department were used to be made by the Health Department as this Department by the FATA secretariat was administratively attached to that Department but after separation it was for the first time that the procurement of medicines for population welfare set up was made by the population welfare Directorate meaning thereby that all the members of the procurement committee were inexperienced except the Secretary Social sector. That it was the sole responsibility of the high ups to nominate the well experienced members for the procurement committee.

E- That in the whole case the respondents has been failed to prove/ establish any of the allegations against the appellant but inspite of that respondent Department issued the impugned Notification dated 21.5.2015 against the appellant

in violation of the principle of natural justice.

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- F- That the comparative list prepared by the purchase committee, the specification and quantification of the medicines as per requirement of the various agencies and recommendations for issuance of the supply order was the domain of technical committee and the appellant does not come within the picture of this entire process.
- G- That the action has been taken by the respondent Department against the appellant on the basis of an anonymous/ pseudonymous letter. That according to the Establishment Code an anonymous/ pseudonymous complaint/ letter if any received against the civil servant should straight away be thrown in to the dust bin and no action should be taken on such like complaints but in this case the appellant has been severely punished by imposing major penalty of Dismissal from service.
- H- That the appellant has been discriminated by the respondent Department because the high ups who are actually responsible for the irregularities have been exonerated but the appellant has been made scape goat without any fault on her part.
- I- That no fact finding inquiry has been conducted in the matter which is mandatory before the initiation of Departmental inquiry against the civil servant.
- J- That no opportunity of cross examination has been provided to the appellant and as such all the proceedings have been conducted and finalized at the back of appellant.
- K- That no regular inquiry has been conducted before issuing the impugned Notification dated 21.5.2015 against the appellant which is as per Supreme Court Judgments is necessary/ compulsory in punitive actions against the appellant.
- L- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated:31.8.2015

G-40

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 976/2015

Date of Institution ... 01.09.2015

Date of Decision ... 31.08.2018

Dr. Lal Zari, Ex: Deputy Director (BPS-18), Population Welfare Department
FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa Peshawar.

... (Appellant)

VERSUS

1. The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road,
Khyber Pakhtunkhwa, Peshawar and 4 others. ... (Respondents)

Mr. Noor Muhammad Khattak,
Advocate

For appellant.

Mr. Ziaullah,
Deputy District Attorney

For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI

MEMBER(Executive)
MEMBER(Judicial)

JUDGMENT

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

FACTS

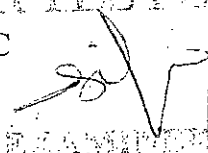
2. Brief facts of the case are that the appellant was appointed as Women
Medical Officer in Population Welfare Department vide notification dated
27.07.2006. That she was promoted as Deputy Director Population Welfare FATA
vide notification dated 01.12.2012. That on the basis of an
anonymous/pseudonymous complaint/letter, disciplinary proceedings were initiated
against her and winding up major penalty of dismissal from service was imposed
vide impugned notification dated 21.05.2015. The appellant preferred departmental

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appeal on 25.05.2015, which was rejected on 10.08.2015, hence, the instant service appeal.

ARGUMENTS

3. Learned counsel for the appellant argued allegations leveled against her were unfounded/baseless, hence, denied in her reply to charge sheet/statement of allegations. Proper inquiry in accordance with the procedure laid down in E&D Rules 2011 was not conducted. Show cause alongwith copy of inquiry report was not served on the appellant. It is not clear whether statements of witnesses were recorded by the inquiry committee, as the record is silent. Proper opportunity of cross examination was also denied to the appellant. Purchase committee notified by the respondents was headed by Secretary Social Sector, FATA, alongwith seven other members. However, they were not touched by the inquiry committee, which lend credence to the fact that the appellant was made scapegoat to save the skin of others. Similarly the report is also silent on the role of technical committee. The inquiry committee also recommended disciplinary action against Mr. Fakhar Alam, Store Keeper and Mr. Rashid Ahmad under E&D Rules, 2011, but to no avail. It appears that only the appellant was victimized, which amounts discrimination under Article-25 of the Constitution. Respondents also failed to produce record to substantiate whether Accountant General PR was approached to take action against its officials. Reliance was placed on case reported as 2011 PLC(CS) 1111, 2005 PLC (CS) 311, 2012 TD Tr.(Services) 12, PLJ 2011 Tr.C(Services) 1, PLJ 2008 SC 65 and 2007 SCMR 1860.

ATTESTED

 EXAMINED
 Khaytor Pakistan
 Service Tribunal
 Peshawar

4. On the other hand, learned Deputy District Attorney argued that impugned notification was issued in accordance with law and rules. All codal formalities were observed during the inquiry proceedings and the appellant was found guilty. Article 4 and 25 of the Constitution were not violated.

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CONCLUSION

5. Upon minute examination of the inquiry report some glaring discrepancies were noticed which led us to conclude that it was not conducted in just, fair and transparent manner. Perusal of reply of the appellant to the charge sheet and statements of allegations revealed that purchase committee headed by the Secretary Social Sector (FATA) alongwith seven others members was constituted to oversee the process of procurement. Similarly the technical committee was constituted after obtaining approval from the Secretary Social Sector (FATA). Bids invited were opened on the directions of the Secretary SS by a broad based committee having representation of relevant stakeholders. Comparative statement was signed by the concerned and finally by the Secretary Social Sector (FATA). In case there were deficiencies in the comparative statement was it not the responsibility of Secretary concerned as Head of the department to take corrective measures/stop the process? He can't absolved of his responsibility. The inquiry committee should have recorded statements of members of purchase committee/technical committee and thereafter should have analyzed their role in their findings. While responding to the charge at Sr. No. b of the charge sheet the appellant in her reply stated that representative of A&C Department was included to participate in the proceedings of the procurement committee on the verbal advice of SSS (F). Why this fact was not got verified from the Secretary SS to meet the ends of justice? While in reply to charge at Sr. no. d she leveled certain accusations against Mr. Fakhar Alam, Store Keeper and Mr. Muhammad Kamran. It was the duty of the inquiry committee to have recorded their statements, but the ~~report~~ ^{reply} was silent on this issue.

6. In addition to this reply furnished to the enquiry committee by the official respondents was also worth perusal. In this reply fingers were pointed out towards Secretary Social Sector (FATA) being responsible for certain lapses. It was quite strange why the Secretary Social Sector not associated with inquiry proceedings?

Was it intentional or otherwise? Fairness demanded that his statement should have been recorded to counter the allegations leveled by the appellant and those contained in the official reply. We apprehend that the appellant was made scapegoat to save the skin of others. Action of the enquiry committee also goes against the spirit of E&D Rules 2011. Firstly statements of all concerned, including Secretary should have been recorded in the presence of the appellant and thereafter opportunity of cross examination should have been given to her. It is a serious departure from the laid down procedure and is sufficient for making the proceedings illegal/unlawful. The inquiry committee also proposed disciplinary action against Mr. Fakhar Alam, Store Keeper and Mr. Rashid Ahmad but during the course of hearing official respondents when confronted on this point were clueless. Similarly, no documentary evidence was produced to substantiate that action against the officials of AGPRs as proposed by the enquiry committee was taken.

7. Another glaring illegality noticed in the impugned order was that no show cause notice was served on the appellant and as such Sub-Rule (1) (4) (c) of Rule-14 of E&D Rules 2011 was violated. Reliance is placed on case law reported as 2005 SCMR 678, the Supreme Court of Pakistan held that "according to the principle of natural justice enshrined in "Audi Alteram Partem" is one of the most important principles and its violation is always considered enough to vitiate even most solemn proceedings. Where adverse action^{is} contemplated to be taken against person/persons, he/they would have a right to defend such action, not ^{standing to} without the fact that the statute governing their rights does not contain provision of the principles of natural justice and even in the absence thereof, it is to be considered as a part of such statute in the interest of justice". In these circumstances, the opportunity of fair trial was not afforded to the appellant and condemned unheard. Similarly no speaking order was passed on the departmental appeal of the appellant. The competent authority

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was required under the law/rules to give reasons for rejection of appeal. As such Section-24-A of General Clauses Act was violated.

8. As a sequel to the above, the appeal in hand is accepted and impugned order is set aside. The respondents are directed to conduct de-novo enquiry against the appellant strictly in accordance with the law and conclude the same within a period of ninety days from the date of receipt of this judgment. The issue of back benefits shall be subject to the final outcome of the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

Sd

Ahmad Hassan
member

Sd

M. Amin Khan Kundli
member

Date of Presentation	11-9-2018
Number of Pages	2000
Copying Fee	12/-
Stamp	2/-
Total	14/-
Name of Officer	Sawikhat
Date of Collection	11-9-2018
Date of Disposal	11-9-2018

H-45

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____/2019

In

Appeal No. 976/2015

Dr. Lal Zari, Deputy Director (BPS-18),
Population Welfare Department FATA (Merged Area), FATA
Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.

.....PETITIONER

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar.
- 2- The Principal Secretary to Governor Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Social Sector Department FATA (Merged Area), FATA Secretariat, Warsak Road, Peshawar.
- 4- The Secretary Finance Department FATA (Merged Area), FATA Secretariat, Warsak Road, Peshawar.
- 5- The Director Population Welfare Directorate FATA (Merged Area), FATA Secretariat, Warsak Road, Peshawar.

..... RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING
THE RESPONDENTS TO OBEY THE JUDGMENT
DATED 31.08.2018 IN LETTER AND SPIRIT

R/SHEWETH:

- 1- That the petitioner filed Service appeal bearing No. 976/2015 before this august Service Tribunal for her re-instatement on the post of Deputy Director (BPS-18).
- 2- That the appeal of the petitioner was finally heard by this august Tribunal on 31.08.2018 and was decided in favor of the petitioner vide judgment dated 31.08.2018 with the view that ***"As a sequel to the above, the appeal in hence is accepted and impugned order is set aside. The respondents are directed to conduct de-novo enquiry against the appellant strictly in accordance with the law and conclude the same within a period of ninety days from the date of receipt of this judgment. The***

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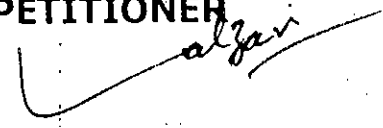
issue of back benefits shall be subject to the final outcome of the de-novo inquiry". Copy of the judgment is attached as annexure..... **A.**

- 3- That after obtaining copy of the judgment the petitioner applied to the Department for implementation but the respondent Department is not willing to obey the judgment passed by this august Tribunal.
- 4- That the petitioner has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may be directed to implement the judgment dated 31.08.2018 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

Dated: 02.01.2019.

PETITIONER



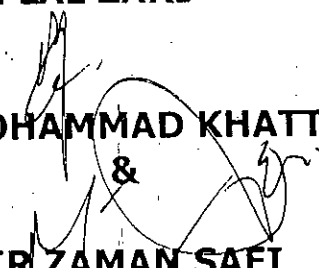
DR. LAL ZARI

THROUGH:

NOOR MOHAMMAD KHATTAK

&

**MIR ZAMAN SAFI
ADVOCATES**



(47)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____/2019

In

Appeal No.976/2015

DR. LAL ZARI

VS

GOVT: OF KP & OTHERS

AFFIDAVIT

I Noor Mohammad Khattak, Advocate on behalf of the petitioner, do hereby solemnly affirm that the contents of this **implementation petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.


NOOR MOHAMMAD KHATTAK
ADVOCATE

BETTER COPY OF PAGE-48

**GOVERNMENT OF KHYBER PAKHTUNKHWA,
POPULATION WELFARE DEPARTMENT**

Dated Peshawar the, 25th June, 2019-10-07

NOTIFICATION:

No.SOE(PWD)Misc/inquiry/2018/FATA: Whereas, Dr. Lal Zari (BPS-18), deputy Director, Population Welfare Directorate, Merged Area was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Statement of Allegations.

AND WHEREAS, Mr. Dawood Khan (BPS-20), Secretary, Irrigation Department, Khyber Pakhtunkhwa was appointed as Inquiry Officer to conduct de-novo inquiry in pursuance of Khyber Pakhtunkhwa Service Tribunal, Peshawar judgment dated 31.08.2018 against the said officer for charges leveled against her in accordance with rules.

AND WHEREAS, on the basis of findings and recommendations of the inquiry Officer, Show Cause Notice was served upon the accused office to which she replied. The accused officer was also heard in person.

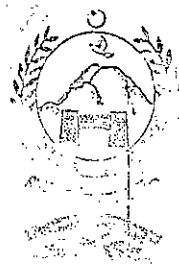
NOW, THEREFORE, The Competent Authority after having considered the charges, evidence on record, findings of inquiry officer, the reply of the accused officer to the Show Cause and also hearing her in person on 08.04.2019, in exercise of powers under Rule-4 (1)(b) (i) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose major penalty of "reduction to a lower grade/post for a period of one year" upon Dr. Lal Zari (BPS-18), Deputy Director, Population Welfare Directorate, Merged Area, Peshawar with immediate effect.

**SECRETARY
POPULATION WELFARE DEPARTMENT**

Endst: No. SOE(PWD) Misc/Inquiry/2018/FATA

Dated: 25th June, 2019

Copy forwarded to all concerned.



GOVERNMENT OF KHYBER PAKHTUNKHWA,

POPULATION WELFARE DEPARTMENT

Ministry, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar

I-48

Dated: Peshawar the 25th June, 2019

NOTIFICATION

No. SC (PWA) Misc/Inquiry/2018/EAT/ : Whereas, Dr. Lal Zari (BPS-13), Deputy Director Population Welfare Directorate, Peshawar was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Schedule below:-

AND WHEREAS, Mr. Farooq Khan (BPS-13), Secretary, Irrigation Department, Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Schedule below:-

AND WHEREAS, on the basis of evidence and representations of the Inquiry Officer, the Inquiry Officer has recommended the accused officer to which she replied. The Inquiry Officer was also satisfied that:-

AND WHEREAS, the Inquiry Officer has recommended the accused officer to which she replied. The Inquiry Officer was also satisfied that:-

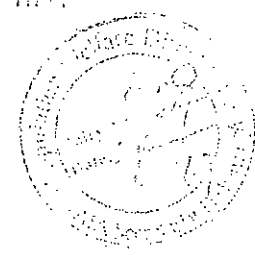
SECRETARY
POPULATION WELFARE DEPARTMENT

Encls: No. SC (PWA) Misc/Inquiry/2018/EAT/1897-1898 Dated: 25th June, 2019

Forwards the information as follows:-

1. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.
2. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.
3. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.
4. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.
5. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.
6. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.
7. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.
8. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.
9. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.
10. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.
11. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.
12. To the Secretary, Peshawar, P.O. Box No. 10, M. A. Complex, Civil Secretariat, Peshawar.

Handwritten notes and signatures on the left margin.



Handwritten signature of the Section Officer (ESTT)

SECTION OFFICER (ESTT)
Phone No. 091-9223623

To

J-49

The Honorable Chief Minister,
Khyber Pakhtunkhwa.

Subject: **REVIEW PETITION AGAINST THE IMPUGNED
NOTIFICATION DATED 25.06.2019**

R/Sir,

Most humbly appellant begs to submit as under:

1. That the appellant was appointed as Assistant Director in the Population Welfare Department (FATA) now (Merged Area) vide order dated 26.07.2006 and since from appointment the appellant served the Department with devotion and commitment.
2. That during service the appellant was allowed promotion to the single cadre post of Deputy Director (BPS-18) in the Population Welfare Department (FATA) on the proper recommendation of Departmental Promotion Committee vide Notification dated 30.04.2013.
3. That during service the appellant was suspended vide order 18.02.2014 on some baseless allegations. That where after an inquiry was conducted and as such the appellant was charge sheeted along with statement of Allegation. That in response the appellant submitted her detailed reply along with documentary proofs and denied the allegations leveled against her.
4. That in the so called inquiry the responsible officers who were actually involved were given safe passage while the appellant was made scapegoat by imposing major penalty of Dismissal from service vide Notification dated 21.5.2015.
5. That feeling aggrieved the appellant filed review petition against the Notification dated 21.05.2015 before the appellate authority but the same was rejected by the appellate authority.
6. That where after the appellant filed Service Appeal before the august Service Tribunal, Khyber Pakhtunkhwa against her dismissal Notification dated 21.05.2015 and appellate order. That the august service tribunal judgment dated 31.8.2018 accepted the service appeal of the appellant with the direction to the authorities to conduct Denovo inquiry against the appellant and conclude the same within a period of ninety days.
7. That the authorities failed to conduct Denovo inquiry within the stipulated period of ninety days, hence the appellant filed implementation petition before the august service Tribunal and as such during the pendency of the said implementation petition the respondents produced the present impugned Notification dated

25.6.2019 whereby another major penalty of Reduction in lower grade for the period of one year has been imposed on the appellant without conducting regular inquiry in the matter and without associating the officers who were actually involved in the alleged misconduct. So much so the issue of intervening period i.e. w.e.f the date of dismissal till passing of this impugned Notification has not been decided though the appellant is fully entitled for the same.

8. That felling aggrieved the appellant filed the instant review on the following grounds.

GROUND:

- 1- That the impugned Notification dated 25.6.2019 whereby major penalty of Reduction in lower grade for one year has been imposed on the appellant is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- 2- That the Denovo inquiry conducted by the Secretary irrigation is against the law, Efficiency and Disciplinary Rules, 2011 and spirit of judgment dated 31/08/2018 passed by the august service Tribunal, Khyber Pakhtunkhwa.
- 3- That in the judgment dated 31.8.2018 it was observed by the Honorable Tribunal, that statements of Secretary Social Welfare and members of procurement committee as well as technical committee should have been recorded in front of appellant with opportunity to cross examine them but inspite of the clear directions of the august Service Tribunal the statements of the above mentioned members were not recorded nor the appellant was allowed to cross examined them.
- 4- That once again a deliberate attempt has been made by the inquiry Officer to give safe passage to the responsible Officers by making the appellant as scapegoat for the second time.
- 5- That the inquiry which has been made a ground for the impugned Notification is vague and based on previous inquires which has already been set aside by the honorable Service Tribunal.
- 6- That appellant is fully entitled for the back benefits of her intervening period but the authority has malafidely with held the same.
- 7- That no regular inquiry has been conducted in the matter which is as per Supreme Court Judgments is necessary in punitive actions against the Civil Servants.

(51)

It is therefore, most humbly prayed that on acceptance of this review petition the major penalty of reduction to lower grade for one year imposed vide impugned Notification dated 25/06/2019 may very kindly be set aside and the appellant may be restored on her original post i.e. Deputy Director (BPS-18) with all back benefits including seniority. Any other remedy which your good self deems fit that may also be awarded in my favor.

Dated: 12.07.2019

Lal Zari

YOUR'S OBEDIENTLY

DR. LAL ZARI,
Deputy Director (BPS-18),
Population Welfare Directorate, (Merged Area)
Khyber Pakhtunkhwa, Peshawar.

K-52



**GOVERNMENT OF KHYBER PAKHTUNKHWA,
POPULATION WELFARE DEPARTMENT**
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

No. SOE(PWD) Misc/Inquiry/2018/FATA
Dated Peshawar the 06th September, 2019

To

Dr. Lal Zari,
Assistant Director (Medical),
Population Welfare Directorate Merged Area,
Warsak Road, Peshawar.

Subject: - REVIEW PETITION AGAINST THE IMPUGNED NOTIFICATION DATED 25-06-2019

I am directed to refer to your Review Petition dated 12-07-2019 on the subject noted above and to convey that your review petition has been thoroughly examined / processed by this Department and the competent authority, after taking into consideration the charges leveled against you in the charge sheet and statement of allegations, has been pleased to reject the same, being devoid of merit.

SECTION OFFICER (ESTT)

Copy to the: -

1. Director General, Directorate General, PW, Khyber Pakhtunkhwa Peshawar.
2. Deputy Director, PW Directorate Merged Area, Warsak Road Peshawar
3. PS to Secretary, PWD, Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (ESTT)

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

_____ OF 2019

Dr. Lal Zari

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Department

(RESPONDENT)
(DEFENDANT)

I/We Dr. Lal Zari

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. 02/10/2019

Calzari

CLIENT

Accepted
ACCEPTED

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

15401-0705985-5

(BC-08-0853)

Shahzad &
**SHAHZULLAH YOUSAFZAI
ADVOCATES**

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Mobile No. **0345-9383141**

MIR ZAMAN SAFI
ADVOCATE

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

In Service Appeal No.1299/2019.

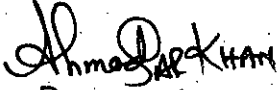
Dr. Lal Zari (Appellant)

Versus

Chief Secretary, Govt. of Khyber Pakhtunkhwa & others (Respondents)

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Deponent

Ahmad Yar Khan
Assistant Director (Lit)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

In Service Appeal No.1299/2019.

Dr. Lal Zari

..... (Appellant)

Versus

Chief Secretary, Govt. of Khyber Pakhtunkhwa & others (Respondents)

PARAWISE REPLY/COMMENTS ON BEHALF OF THE RESPONDENTS

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the appellant has got no locus standi to file the instant appeal.
2. That no discrimination / injustice has been done to the appellant.
3. That the instant appeal is bad in the eye of law.
4. That the appellant has not come to this Tribunal with cleaned hands.
5. The appeal is based on distortion of facts and is not tenable in eye of law.
6. That the appellant has been estopped by his own conduct to file the appeal.
7. The present service appeal is based upon malicious/vexations and frivolous grounds.
8. That the service appeal is based on conjecture and surmises.
9. That the service appeal is not maintainable in its present form.
10. That the service appeal is bad due to mis-joinder and non-joinder of the parties.
11. That the appellant has filed the present service appeal contrary to Law and facts.
12. That the appellant has concealed material facts from this Honorable Tribunal.

ON FACTS:

1. Incorrect. The appellant was appointed as Woman Medical Officer BPS-17 vide order No 1(1)Vol-III/2005-06/Pop/313-29 dated 31-07-2006 (Annexure:-A).
2. Incorrect. The appellant was promoted from Woman Medical Officer BPS-17 to BPS-18 and was posted as Deputy Director Population Welfare Programme erstwhile FATA (Annexure:-B). However, she did not actualize her promotion by not submitting her salary source in AGPR for shifting salary from BPS-17 to BPS-18 and till her dismissal, she received salary in BPS-17 (Annexure:-C).

3. Incorrect, verbatim distortion of facts. The appellant was suspended on 18-02-2014 with immediate effect on account of involvement in the irregularities committed in the procurement of medicines. Therefore, charge sheet and statement of allegation was served upon the appellant and written reply of charge sheet and statement of allegation submitted by the appellant was found unsatisfactory.
4. Incorrect. The competent authority after perusal and examination of inquiry report as well as giving an opportunity of personal hearing has imposed major penalty of dismissal from Service on the appellant under Rule-4 (b)-(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. **(Annexure:-D)**
5. Correct.
6. Correct.
7. Incorrect. As per judgment of Khyber Pakhtunkhwa Service Tribunal Peshawar dated 31-08-2018 the appellant was re-instated into service for the purpose of de-novo inquiry vide notification dated 27-12-2018 **(Annexure-E)**. After de-novo inquiry the competent authority imposed major penalty of reduction to lower grade /post for a period of one year vide notification dated 25-06-2019**(Annexure-F)**. The appellant was posted as Assistant Director(Medical) PW Directorate Merged Area on 16-07-2019 and she assumed the charge of the post on 17-7-2019**(Annexure-G&H)**.
8. Correct. To the extent that review petition has been rejected by the competent authority being devoid of merit.

ON GROUNDS:

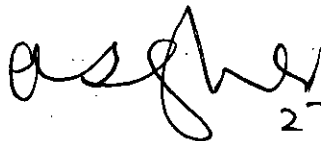
1. Incorrect. Notification dated 25-06-2019 is according to law, rules and regulation after fulfillment of all codal formalities.
2. Incorrect. The entire para is based on conjecture and surmises hence denied.
3. Incorrect. The de novo inquiry was conducted according to the procedure laid down in Efficiency & Disciplinary Rules 20011 in light of the judgment dated 31-08-2018 of this Honorable Tribunal.
4. Incorrect as explained in para 3 of the ground above.
5. Incorrect. The appellant has Concealed material facts from this Honorable Tribunal the de novo inquiry was conducted according to the procedure laid down in Efficiency & Disciplinary Rules 20011 in light of the judgment dated 31-08-2018 of this Honorable Tribunal.

6. Incorrect. After fulfillment of all codal formalities the competent authority has imposed major penalty reduction to lower grade for the period of one year, which was the outcome of de novo inquiry, so in this context the appellant was not entitled to any back benefits.
7. Incorrect. As already explained above.

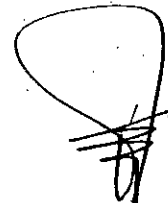
PRAYER:-

It is therefore most humbly prayed that by acceptance of this reply the Service Appeal of the Appellant may kindly be dismissed with cost.

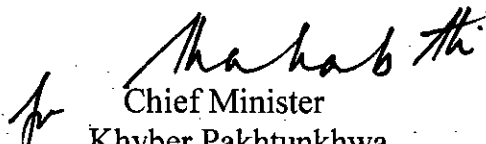
Any other relief though not specifically prayed for deem fit in circumstances of the case may kindly be granted.


27.07.20

Secretary to Govt: of Khyber Pakhtunkhwa
Population Welfare Department,
Respondent No.3



Director General
Population Welfare Khyber Pakhtunkhwa
Respondent No.4


Chief Minister
Khyber Pakhtunkhwa
Through Principal Secretary
Respondent No.2

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

In Service Appeal No.1299/2019.

Dr. Lal Zari

.....

(Appellant)

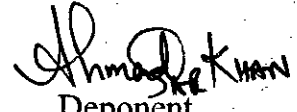
Versus

Chief Secretary, Govt. of Khyber Pakhtunkhwa & others

(Respondents)

Counter Affidavit

I Mr. Ahmad Yar Khan, Assistant Director (Litigation), Directorate General of Population Welfare Department do solemnly affirm and declare on oath that the contents of para-wise comments/reply are true and correct to the best of my knowledge and available record and nothing has been concealed from this Honorable Tribunal.


Deponent

Ahmad Yar Khan
Assistant Director (Lit)

12

POPULATION WELFARE DIRECTORATE
ABSHAR COLONY ST: NO-06
WARSAK ROAD PESHAWAR

F.No. 1(1)/Vol-II/2005-06/Pop/313-28

Dated 31/07/2006

APPOINTMENT ORDER

On the recommendations of NWFP Public Service Commission received vide their office letter F.No. SRD/13669 dated 16/02/2006, the Competent Authority has been pleased appointing Dr. Lal Zari Begum as Women Medical Officer (BPS-17) in the Population Welfare Programme/project with immediate effect, on contract basis till the completion or wind up of the program/project by the government as the case may be, and as prescribed in the following terms and conditions.

TERMS & CONDITIONS OF EMPLOYMENT ON CONTRACT BASIS

1. BPS-17 Pay (7140-535-17840)
2. He/She will get pay admissible as per scale (minimum) BPS-17 plus allowances admissible under the rules. He will also be entitled to annual increment as per existing government policy.
3. His service will be to the satisfaction of this directorate and liable to termination with or without any reason on two months notice from either side. In case of termination without notice by the undersigned employer or two months notice from the employee for resignation, two months pay and allowances shall be paid by the government or refundable by the employee as the case may be.
4. The employee will contribute C.P.F at the rate of 10 percent of minimum pay scale and equal amount of 10 percent contribution will be made by the government as per rules.
5. He will be allowed Conveyance, Medical & House Rent Allowance and T.A as per government rules.
6. He has to join duty at his own expenses.
7. He should produce medical fitness certificate from the Medical Superintendent, Civil Hospital before reporting his arrival for duty in this directorate as required under the rules.

If she accepts this post on the above conditions he should report for duty to the undersigned within 14 days of the receipt of this offer/appointment order, and produce original certificate testimonials in connection with his qualification, domicile and computerized national identity card.

Pervez Khan
Project Director/DD
Population Welfare Directorate

Copy to:-

1. PS to Secretary FATA Governor Secretariat FATA.
2. Deputy Secretary Services G.S FATA as per his advice on file please.
3. Additional Accountant General (PR) Sub Office NWFP Peshawar.
4. All Agency Account Officers for information.
5. All Agency Population Welfare Officers for information.
6. Official Concerned.
7. Account Assistant (local) Directorate of Population Welfare Governor's Secretariat FATA.

SECRETARIAT (FATA)

2/5/06
5.9.2006

Pervez Khan
Project Director/DD
Population Welfare Directorate

POPULATION WELFARE DIRECTORATE
FATA SECRETARIAT
ABSHAR COLONY ST#6
WARSAK ROAD, PESHAWAR
Ph# 091-9212711

F.No.1(1)Vol-II/2006-07/Pop/ 1826-33

Dated: 27/12/2006

CORRIGENDUM

In partial modification to appointment order F.No.1(1)Vol-II/2005-06/Pop/313-29 dated: 31/07/2006 of Dr. Lal Zari Women Medical Officer, (BPS-17) the order may please be read as on the recommendation of NWFP Public Service Commission received vide letter No SRD/13669 dated 16/2/2006. the Competent Authority has been pleased to appoint Dr. Lal Zari (Women Medical Officer, (BPS-17) on regular /temporary vacant post of Assistant Director (Medical) as per Provincial Government rules of civil servants.

TERMS & CONDITION

1. BPS-17 Pay (7140-535-178040)
2. She will get pay admissible as per scale (minimum) BPS-17 plus allowances admissible under the rules. She will also be entitled to annual increment as per Government policy.
3. the employee will contribute C.P.F at the rate of 10 percent of minimum pay scale and equal amount of 10 percent contribution will be made by the government as per rules.
4. She will be allowed Conveyance, Medical & House Rent Allowance and T.A as per government rules.
5. She has to join at his own expenses.
6. She should produce medical fitness certificate from the Medical Superintendent Civil Hospital before reporting his arrival for duty in this directorate as required under the rules.

If she accepts this post on the above conditions she should report for duty to the undersigned within fourteen days of the receipt of this offer/appointment order. and produce original certificate testimonials in connection with his qualification, domicile and computerized national identity card.

Sd/xxxxxx
Director Health and Population
FATA

Copy to:

1. PS to Secretary FATA Governor Secretariat FATA.
2. Deputy Secretary Service GS FATA as per his advise on file please.
3. Additional Accountant General (PR) Sub Office NWFP Peshawar.
4. All Agency Account Officers for information.
5. All Agency Population Welfare Officer s for information.
6. Officer concerned.
7. Account Assistant (Local) Directorate of Population Welfare Directorate FATA.


Director Health and Population
FATA



Dated, 30.04,2013

NOTIFICATION:-

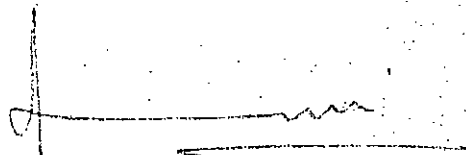
No.SO(SSD)/FS/Pop/5(1)2013/3498-3517. On the recommendation of Departmental Promotion Committee and in pursuance of the approval of the Governor, Khyber Pakhtunkhwa Dr.Lal Zari, Women Medical Officer Population Welfare Department FATA is hereby promoted from BPS-17 to BPS-18 on regular basis.

On her promotion she is posted as Deputy Director Population Welfare Department FATA with immediate effect.

Secretary Social Sectors.

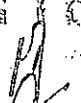
Copy to :-

1. Secretary Planning & Development Division Islamabad.
2. Secretary States and Frontier Regions Division Islamabad.
3. Principal Secretary to Governor Khyber Pakhtunkhwa
4. All Secretaries FATA Secretariat.
5. Additional Accountant General (PR) Sub Office Peshawar.
6. All Agency Population Welfare Officers FATA.
7. Officer concerned
8. Manager Government Printing & Stationery Department Khyber Pakhtunkhwa
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Additional Chief Secretary FATA


 Deputy Secretary (SSSD)

O/C

ATTESTED



AGPR (SO) PESH
S#: 1
Pers #: 00323864
Name: LAL ZARI
ASSISTANT DIRECTOR
CNIC No. 1730158667364
GPF Interest Free
17 Active Permanent

PAYS AND ALLOWANCES:
0001-Basic Pay
1001-House Rent Allowance 45%
1538-Non - Practicing Allowance
1947-Medical Allow 15% (15-22)
1948-Adhoc Allowance 20104 50%
1970-Adhoc Relief Allow 2011
1971-Adhoc Relief Allow (2012)
1972-Adhoc Relief Allow (2013)
Gross Pay and Allowances:
IT Pay 0.00

3501-Savings Fund
3604-Group Insurance

P Sec:003 Month:May 2015
PR3501 -POPULATION WELFARE PROGRAM
Not Available
NTN:
GPF #:
Old #:

PR3501
25,600.00
4,432.00
4,000.00
1,921.00
6,405.00
1,921.00
15,000.00
5,120.00
2,750.00
69,519.00

AGPR (SO) PESH
S#: 2
Pers #: 00323864
Name: LAL ZARI
ASSISTANT DIRECTOR
CNIC No. 1730158667364
GPF Interest Free
17 Active Permanent
PAYS AND ALLOWANCES:
2174-Adhoc Relief Allow-2014

P Sec:003 Month:May 2015
PR3501 -POPULATION WELFARE PROGRAM
Not Available
NTN:
GPF #:
Old #:

PR3501
2,560.00

Gross Pay and Allowances
DEDUCTIONS:
IT Pay 0.00

TAX: (Joint)
Subrc: 624.00
654.00

458.00
66,081.00

69,519.00

65,031.00

QUBA
QUBA LIMITED
1730158667364

QUBA
QUBA LIMITED
1730158667364

16
17/11/15
Cast

May - 2015

NOTIFICATION:-

No.FS/SSDI 6699-708. WHEREAS, Dr. Lal Zari (BS-18) Deputy Director Population Welfare (FATA) was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 in inquiry captioned, "Purchase of Misbranded and Spurious Medicines" for the Directorate.

2- She was placed under suspension vide Notification No.400-5 dated 18-02-2014 and served with Charge Sheet and Statement of Allegations vide letter bearing No.FS/E/100-98 (Inq-Medicines)/15910-12 dated 17-10-2014.

3- **AND WHEREAS**, an Inquiry was conducted by a Committee comprising Mr. Sikander Qayyum (PAS BS-20) Secretary Finance Department FATA Secretariat and Mr. Shakeel Qadir Khan (PAS BS-19) Secretary Law & Order Department FATA Secretariat vide Administration, Infrastructure & Coordination Department FATA Secretariat letter No.FS/E/100-98 (Inq-Medicines)/15913-15 dated 17-10-2014 to enquire into charges levelled against her. The charges as provided for in the Charge Sheet and Statement of Allegations are as under:-

S.No of Charge	Text of Charge
(a)	While procuring medicines of millions of rupees you violated the Procurement Policy of Government of Pakistan of PPRA Rule 12 Sub para 1 & 2, Rule 22 Para 1 & 2, Rule 28, Rule 31 & Rule 39.
(b)	She added an extra member in purchase committee without approval and did not obtain signature on each page of the comparative statement from its members of Purchase Committee. Constituted Technical Committees of non-technical persons.
(c)	You nominated Dr. Rooh-ul-Ala WMO Khyber vide letter No. F.No1(1)/2012-13 POP/7761-65 dated 17-05-2013 but obtained signature from Dr. Nisra Wadood AD PWD on comparative statement of purchase committee without lawful authority.
(d)	Failed to maintain proper store record as per instructions contained at Para 148, 149, 151 & 152 of GFR.
(e)	Received misbranded medicines in term of Drug Labeling Packing Rule 1956 & Section 23(1) a iii Drug Act 1976.
(f)	Violated ToR No. 4 of Tender by not entering into an agreement with the suppliers and depositing 10% amount as security from the successful bidders.
(g)	Received millions of rupees from State Bank in cash and made cash payment to the suppliers before completion of delivery. (Delivery not yet completed).
(h)	Violated Para 117 CPWD Code and Para 6.51 a Hand Book for DE O 2003 and made payment before obtaining report from Drug Testing Laboratory of Khyber Pakhtunkhwa.
(i)	Ignoring MCC List and made purchase from unknown companies and violated the instruction / Notification of Government of Khyber Pakhtunkhwa vide No. 1676-1926/MCC dated 22-12-2011.
(j)	Violated office procedure as per para 35C and 38 of the Secretariat, Manual (Khyber Pakhtunkhwa) by submitting file to higher authority (Secretary) directly.

ATTESTED

of Charge	Text of Charge
(k)	That you purchased the following 10 No's medicines which have been declared sub-standard / spurious and manufacturer of some of which are unknown in which food supplements is in bulk. i. Capsules Active C, B.No. Nil. ii. Tablets Ascorbic Acid, B. No. 725. iii. Tablets Rumin 400mg, B. No. 1111. iv. Infusion Azogyl, B. No. SL 04. v. Tablets Folic Acid 5mg, B. No. 41 vi. Tablets Biprim-DS, B. No. 276. vii. Tablets Rumin-400 (ANKAZ Pharmex Pvt. Ltd. viii. Inj. Diazepam (S,J&G Fazal Elahi, Pvt. Karachi). ix. Inj. Dexone (Uni-Tech Pharmaceutical Pvt. Ltd. Karachi, Pakistan) x. Food Supplement (Milko-Max).
(l)	Made procurement of Millions of rupees by giving tender to family members and extended undue favour and give benefit to nears and dears.

4- The Inquiry Committee finalized its report and determined the following charges as proved:-

S.No of Charges	Text of Charges Proved
(b)	She added an extra member in purchase committee without approval. She did not obtain signature on each page of the comparative statement from the members of Purchase Committee and constituted technical committee of non-technical members.
(c)	She nominated Dr. Rooh-ul-Ala Woman Medical Officer Khyber Agency as member but obtained signature from Dr. Naila Wadood Assistant Director on comparative statement of purchase committee without lawful authority.
(e)	She received misbranded medicines in term of Drug Labeling Packing Rule 1956 & Section 23(1) a iii Drug Act 1976.
(f)	She violated TOR.No.4 of Tender by not entering into an agreement with the suppliers and depositing 10% amount as security from the successful bidder.
(g)	She received millions of rupees from State Bank in cash and made cash payment to the supplier before completion of delivery of medicines.
(l)	Made procurement of Millions of rupees by giving tender to family members and extended undue favour and give benefit to near and dears.
(a) Partially Proved	Violation of Procurement Policy of Government of Pakistan of PPA Rule.
(K) Partially proved	Declaration of 4/5 medicines being food supplements as sub-standard/spurious.

5- The Report was submitted to the Competent Authority (Governor Khyber Pakhtunkhwa) who after perusal and examination of the Inquiry Report as well as giving opportunity of Personal Hearing to the said Deputy Director on 14-05-2015 to defend herself/comment on the findings of the report (already communicated to her in writing). She failed to defend the allegations.

6- In exercise of powers as Appointing/Competent Authority vide Notification No.FS/C-II/52-1/4192-4202 dated 20-08-2010, the Governor Khyber Pakhtunkhwa in his capacity as the Competent Authority, on the basis of inquiry has imposed the major penalty of Dismissal from Service on the accused officer under Rule-4 (b)-(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

ATTESTED

Foregoing in view the above, Dr. Lal Zari (BS-18) Deputy Director Population Welfare Officer (FATA) is "Dismissed from Service" with immediate effect.

By the Orders of Governor Khyber Pakhtunkhwa
(COMPETENT AUTHORITY)

Dated 21/5/2015

Copy to:-

1. Military Secretary to Governor Khyber Pakhtunkhwa
2. Principal Secretary to Governor Khyber Pakhtunkhwa
3. Secretary A,I&C Department FATA Secretariat
4. Director Health Services (FATA)
5. ✓ Additional Accountant General (PR) Sub Office Peshawar
6. Deputy Director Population Welfare (FATA)
7. Section Officer (Estab), A,I&C Department FATA Secretariat
8. All Agency Population Welfare Officers
9. PS to Additional Chief Secretary FATA Secretariat
10. Individual concerned

Secretary Social Sectors FATA

ATTESTED

[Handwritten signature]

[Handwritten signature]



POPULATION WELFARE DEPARTMENT
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

128
Dated Peshawar the 27th December, 2018

NOTIFICATION

No. SOE(PWD) Misc/Inquiry/2018/FATA: In pursuance of judgment of the Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 31-08-2018 and in consultation with Establishment Department, Khyber Pakhtunkhwa, the competent authority pleased to reinstate Dr. Lal Zari, Dy. Director Population Welfare, Directorate Tribal Districts for the purpose of de-novo inquiry, with effect from 24-10-2018.


SECRETARY
GOVT. OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT

Endst: No. SOE (PWD) Misc/Inquiry/2018/FATA Dated Peshawar the 27th Dec: 20

5467-75

Copy for information & necessary action to the: -

1. Additional Chief Secretary, FATA, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa.
3. Director General, Population Welfare, Khyber Pakhtunkhwa, Peshawar.
4. PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
5. Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
6. Deputy Director Population Welfare Directorate, Tribal Districts.
7. Officer Concerned.
8. PS to Secretary, PWD, Khyber Pakhtunkhwa, Peshawar.
9. Master file.


SECTION OFFICER (ESTT)
PHONE: NO. 091-922362

Accountant General
3/11/19
keep a copy in
record and
admin/Accounts
ing my files



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

129

Dated Peshawar the 25th June, 2019

NOTIFICATION

No. SOE(PWD) Misc/Inquiry/2018/FATA: Whereas, Dr. Lal Zari (BPS-18), Deputy Dir Population Welfare Directorate, Merged Area was proceeded against under the K Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Statement of Allegations.

AND WHEREAS, Mr. Dawood Khan (BS-20), Secretary, Irrigation Department, K Pakhtunkhwa was appointed as Inquiry Officer to conduct de-novo inquiry in pursuance of Khyber Pakhtunkhwa Service Tribunal, Peshawar judgment dated 31-08-2018 against the said officer for charges leveled against her in accordance with rules.

AND WHEREAS, on the basis of findings and recommendations of the Inquiry Officer, Show Cause Notice was served upon the accused officer to which she replied and the accused officer was also heard in person.

NOW, THEREFORE, the Competent Authority after having considered the evidence on record, findings of inquiry officer, the reply of the accused officer to Show Cause and also hearing her in person on 03-04-2019, in exercise of powers under Rule-4 (1) (b) (i) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose major penalty of "reduction to lower grade / post for a period of one year" upon Dr. Lal Zari (BPS-18), Deputy Dir Population Welfare Directorate, Merged Area, Peshawar with immediate effect.

SECRETARY
POPULATION WELFARE DEPARTMENT

Endst: No. SOE(PWD) Misc/Inquiry/2018/FATA/1295-1306 Dated: 25th June, 2019

Copy forwarded for information & necessary to the: -

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar
2. All Administrative Secretaries, Khyber Pakhtunkhwa.
3. Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. Director General Population Welfare Department, Peshawar.
5. All Heads of Attached Departments, Khyber Pakhtunkhwa.
6. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
7. Deputy Director, Population Welfare Directorate, Merged Area, W. Road, Peshawar.
8. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
9. PS to Secretary, PWD, Khyber Pakhtunkhwa, Peshawar.
10. Manager, Govt. Printing Press, Peshawar.
11. Officer concerned.
12. Master file.

Accountant General
4/7/19
Discard

As accused
4/7/19
25/06/19



[Signature]
SECTION OFFICER (ESTT)
Phone No. 091-9223623



GOVERNMENT OF KHYBER PAKHTUNKHWA,
POPULATION WELFARE DEPARTMENT
02nd Floor, 45, Lal Zari, Khan, Multiplex, Civil Secretariat, Peshawar

130

Dated Peshawar the 16th July, 2019

NOTIFICATION

No. SOE(PWD) Misc/Inquiry/2018/FAIA: In pursuance of this Department's Notification of even number dated 25-06-2019, Dr. Lal Zari is hereby posted as Assistant Director (Medical), Population Welfare Directorate Merged Area against the vacant post with immediate effect. (I), further orders.

-sd-

SECRETARY

GOVT. OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT

No. SOE(PWD) Misc/Inquiry/2018/FAIA/2017-72 Dated Peshawar the 16th July, 2019

Copy for information & necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General, Population Welfare, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Director, PW Directorate Merged Area, Warsak Road, Peshawar.
4. Dr. Lal Zari, Assistant Director (Medical), PW Directorate Merged Area, Peshawar.
5. PG & Secretary, Population Welfare Deptt., Khyber Pakhtunkhwa, Peshawar.
6. Mr. Arif.



SECTION OFFICER (ESTT)
PHONE: NO. 091-9223623

10/7/19
Accountant
[Handwritten notes and signatures]



POPULATION WELFARE
DIRECTORATE
MERGED AREA

WARSAK ROAD PESHAWAR
Phone & FAX 091-9212711

F.No. DD/POP/1(1)/2019-20/Gen/

785-90

Dated: 17/07/2019

CHARGE ASSUMPTION REPORT

In compliance to Section Officer (Establishment), Population Welfare Department Khyber Pakhtunkhwa, Notification No.SOE(PWD)Misc/Inquiry/2018/FATA/2267-72, dated 16th July, 2019, I Dr. Lal Zari, hereby assumed the charge of the Assistant Director (Medical), Population Welfare Directorate Merged Area, today on 17th July 2019 (F.N).

SdXXX
Dr Lal Zari
Assistant Director (Medical)
Population Welfare Directorate
Merged Area

Copy to:

- Additional Accountant General AGPR, Sub office, Khyber Pakhtunkhwa Peshawar.
- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- Deputy Director Population Welfare Directorate, Merged Area Peshawar.
- Section Officer (Estab) Population Welfare Department Khyber Pakhtunkhwa Peshawar.
- PS to Secretary, Population Welfare Department Khyber Pakhtunkhwa.
- PS to Director General Population Welfare Department, Khyber Pakhtunkhwa Peshawar.

Assistant Director (Medical)
Population Welfare Directorate
Merged Area

Amir
17/7/19,
~~Accountant General~~
For MSA

~~Lal Zari~~
~~17/7/2019~~