

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No: 702/2019

Date of Institution ... 27.05.2019

Date of Decision ... 08.10.2019

Mr. Abdul Haleem son of Hamish Gul Ex-Senior Clerk, Government Printing Press  
Department, Peshawar. ... (Appellant)

VERSUS

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

Mr. M. Yasir Hamid Ali,  
Advocate.

... For appellant

MR. HAMID FAROOQ DURRANI,

... CHAIRMAN

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved of order dated 12.08.2000, whereby, he was removed from service. His departmental appeal dated 04.02.2019 also remained un-responded.
2. Learned counsel for the appellant and learned AAG on pre-admission notice heard and available record gone through.
3. The facts, as gatherable from memorandum of appeal, are that the appellant was appointed as Junior Clerk on 08.01.1977 in Government Stationery & Printing Press Department Peshawar. In the year 1997 an enquiry was conducted against him and three others regarding embezzlement in the office. Upon conclusion the penalty of removal from service as well as recovery of embezzled amount was imposed upon the appellant on 12.08.2000. A criminal case under Section 409, 468, 471 PPC, 5(2) P.C Act was registered against the appellant and others on 11.08.2000. The trial of appellant was concluded on 09.12.2011 by the Special Judge, Anti-Corruption (Provincial) Peshawar, wherein, the appellant was acquitted

from the charge. An appeal against the acquittal was also dismissed by the Honourable Peshawar High Court Peshawar on 07.01.2019.

4. The learned counsel could not satisfactorily explain the delay of more than 18 years in submission of departmental appeal which was preferred on 04.02.2019 against the order dated 12.08.2000. He attempted to argue that the appellant, after his acquittal, waited for the outcome of appeal which was decided on 07.01.2019. The argument of learned counsel is not appealing enough to influence a prudent mind. It is also worth-mentioning that the appellant was on bail during the whole trial and could have conveniently submitted the requisite departmental appeal in time. In view of judgment reported as 2006-SCMR-453 and 2012-SCMR-195 the appeal in hand is not competent owing to such enormous delay in submission of departmental appeal.

5. Resultantly, the appeal in hand is dismissed in limine. File be consigned to the record room.



(HAMID FAROOQ DURRANI)  
CHAIRMAN

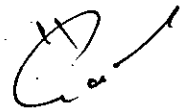
ANNOUNCED  
08.10.2019

27.06.2019

Appellant present. Learned counsel for the appellant present.  
Heard.

Learned counsel for the appellant argued that vide judgment dated 11.10.2013 passed in Identical nature Amended Service Appeal bearing No.464/2013 titled Saadullah, Ledger Clerk Government Printing & Stationary Department Khyber Pakhtunkhwa Peshawar, through Mst. Sadia Bibi (widow) and other legal heirs, Versus Government of Khyber Pakhtunkhwa through Chief Secretary & others, relief of compulsory retirement with pensionary benefits was granted as such the appellant is also entitled to the same relief.

In view of submission of Learned counsel for the appellant let pre admission notice be issued to the respondents for reply. Adjourned to 26.08.2019 before S.B.



Member

26.08.2019

Appellant in person present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel is not in attendance. Adjourned to 08.10.2019 before S.B. Pre-admission notice be again issued to respondents for the date fixed.





Chairmah

Form- A

FORM OF ORDER SHEET

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

Case No.- 702/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/05/2019	<p>The appeal of Mr. Abdul Haleem presented today by Mr. Muhammad Yasir Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 27/05/19</p>
2-	28/05/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/06/19</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE HONOURABLE  
SERVICE TRIBUNAL, KP PESHAWAR

Service Appeal No. 702 /2019

Mr. Abdul Haleem

(Appellant)

**V E R S U S**

Government of KP and others

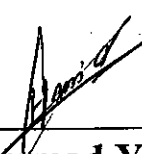
(Respondents)

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2	Copy of removal from service dated 12.08.2000	A	8
3	Copy of FIR and Charge Sheet	B	9-11
4	Copy of judgment <sup>of</sup> Anti-Corruption	C	12-19
5	Copy of the appeal and judgment of PHC	D	20-31
6	Copy of departmental appeal	E	32-34
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Appellant

Through

  
Muhammad Yasir  
Hamid Ali  
Advocates High Court,  
Peshawar

Dated: 27.05.2019

BEFORE THE HONOURABLE  
SERVICE TRIBUNAL, KP PESHAWAR

Service Appeal No. 702 /2019

Mr. Abdul Haleem S/o Hamish Gul  
Ex. Senior Clerk, Govt. Printing Press Department,  
Peshawar

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 809

Dated 27/5/2019

(Appellant)

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary,  
Civil Secretariat, Peshawar
- 2) Secretary Industries Department, Khyber Pakhtunkhwa,  
Peshawar
- 3) Controller Printing Stationary Department, Khyber  
Pakhtunkhwa Peshawar

(Respondents)

Appeal Under Section 4 read with other  
enabling provisions of the Khyber  
Pakhtunkhwa Service Tribunal Act 1974,  
against the removal order dated 12.08.2000,  
whereby the appellant was removed from the  
service and the departmental appeal dated  
04.02.2019 remained un-responded within the  
statutory period of 90 days.

Filed to-day

Registrar

27/5/19

**Prayer:**

**On acceptance of the instant appeal, the order dated 12.08.2000 may kindly be modified to compulsory retirement having 23 years of service. Any other remedy which this august tribunal deems fit and proper.**

**Respectfully Sheweth,**

Facts giving rise to the present appeal are as under:

- 1) That the appellant was appointed as Junior Clerk on 08.01.1977 in Governmentary Stationary and Printing Press Department KPK – Peshawar and was promoted as Senior Clerk regularly.
- 2) That in 1997 an inquiry was held about embezzlement in the office and was conducted and completed in the year of 2000 wherein the allegation of suggested embezzlement was leveled against appellant with 3 others and whereby the inquiry officer recommended the major penalty of removal from service and appellant with 3 others were removed from their service and also penalty for recovery so-called suggested embezzled amount had been imposed upon appellant with 3 others on 12.08.2000. (Copy of removal from service dated 12.08.2000 is attached as Annexure A)

- 3) That just one day before passing of order of removal from service of appellant, a Criminal Case on 11.08.2000 FIR No. 1, U/s 409, 468, 471 PPC, 5(2) PC Act has also been lodged / registered against appellant with 3 others against the same facts into the matter by the Anti-Corruption Establishment and the appellant was arrayed as accused with 3 others. (Copy of FIR and order sheet are attached as Annexure B)
- 4) That after registration of FIR, the appellant with 3 others surrender before the court of law and were bailed out by the court of law.
- 5) That after commencement of the trial of criminal case No. 213 of 2001 instituted dated 29.08.2001, the appellant with 3 others were regularly appeared in the criminal case and after recording of full prosecution evidence, the learned Special Trial Court (Anti-Corruption Provincial, Peshawar) has acquitted all the accused from all the suggested charges leveled against them on 19.12.2011 and declared innocent. (Copy of judgment is attached as Annexure C)
- 6) That state through Advocate General filed an criminal appeal No. 295-P/2012 titled State VS Muhammad Javed Iqbal and others on 30.04.2012 against the impugned judgment of Special court dated 19.12.2011 in Hon'ble High Court, Peshawar which was dismissed by the learned division bench of Peshawar High court on 07.01.2019. (Copy of the judgment is attached as Annexure D)



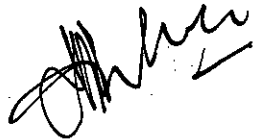
- 7) That after acquittal of all accused by trial court dated 19.12.2011, one of the acquitted accused namely Saadullah has filed an Appeal No. 464/2012 before the KPK Service Tribunal, Pehsawar and during proceeding of appeal, the appellant was died and an amended appeal was filed by the LRs of the deceased appellant Saadullah which was accepted / allowed by the service tribunal on 11.10.2013 and his removal order / dismissal order form service is converted into compulsory retirement and all back benefits has been given to LRs and the LRS of deceased Saadullah are enjoying the benefits regularly till now. (Copy of appeal with judgment is attached as Annexure E)
- 8) That appellant is an innocent person and that all the suggested charges leveled against the appellant are not more in the filed and has suffered a lot due to criminal case and appellant has never acted misappropriation or embezzlement any amounts in his service but has been falsely dragged into a criminal case and his service was removed/dismissed.
- 9) That after dismissal of appeal No. 295-P/2012 title State VS M. Javid Iqbal and others on 30.04.2012 against the impugned judgment of Special Court dated 19.12.2011 in hon'ble High Court, Peshawar which was dismissed learned division bench of Peshawar High Court dated 07.01.2019. The appellant filed departmental appeal against the impugned order No. SOR-V(S&GAD)3-20/98 dated 12.08.2000.

- 10) That now the appellant wants to file this appeal for his grievances on the following grounds.

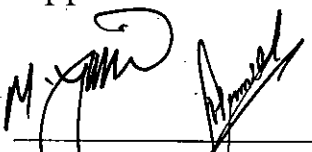
**Grounds:**

- a) That the impugned order 12.08.2000 not taking action on the departmental appeal of the appellant within stator period of 90 days is against the law facts and circumstances and therefore not tenable in the eye of law and liable to modified to compulsory retirement.
- b) That the appellant has acquitted form the charged leveled against the appellant, therefore the impugned order dated 12.08.2000 is modified to compulsory retirement.
- c) That after acceptance of Saadullah appeal No. 464/2012 the appellant is entitled of the same treatment as a matter of legal right Under Article 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- d) That the punishment is too harsh to the appellant hence impugned order dated 12.08.2000 is modified to compulsory retirement.
- e) That the appellant seeks permission to file the instance appeal before this august tribunal of Khyber Pakhtunkhwa Peshawar.
- f) That the appellants would like to offer some other grounds during the course of arguments.

It is, therefore, humbly requested that on acceptance of appeal, the order dated 12.08.2000 may kindly be modified to compulsory retirement having 23 years of service. Any other remedy which this august tribunal deems fit and proper.

  
Appellant

Through

  
\_\_\_\_\_  
Muhammad Yasir  
Hamid Ali  
Advocates High Court,  
Peshawar

Dated: 27.05.2019

**Note:** No such service appeal on the same subject matter has earlier been filed before this honourable court.

BEFORE THE HONOURABLE  
SERVICE TRIBUNAL, KP PESHAWAR

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

Mr. Abdul Haleem

\_\_\_\_\_ (Appellant)

VERSUS

Government of KP and others

\_\_\_\_\_ (Respondents)

AFFIDAVIT

I, **Mr. Abdul Haleem** S/o Hamish Gul Ex. Senior Clerk, Govt. Printing Press Department, Peshawar, do hereby solemnly affirm and declare on Oath that the contents of instant "Service Appeal" are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.

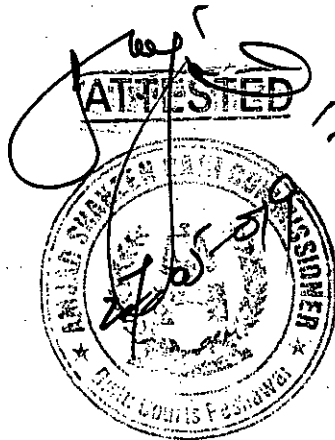
DEPONENT

*Abdul Haleem*

ATTESTED

*nic*

17301-5179570-7



GOVERNMENT OF N.W.F.P.  
SERVICES AND GENERAL ADMINISTRATION DEPARTMENT  
(REGULATION WING)

Dated: Peshawar, the 12th August, 2000

O R D E R

NO. SOR.V(SAGAD)3-20/98. WHEREAS, the following officers/officials of the Printing and Stationary Department NWFP were proceeded against under the NWFP Govt Servants (Efficiency & Discipline) Rules, 1973 for embezzlement/mis-appropriation of stores worth Rs.5.10 million during the period from 1992 to 1996 besides irregularities in purchases and other financial/administrative matters :-

- i) Mr. Muhammad Javed Iqbal, Ex-Controller P&SD (BS-18)
- ii) Mr. Rao Abdul Aziz, Manager (BS-16).
- iii) Mr. Abdul Haleem Khan, Storekeeper (BS-7).
- iv) Mr. Saadullah Khan, Ledger Clerk (BS-5).

2. AND WHEREAS, Mr. Saleem Khan the then OSD SAGAD (now Secretary to Govt of NWFP, Law Department) was appointed Enquiry Officer who conducted enquiry into the charges against above noted officers/officials under the NWFP Govt Servants (Efficiency & Discipline) Rules, 1973 and submitted his enquiry report according to which the charges were proved.

3. AND WHEREAS, Show Cause Notices dated 30-03-2000 were served upon the accused officers/officials to which they replied. The officers/officials concerned were also heard in person by the Authorised Officer on 04-07-2000 and forwarded his recommendation to the Governor N.W.F.P. (Authority).

4. NOW therefore, the Authority after having considered the charges and the material on record, the explanation of officers/officials concerned and the report of the Enquiry Officer in exercise of powers conferred by Rule 5(5) of the NWFP Government Servants (Efficiency & Discipline) Rules, 1973 has been pleased to impose the following penalties upon the accused officers/officials noted against each :-

- 1) Mr. Muhammad Javed Iqbal, Ex-Controller P&SD (BS-18)
- 2) Mr. Rao Abdul Aziz, Manager (BS-15)
- 3) Mr. Abdul Haleem Khan, Storekeeper (BS-7)
- 4) Mr. Saadullah Khan,

- i) Removal from service.
- ii) Recovery of embezzled amount of Rs. 26,32,450/-
- i) Removal from service.
- ii) Recovery of embezzled amount of Rs. 27,14,600/-
- i) Removal from service.
- ii) Recovery of embezzled amount of Rs. 12,28,000/-
- i) Removal from service.
- ii) Recovery of embezzled amount of Rs. 6,750/-

CHIEF SECRETARY  
GOVERNMENT OF N.W.F.P.

Endst. No. SOR.V(SAGAD)3-20/98 Dated Peshawar, the 12th August, 2000

Copy forwarded to the :-

1. Secretary to the Governor NWFP.
2. Secretary to Govt of NWFP, Industries, Commerce, MD, Labour & Transport Department. He is requested to please ensure recovery of embezzled amount from the officers/officials concerned.
3. C/O Secretary to Govt of NWFP, Industries, Commerce, MD, Labour & Transport Department.
4. P.S. to Chief Secretary NWFP, Peshawar.
5. Accountant General NWFP Peshawar.

ATTESTED

Attested  
[Signature]

[Signature]

ایکٹر جنرل پولیس وید سرحد فام نمبر ۲

فام نمبر ۳۳-۱۵۰ (۱)

# ابتدائی اطلاعی رپورٹ

کوئٹہ  
 (فائل) ابتدائی اطلاع نسبت خرم قابل دست اندازی پولیس رپورٹ شدہ زبردنو ۱۵۴ مجموعہ ضابطہ نو جداری  
 تھانہ انکو کرپشن  
 ضلع لکڑ  
 تاریخ و وقت وقوعہ ۱۵/۸/۹۶ وقت ناصحی  
 نمبر ۴

1	تاریخ و وقت رپورٹ	۱۵/۸/۹۶ وقت ناصحی
2	نام و سکونت اطلاع دہندہ و مستغنیث	میدان سید عبدالعزیز لکڑ
3	مختصر کیفیت خرم امور و حال اگر کوئی لیا گیا ہو	۱۵/۸/۹۶
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت	گورنمنٹ پیرس لکڑ
5	نام و سکونت ملزم	
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاعات درج کرنے میں توقف ہو ہو تو وجہ بیان کرو۔	
7	تھانہ سے روانگی کی تاریخ و وقت	

لواء پولیس انکو کرپشن ۱۵/۸/۹۶  
 صاحب جاگت اعظمی بالا لکڑ

ابتدائی اطلاع نیچے درج کردہ ایک گناہ (درخواست کی کاپی اور رپورٹ نامہ سبھی ۱۵ جن کو گناہ کی ایک خبر اور اس پر اس میں حصول بہتی۔ جس میں گورنمنٹ پیرس لکڑ کے اسٹیشنر اور اٹھکانا پیرسٹری سٹور اور دیگر ایسی ایسی چیزوں و فروخت کے بارے میں خود بہرے سے متعدد الزامات عائد کیے گئے۔ اس سلسلے میں اوپن انکو کرپشن ۱۵/۸/۹۶ کی سہارا لکڑی۔ اور اوپن انکو کرپشن میں لکڑی۔ گورنمنٹ پیرس لکڑ کے گورنمنٹ پیرس لکڑی سٹور اور دیگر اشیا میں جن میں اور خود بہرے لکڑی سے پورے پورے حکومت کے خزانے کو اٹھکانا پیرس لکڑیا۔ اور سٹری لکڑی کی نہ لکڑی کرنے ہوئے یا لکڑیا۔ کہ سٹری لکڑی سٹور اور دیگر اشیا میں لکڑی ۱۵/۸/۹۶ ایک کورج چھ لاکھ پانچ سو چار سو پچیس روپے کا عین ہوا تھا۔ اس کے علاوہ ایک سٹری لکڑی کی روٹی میں گورنمنٹ پیرس لکڑی کے خزانے کے پیرس لکڑی ۱۵/۸/۹۶ ایک کورج چھ لاکھ پانچ سو چار سو پچیس روپے کا عین ہوا تھا۔ اس کے علاوہ ایک سٹری لکڑی کی روٹی



(10)

**CHARGE SHEET**

I, Saeedullah Jan as authorised officer hereby charge you Mr. Abdul Haleem, Senior Clerk, Stationery and Printing Department, NWFP, Peshawar as under :-

That during the period of 1992 to 1996 you were the Store Keeper/Incharge of the Stationery Store of Government Stationery and Printing Department, NWFP, Peshawar. By abusing your authority and official position in collusion with your superior officers and in connivance with your subordinate staff (co-accused) you embezzled various items of stationery, paper, printing and binding material from the main Stationery Store causing huge shortages and an amount of Rs. 4.49 million as cost of the embezzled store was fraudulently and dishonestly misappropriated and thus caused heavy loss to the Government exchequer which amount was pointed by the Internal Audit Party and confirmed by the Special Audit Party report, appointed by the Administrative Department.

**ATTESTED**

That being Incharge of the Raw Store (Day Shift) of the Government Press, it was your duty to collect the issued vouchers for the supply of stationery and printing material from the indentors and then to hand over the same vouchers for entry to the ledger clerk of the Raw Stores. But due to your inefficiency and lack of interest in the government duty, vouchers of Raw Store (Day Shift) shown as issued on the job files during the year 1991-92 amounting to Rs. 14,39,560.80 have not been entered in the relevant register.

That it is in the record that you did not issue the stationery items to the indentors according to their vouchers but fake entries of full supply were made in the relevant registers. You had promised to supply the remaining stationery items to each indenter within the short span of time but you did not fulfill your obligations and those items were misappropriated fraudulently and dishonestly by you.

That Mr. Sadaqat Ali, Ex-Junior Clerk, in the Government Stationery and Printing Department, NWFP, Peshawar in his statement recorded U/S-164 Cr.P.C. in the Court of Judicial Magistrate Peshawar on 19.6.1998 has stated that you in league with your higher officers i.e. Mr. Muhammad Javaid Iqbal, Controller and Mr. Rao Abdul Aziz, Manager, Every Thursday you took away four cartons of stationery items illegally and after selling it in the market distributed the amount amongst yourselves. Further you in collusion with your higher officers misappropriated huge amount that you received on the fake vouchers issued on different dates and on which no stationery items had been issued.

By reasons of the above you appear to be guilty of misconduct within the meaning of rule 3 of the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules, 1973 and have thus rendered yourself liable to all or any of the penalties specified in rule 4 of the said rules.



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You are therefore required to put in your written defence within 14 days of the receipt of this charge sheet as to why disciplinary action as aforesaid should not be taken against you.

Your written defence if any, should reach the undersigned within the aforesaid period failing which it shall be presumed that you have no defence to offer.

You should also intimate whether you desire to be heard in person.

Statement of allegations is enclosed.

*Syed Ullegha*  
(AUTHORISED OFFICER)

ATTESTED  
*Jr*

A. Ahmad  
12  
46 1

In the Court of Azhar Khan, Special Judge, Anti-Corruption,  
(Provincial) Khyber Pukhtoonkhwa, Peshawar.

Case No. 213 of 2001.

Date of Institution. 29.08.2001.

Date of Decision. 19.12.2011.

**ATTESTED**  
[Signature]

State..... Versus.

- 1) Muhammad Javed Iqbal,  
S/o Abdul Baqi,  
Ex-Controller Government,  
Printing Press Peshawar.
- 2) Abdul Haleem,  
S/o Hamesh Gul,  
Ex-storekeeper, Government  
Printing Press Peshawar.
- 3) Ahmad Khan,  
Storekeeper, Government  
Printing Press Peshawar.
- 4) Saadullah,  
S/o M. Abdullah Jan,  
Ex-storekeeper, Government  
Printing Press Peshawar.

Case FIR No.01 dated 23.06.1997 u/s 409/468/PPC read with section  
5(2) PC Act and P.S. ACE, Peshawar.

[Signature]

Special Judge  
Anti Corruption  
Khyber Pakhtunkhwa Peshawar

19/12/11

Judgment.

The accused in league, connivance and collaboration with each other misappropriated various items, comprising of stationary machinery and equipment amounting to Rs.1,36,12,690/- in the year 1993 to 1997 individually and collectively in abuse of their official position as public servants from the Printing Press, Peshawar.

**ATTESTED**

Special Judge  
Anti Corruption  
Khyber Pakhtunkhwa Peshawar

On submission of complete challan in court on 29.08.2001 the accused were summoned. On appearance and fulfillment

procedural formalities the charge was framed on 18.04.2002. accused denied the charge and claimed trial. During trial one of accused Rao Abdul Aziz died and the proceedings to his ex abated. During the trial prosecution produced and examined 35 PW

On close of prosecution evidence statement of the accu u/s 342 Cr.Pc record. The accused did not opt to record a statement on oath or to produce evidence in defence.

Thereafter arguments pro & contra of prosecution defence heard and file perused.

**ATTESTED**  
*[Signature]*

The gist of prosecution evidence is as under:-

Israr-ul-Haq, Assistant Accounts Officer, AG Office (PW) stated that in the year 1997 he was posted as Divisional Accountant in ACE. His services were requisitioned and utilized for the purpose of audit and record relating to the government printing press. He conducted the audit of the record and came to the conclusion that a sum of Rs.1,36,12,690/- worth of stationary, machinery & equipment were misappropriated for which the officer/officials detailed in each para of his report were held responsible for the loss caused to the government. His report is Ex.PW3/1 (13 sheets) with annexure Ex.P-1 to P-6. In cross examination stated that his report is based on record, he did not check the articles physically. This is according to the stock register 100 reams were supplied with relevant entry in the column of stock ledger but it was later cut and over written with 63, therefore, he presumed that 100 reams were issued by the main store to the sub store. It is not in his knowledge that sub store keeper and ledger clerk are two different persons/officials. It is correct that the store audit is annually carried out by the department through internal audit team as well as external audit team. He has not affixed the responsibility by name on any officials of the department, however, the responsibility was fixed by designation. He was deputed by Director AGE to conduct the audit in the present case. Since he was on the strength of ACE, so no formal written order was issued by the Director. He did not physically check the store. It was the duty of the I.O. or any other gazetted officer approved by the government to see the ground realities. He

*[Signature]*  
Special Judge  
Anti Corruption  
Khyber Pakhtunkhwa Peshawar  
19/12/11

**ATTESTED**

Special Judge  
Anti Corruption  
Khyber Pakhtunkhwa Peshawar

06/01/2012

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did not check the duty list of the officials of the department because it was not his job. He does not know anything about the job description of the officials of the department concerned as it was not his duty. He has fixed the responsibilities on the officials by designation. During audit, they fixed responsibility by virtue of post held by the official concerned. They do not go after names, particulars and period etc of the delinquent officials. All these things are left to the I.O. He did not go through the duty chart of printing press, therefore, he do not know the number of works managers in the printing press. Similarly he does not know whether works manager and manager are two different posts. It is correct that out of the subjects of main paras he has shown responsibilities of controller in four paras but that too in supervisory nature u/s 13 GFR. In para-42 of his report which relates to the purchase of computers and word processor he did not notice any illegality or irregularity in the purchase of items but his observation was that these items were purchased without any need. He does not know whether the computers were used in the office for how long. The computers were purchased after proper sanction and after observing the codal formalities. As such the purchase was held to be, in misuse of government money. He had conducted audit up to 1996 and cannot give the period from which it started. Again stated that the audit was conducted from 1993 to 1995. It is not in his knowledge whether the internal audit of the store was carried out on yearly basis. He did not associate in his audit the concerned officials of the printing press. According to the record of printing press the stationary was supplied to various departments such as D.C. Office Mardan, SSP Office Pehawar, Hayat Shaheed Teaching Hospital, Peshawar etc. He had recorded note against various items, particularly stationary indicating that the supply was illegal because it was over and above the sanctioned budget.

ATTESTED

Special Judge  
Anti Corruption  
Khyber Pakhtunkhwa Peshawar  
19/12/11

ATTESTED

Special Judge  
Anti Corruption  
Khyber Pakhtunkhwa Peshawar

06/01/2012

Muhammad Saleem Rtd. S.I. (PW-4) stated that during the days of occurrence he was posted as S.I. ACE, Peshawar. There were numerous applications/complaints by anonymous person addressed to the Director ACE regarding misappropriation or embezzlement in the Government Printing Press Peshawar by

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own officials. On the order of Director an inquiry was initiated which was marked to Nazir Khan S.I. ACE, Peshawar. On transfer of Nazir Khan it was entrusted to late Hayatullah Rehman S.I. who got permission vide Ex.PW4/1. Subsequently the inquiry was marked to him. After the receipt of audit report, he took into possession the entire record vide recovery memo Ex.PW4/2 to Ex.PW4/15 consisting of Ex.P-7 to P-550. He took the specimen signatures of accused and sent it to the expert after observing the laid down procedure. But it was returned with objection for re-taking the signatures. In the meanwhile he was transferred and he does not know who succeeded him in the office. He also recorded the statement of accused and the PWs. After his transfer the remaining investigation was conducted by his successor. That all the documents were taken into possession in the presence of marginal witnesses. In cross examination stated he was authorized by the C.O. to conduct the inquiry in the instant case through written order dated 12.08.1997. He had obtained the incumbency report in respect of each accused from the department vide his application Ex. PX and the duty list of each accused is narrated in the letter Ex. PX/1. It is correct that during investigation in the light of audit report he weighed metal lying in the press which was found less by 10499 KG. He also weighed the dust and had given the shortage after deducting the dust weight which was 4303 KG as mentioned in Ex.PW4/13. He did not physically check the store. It is correct that he was transferred to special branch before completion of his inquiry. He has not fixed individual responsibility on the officials of the department when he was transferred from ACE to Special branch. The complaint was anonymous which was addressed to Chief Accountability commissioner which was marked to them. He held responsible those who were held responsible by the auditor in his report. It is correct that ledger clerk has no concern with actual delivery and receipt of the material. He simply enters the vouchers in the register given to him by the storekeeper. He in his inquiry declared the accused Saadullah as innocent.

Special Judge  
 Anti Corruption  
 Khyber Pakhtunkhwa Peshawar

19/12/11

**ATTESTED**

Abdur Rashid, DSP NAB, stated that during the relevant day he was C.O. ACE Peshawar. He partially investigated the case.

Signature of Special Judge  
 Anti Corruption  
 Khyber Pakhtunkhwa Peshawar

the basis of final report of Muhammad Saleem I.O. he registered the case vide FIR-Ex.PA.

The remaining PWs are either witnesses of recovery memos or officials of the Printing Press.

On bare reading of the charge framed against the accused, it is evident that no specific allegation and mode of misappropriation in respect of amount, articles and time was given, which is violative of section 222 of the Criminal Procedure Code.

Under section 234 Cr.Pc three offences of same kind within one year may be charged together and not beyond that whereas in the present charge time period of alleged mis-appropriation is spread over four years from 1993 to 1997, therefore on face of it charge was against the provisions of section 234 Cr.Pc.

The case was initiated on numerous applications/complaints addressed to the Director ACE, regarding embezzlement in the Government Printing Press, Peshawar by its own employees. The inquiry was initiated on the order of the Director ACE Ex.PW4/1. The inquiries were conducted through S.I's by the Circle Officer. Initially Nazir Khan S.I. ACE, was the inquiry officer. On his transfer it was entrusted to Inayatullah Rehman S.I. Subsequently, it was conducted by Muhammad Saleem S.I. He collected the relevant record through Ex.PW4/2 to Ex.PW4/15 consisting of Ex.P-7 to P-550. He also took the signatures of the accused and sent them to the FSL for expert opinion. He also recorded the statement of the accused and the PWs. In the meanwhile he was transferred and the remaining investigation was conducted by his successor. For reasons best known, the record does not have the final report on the basis whereof the case was registered. As such the prosecution missed out on a very vital document essential for establishing its case.

During the inquiry proceedings the services of the auditor Israrul Haq, posted as Divisional Accountant in ACE were requisitioned for the purposes of audit of record relating to the Government Printing Press. The audit was conducted and the report is Ex.PW3/1 (13 sheets) along with annexure Ex.P-1 to P-6. As per

ATTESTED

[Signature]

Special Judge  
Anti Corruption  
Khyber Pakhtunkhwa Peshawar

19/12/11

ATTESTED

Special Judge  
Anti Corruption  
Khyber Pakhtunkhwa Peshawar

06/01/2012

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the report a sum of Rs.1,36,12,690/- was misappropriated in shape of stationary, machinery and equipment. The report has been bifurcated into sub heads. The auditor report covers a period extending from year-1981 to 1997 but as PW the auditor stated to have focused on the period 1993 to 1996. The auditor gave a loose ended report by not fixing individual liability rather the liability was fixed on designation for each reported segment of misappropriation/illegality committed in the Government Printing Press. Regarding misappropriation of stationary he stated that the stationary items were provided to the departments on the basis of book adjustment. The officials of the printing press committed misappropriation by showing excessive demands against the actual budget of the departments, which included Hayat Shaheed Teaching Hospital, Commissioner Office and SSP office etc. Besides excess supply they also tampered with their own record by showing multiple supply on single indents without endorsing the issue in the stock register. The auditor had categorically mentioned in his report for I.O. to further verify the facts from the record of the respective departments.

**ATTESTED**  
*[Signature]*

*[Signature]*

Special Judge  
 App. Commission  
 Khyber Pakhtunkhwa Peshawar  
 19/12/11

The I.O. in his statement stated that he neither physically checked the store nor he fixed individual responsibility. However in cross examination by taking a summer-sault stated to have held responsible those who were held responsible by the auditor in his report. There is no inquiry report to establish that assertion. He also admitted that ledger clerk had no concern with the actual delivery and receipt of the material. He simply entered the voucher in the register given to him by the storekeeper. He in his inquiry had declared accused Saadullah as innocent. From the narrative of the I.O. it is obvious that he did not make any investigation in line with the directions of the auditor to verify excess supply of stationary to the departments from their record. The I.O. had asked for the incumbency report of the accused from the department vide his application Ex.PX and the duty description of each official was provided vide letter Ex.PX/1. The perusal of the said letter would show that there is no description whatsoever of the functions of the officials during the period of offence. The letter is not a detail.

**ATTESTED**

Special Judge  
*[Signature]*

06/01/2012

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document to highlight the job description of each accused, during the period concern. This was very much pertinent in view of the auditor's report where he spoke of different kind of stores in the printing press. The stores were described as morning shift and evening shift stores. A main store, sub stores and printing press. The detail given in Ex.PX/1 is insufficient to shed light on the respective responsibilities during the disputed period.

The auditor had an open mandate for detection of misappropriation. He did not confine himself to the mode of embezzlement specific to each individual in terms of time, money and material so embezzled. His report regarding misappropriation of machinery and equipment is highly speculative and imaginary. He wrote about computers to have been purchased unnecessarily. Similarly, he mentioned irregularities in the purchase of mono lead. His findings regarding computers and mono-lead was beyond the given scopes of audit. Similarly the I.O. stated to have implicate accused Muhammad Javed Iqbal, controller on account of being a supervisor/over all incharge. He did not establish his personal criminal liability in this case. The delinquents were accordingly dealt with in an exhaustive departmental inquiry conducted by Secretary Law and in the light whereof punishment under the F rules were given. The I.O. did not bother to include that in report in this case, though it was very much relevant for the purpose of fixation of individual responsibilities.

In nut-shell not only illegality was committed while in the charge in terms of section 222 and 234 Cr.Pc. The prosecution could not establish the individual responsibility in terms of money and material embezzled by each accused. Accused Javed has not been enropped for his hand in misappropriation but in supposition that being over all responsible, he erred in discharging his responsibilities, as such impliedly held responsible for and commission of his subordinates. Likewise the I.O. also that Saadullah was declared as innocent in his inquiry. A plausible explanation is given as to why he was kept on the end.

ATTESTED

Special Judge  
Anti-Corruption  
Khyber Pakhtunkhwa Peshawar

19/12/11

ATTESTED

Special Judge  
Anti-Corruption  
Khyber Pakhtunkhwa Peshawar

19/12/11



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In view of the above the involvement of the accused is highly doubtful, therefore, by being given the benefit of doubt, they all are acquitted from the charges leveled against them. Sureties are discharged from the liabilities of the bails bonds.

The case property, be kept intact till the arrest and trial of the absconding accused.

File of the case be consigned to the record room after its necessary completion.

Announced.  
Peshawar.  
19.12.2011.

ATTESTED

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Special Judge,  
Anti-Corruption KPK,  
(Provincial) Peshawar.

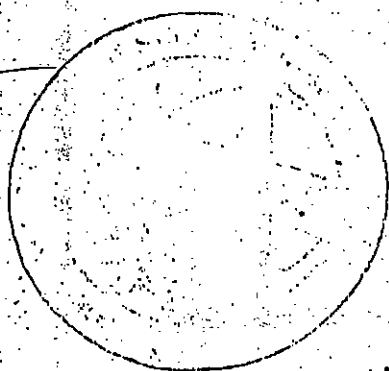
Certificate.

ATTESTED

Board of Special Inq  
Anti-Corruption  
KPK Peshawar

06/01/2012

Certified that this judgment consists of eight pages, each page has been corrected and signed by me wherever necessary.



*[Handwritten signature]*

Special Judge,  
Anti-Corruption KPK,  
(Provincial) Peshawar.

Opening Sheet for Criminal Appeal (Section 417(Criminal Procedure Code)  
IN THE PESHAWAR HIGH COURT, PESHAWAR.  
JUDICIAL DEPARTMENT.

Appellant side \_\_\_\_\_ Criminal Case No 2012 2012

District	Date of Filing Petition	Whether filed by Appellant in person or by pleader or agent.	Stamp on Petition or Appeal
Peshawar	15/12/2012	Advocate General Khyber Pakhtunkhwa, Peshawar	

State through Advocate General, Khyber Pakhtunkhwa, Peshawar.

Versus .....Appellant

- Muhammad Javed Iqbal, S/O Abdul Baqi  
R/O Khawaja Town Bacha Khan Chowk Peshawar
- Abdul Haleem, S/o Hamesh Gul  
R/O Kaloo khel Nasir Pur Elaqa Chamkani
- Ahmad Khan, Storekeeper, Government  
Printing Press Peshawar.
- Sadullah, S/o M. Abdullah Jan,  
Chamba Pir Road Gulberg No.1, Saddar Peshawar

*Mir Haleemullah  
S/o Advocate  
Peshawar*

**ATTESTED**  
*[Signature]*

.....Accused / Respondent

Appeal from order of Learned Special Judge Anti Corruption Provincial Peshawar.

Order dated the 19.12.2001  
Charge U/S 409/468-PPC  
Sentence acquittal

On acceptance of this appeal the impugned judgment / order passed by the learned trial court may kindly be set aside and accused / respondent be convicted and sentenced in accordance with law.

Ground of appeal  
U/S 417 Cr.P.C

*[Signature]*  
Advocate General  
Khyber Pakhtunkhwa,  
Peshawar

**ATTESTED**  
EXAMINER  
Peshawar High Court  
06 DEC 2012

(21)

Opening Sheet for Revision Petition (Section 417(Criminal Procedure Code) IN  
**THE PESHAWAR HIGH COURT, PESHAWAR.**  
**JUDICIAL DEPARTMENT.**

Appellant side \_\_\_\_\_ Criminal Case No 250 2012

District	Date of Filing Petition	Whether filed by Appellant in person or by pleader or agent.	Stamp on Petition or Appeal
Peshawar	30/4/2012	Advocate General Khyber Pakhtunkhwa, Peshawar	

State through Advocate General, Khyber Pakhtunkhwa, Peshawar.

.....Appellant

Versus

1. Muhammad Javed Iqbal S/O Abdul Baqi Ex-Controller Government, Printing Press Peshawar.
2. Abdul Haleem S/o Hamesh Gul Ex-Storekeeper Government, Printing Press Peshawar.
3. Ahmad khan, Storekeeper, Government Printing Press Peshawar.
4. Sadullah, S/o M. Abdullah jan, Ex. Storekeeper, Government Printing Press Peshawar

ATTESTED  
*[Signature]*

.....Accused / Respondent

Appeal from order of Learned Special Judge Anti Corruption Provincial Peshawar

Order dated the 19.12.2001  
Charge U/S 409/468/-PPC  
Appeal acquittal

On acceptance of this appeal the impugned judgment / order passed by the learned trial court may kindly be set aside and accused / respondent be convicted and sentenced in accordance with law.

Ground of appeal  
U/S 417 Cr.P.C

Advocate General  
Khyber Pakhtunkhwa,  
Peshawar.

ATTESTED  
EXAMINER  
PESHAWAR HIGH COURT

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IN THE PESHAWAR HIGH COURT, PESHAWAR  
(Judicial Department)

APPELLATE SIDE \_\_\_\_\_ CR. CASE NO. \_\_\_\_\_ /2012.

District.	Date of Filing Petition.	Whether filed by appellant in person or by Pleader or Agent	Stamps on Appeal
Peshawar	30/11/2012	Advocate-General Khyber Pukhtun Khwa	Rs.

State through Advocate-General,  
Khyber Pakhtunkhwa,  
Peshawar..... APPELLANT.

VERSUS

1. Muhammad Javed Iqbal  
S/O Abdul Baqi  
Ex-Controller Government,  
Printing Press Peshawar.
2. Abdul Haleem,  
S/o Hamesh Gul  
Ex-Storekeeper Government,  
Printing Press Peshawar.
3. Ahmad khan,  
Storekeeper, Government  
Printing Press Peshawar.
4. Sadullah,  
S/o M. Abdullah jan,  
Ex. Storekeeper, Government  
Printing Press Peshawar

ATTESTED  
*[Signature]*

..... ACCD./RESPONDENT.

APPEAL U/S 417 CR.P.C. AGAINST THE IMPUGNED  
JUDGMENT/ORDER OF THE LEARNED SPECIAL JUDGE,  
ANTI-CORRUPTION, PROVINCIAL PESHAWAR DATED  
19.12.2001 IN CASE TITLED STATE VS MUHAMMAD JAVED  
IQBAL ETC WHEREBY HE ACQUITTED THE ABOVE NAMED  
ACCUSED/RESPONDENTS VIDE FIR NO. 01 DATED  
23.06.1997 CHARGED UNDER SECTIONS 409/468-PPC R/W  
SECTION 5 (2) PC ACT P.S ACE PESHAWAR

ATTESTED  
EXAMINER  
Peshawar High Court  
06 DEC 2014

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PRAYER:

On acceptance of this appeal the impugned judgment/order passed by the learned trial court may kindly be set aside and accused/respondent be convicted and sentenced in accordance with law.

\_\_\_\_\_

RESPECTFULLY SHEWETH:

INTRODUCED  
*[Signature]*

**G R O U N D S**

1. That the impugned judgment/order of the learned special judge Anti- Corruption is against law, facts and material on record, hence liable to be set aside.
2. That the accused has committed an offence of criminal breach of trust which is by itself an offence of moral turpitude.
3. That the accused were held responsible for the loss sustained to government exchequer.
4. That the learned trial court has passed impugned judgment on mechanical manner and the same as perfunctory as well as none speaking, hence liable to be set aside.
5. That a huge loss has been caused to the public treasury and the prosecution has brought sufficient evidence on the record to prove the guilt of accused.
6. That the learned trial court has miserably failed to appreciate the record which prima facie connect the accused/respondents with the commission of offence and as such impugned judgment/order is not tenable.
7. That the learned trial court has passed impugned judgment/order without appreciating available record which amounts to give license to accused/respondents to repeat the offence again, hence impugned order is not tenable.

ADMITTED  
*[Signature]*  
EXAMINER  
RESPONDENT COURT  
11 APR 2018

8. That the impugned order of the learned lower court has caused grave mis-carriage of justice.

It is, therefore, humbly prayed that on acceptance of this appeal, the impugned judgment/order passed by the learned trial court may kindly be set aside and accused/respondents be convicted and sentenced in accordance with law.

*[Signature]*  
Advocate-General  
Khyber, Pukhtun Khwa  
Peshawar.

**ATTESTED**  
**EXAMINER**  
Peshawar High Court.  
06 DEC 2012

**ATTESTED**  
*[Signature]*

FILED TODAY  
Deputy Registrar  
30 APR 2012

Peshawar High Court, Peshawar

FROM 'A'

FORM OF ORDER SHEET

COURT OF .....  
CASE NO.....

SERIAL NO OF ORDER OR PROCEEDINGS	DATE OF ORDER OR PROCEEDINGS.	ORDER OR OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE OR MAGISTRATE AND THAT OF PARTIES OR COUNSEL WHERE NECESSARY.
1	2	3
	19.10.2012	<p><b>Cr. Appeal No. 259-P/2012.</b></p> <p>Present: -</p> <p>Mr. Muhammad Rafique Mohmand, AAG for the State/appellant.</p> <p style="text-align: center;">←*****→</p> <p>Contents that accused is directly charged in case FIR No. 1 dated 23.06.1997 under section 409, 468 PPC r/w 5(2) PC Act, P.S. ACE, Peshawar. That prosecution has been able to prove its case through cogent evidence. That accused committed the offence of breach of trust which is by itself an offence of moral turpitude. That due to the fraud of the accused Government has caused huge loss but the trial Court has not considered the material available on the record and acquitted the accused on the misreading and non reading the evidence.</p> <p>Points raised needs consideration. Admit. Respondents be summoned through bailable warrant each in the like amount of Rs. 1, 00,000/- with two sureties to the satisfaction of Trial Court.</p>

ATTESTED

*Handwritten initials/signature*

*Signature of Hshad Qaiser*

*Letter Signed 24.10.12*

CERTIFIED TO BE TRUE COPY

Examiner  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
The Constitution of Peshawar Order 1984

06 DEC 2014

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D

J U D G M E N T

IN THE PESHAWAR HIGH COURT  
JUDICIAL DEPARTMENT.

Criminal Appeal.....No.....259-P.....of.....2012



J U D G M E N T

Date of hearing: 7<sup>th</sup> January, 2019

Appellant(s): (State) by Mr. Arshad Ahmad Khan,  
Additional Advocate General

Respondent(s): (Muhammad Javed Iqbal etc.) by M/s Mian  
Hikmatullah Jan, Noor Rahim and  
Muhammad Farqan Yousafzai, Advocates

**SYED AFSAR SHAM, J.**-Accused-respondents

namely, Muhammad Javed Iqbal, Abdul Haleem, Ahmad Khan and Saadullah (now dead) were charged in a case registered against them under Sections 409 / 468, PPC read with Section 5(2) of the Prevention of Corruption Act, vide FIR No.01, dated 23.06.1997 in Police Station, Anti-Corruption Establishment (Peshawar). They were forwarded to the learned Special Judge, Anti-Corruption (Provincial), Peshawar, for trial, who, on its conclusion, acquitted them by giving them benefit of doubt, vide impugned judgment dated 19.12.2011. Being aggrieved, the State has filed the instant appeal.

2. The learned Additional Advocate General appearing on behalf of the State-appellant submitted that when

ATTESTED

EXAMINER  
Peshawar High Court

10 JAN 2019



sufficient evidence was available on the record for the conviction of the accused-respondents as the prosecution has succeeded to prove its case beyond reasonable doubt and the ocular as well as documentary evidence supported the prosecution version coupled with the fact that the witnesses were consistent in their version, they should not have been acquitted by the learned Trial Court on the basis of flimsy and unbelievable grounds. While acquitting the accused-respondents, he added, the learned Trial Court has acted against the well recognized principles, laid down by the superior Courts of the country in this behalf. He by concluding his arguments contended that since the impugned judgment of the learned Trial Court regarding acquittal being based on illogical, artificial and arbitrary reasons, therefore, is liable to be set aside.

ATTESTED  
*[Signature]*

3. As against that the learned counsel appearing on behalf of the accused-respondents by defending the impugned judgment vehemently argued that not only the charge against the accused-respondents was framed in derogation with Sections 222 and 234 Cr.PC but the prosecution has badly failed to establish individual responsibly / liability upon each and every accused, therefore, the learned Trial Court while correctly applying its judicial mind has acquitted them from the charges, levelled against them and, in this regard, the

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ATTESTED

EXAMINER  
 Patna High Court

10 JAN 2019

findings of the learned Trial Court being based on proper appraisal of evidence, merit no interference.

4. I have gone through the available record carefully and considered the submissions made by the learned counsel for the parties.

5. No doubt, the allegation against accused-respondents was that they, in league, connivance and collaboration with each other misappropriated various items, comprising of stationary, machinery and equipment amounting to Rs.1,36,12,690/- during the year, 1993 to 1997, but, as per available record / evidence coupled with statement of Israr-ul-Haq, Assistant Accounts Officer / Audit Officer (PW-3), responsibility for the alleged commission of the offence, was not affixed by name upon anyone rather it was by designation, that too, when the said witness was, admittedly, alien to the job description of the officials. He, rashly, fixed the responsibility by post without bothering to search the names, details / particulars of the culprits / delinquent officials by also ignoring the exact period, they served there-against, and except paper work, he did nothing else rather his report was based on mere assumptions and presumptions and instead of performing his duty, so assigned to him, the said Audit Officer, we mean PW-3, shifted his responsibility upon the shoulder of investigating officer but, strange enough, that

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TESTED  
EXAMINER  
15 JAN 2019

Muhammad Saleem / Inquiry-Investigating Officer / (PW-4) also didn't affix individual responsibility upon the officials of the department rather instead of digging out the hidden truth, he by relying the Auditor's report, had held responsible to those, who were held responsible by the Auditor, and hasn't properly investigated the case, as was required to do so. Meaning thereby, that the aforesaid star witnesses of the prosecution tried to shift their burden to each other, that too, when the record is still silent / blank with regard to final report, on the basis whereof, the instant case was registered against the accused-respondents.

*ju*

Again, I have minutely gone through the entire record from cover to cover but was unable to find out a single piece of evidence, so produced by the prosecution, to establish that those were the accused-respondents, who have committed the alleged offence and, in this respect, the learned Trial Judge while attending to all the conceivable aspects of the case and taking stock of the entire material on the record, arrived at correct conclusion that the prosecution has not been able to establish its case against the accused beyond any reasonable shadow of doubt and, accordingly, has rightly acquitted them from the charges, levelled against them. When seen in this backdrop, I have no confusion in my mind that the prosecution has badly failed to bring home charge against the accused-

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*[Signature]*  
10/2/2019

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respondents to connect them with the commission of offence. Needless to say that even a single doubt if found reasonable is sufficient to warrant the acquittal of the accused as, in the instant case, where the entire evidence is pregnant with doubts and material discrepancies.

6. For the reasons discussed above, this appeal being without any substance is dismissed.

Announced.  
07. 01. 2019

JUDGE

ATTESTED

CERTIFIED TO BE TRUE COPY  
EXAMINER  
Peshawar High Court, Peshawar  
Authorised Under Article 87 of  
The Quran-e-Shahadat Order, 1984  
10 JAN 2019

No. 684  
Date of Presentation of Appeal 09/1/19  
No of Pages  
Copying Fee  
Urgent Fee  
Total 207  
Date of Preparation 10/1/19  
Date of Delivery of Copy 10/1/19  
Received By

(Copy) (S.B. of Hon'ble Mr. Justice Syed Afzar Shah)

To,

The Secretary, Industries  
Government of K.P.K, Peshawar.

*[Handwritten Signature]*  
04/02/2019

Departmental Appeal against the impugned order No. SOR.V ( S&GAD)3- 20/98 dated 12/08/2000 whereby the service of Appellant Was removed /Dismissed.

Respectfully Sheweth”.

ATTESTED  
*[Handwritten Signature]*

That the appellant humbly submits as under,

1. That the appellant was appointed as junior clerk on 8/1/1977 in Government Stationery and printing Press Department KPk Peshawar and was promoted as Senior clerk regularly.
2. That in 1997 an inquiry was held about embezzlement in the office and was conducted and completed in the year of 2000 wherein the allegation of suggested embezzlement was leveled against appellant with 3-others and whereby the inquiry officer recommended the major penalty of removal from service and appellant with 3 others were removed from their services and also penalty for recovery so- called suggested embezzled amount had been imposed upon appellant with 3- others on 12 /08/ 2000. ✓  
(Copy of removal from service dated 12/08/2000 is attached as annexure ; A;). ✓
3. That just one day before passing of order of removal from service of appellant, a criminal case on 11/08/2000 an FIR No ,1 , U/S 409-468-471ppc/5(2) I C Act has also been lodged /registered against appellant with 3-others against the same facts into the matter by the Anti Corruption Establishment and I was arrayed as accused

with 3- others. (Copy of FIR No, 4 is attached as Annexure B;).

4. That after registration of FIR ,the appellant with 3-others Surrender before the court of law and were bailed out by the court of law.

5. That after commencement/ of the criminal case No, 213 of 2001 instituted dated 29/08/2001 ,the appellant with 3-others were regularly appeared in the criminal case and after recording of full prosecution evidence, the learned special trial court (Anti-Corruption (Provincial), Peshawar has acquitted all the accused from all the suggested charges leveled against them on 19/12/2011 and declared innocent.

(Copy of judgment is attached as Annexure ;C; ).

ATTESTED  


6. That State through Advocate General filed an criminal appeal No. 295-P/2012 Titled State Vs Muhammad Javeed Iqbal and others on 30.4.2012 against the impugned judgment of Special court dated 19/12/2011 in Hon,able High court ,Peshawar, which was dismissed by the learned Division Bench of Peshawar High court on 07/01/2019.

(Copy of the judgment is attached as Annexure ;D;).

7. That after acquittal of all accused by trial court dated 19/12/2011, one of the acquitted accused namely Saadullah has filed an appeal No. 464/2012 before the KPk Service Tribunal ,Peshawar and during proceeding of appeal, the appellant was died and an amended appeal was Filed by the LRS of the deceased appellant Saadullah which was accepted/ allowed by the service Tribunal on 11/10/2013 and his removal order/dismissal order from service is converted into compulsory retirement and all

back benefits has been given to LRS And the LRS of deceased Saadullah are enjoying the benefits regularly till now.

(Copy of appeal with judgment is attached as annexure ;E;)

8. That appellant is an innocent person and that all the suggested charges leveled against the appellant are no more in the filed and <sup>has</sup> suffered a lot due to criminal case and appellant has never acted misappropriation or embezzlement any amounts in his service but has been falsely dragged into a criminal case and his service was removed/ dismissed.

**ATTESTED**  
*[Signature]*

9. That the impugned order of dismissal from service is against law and facts hence liable to be set aside.

10. That after acceptance of Saadullah appeal No.464/2012 ,the appellant is entitled of the same treatment as a matter of legal right U/A 25 Of the Constitution ,Islamic Republic of Pakistan, 1973.

It is therefore ,humbly requested that on acceptance of this appeal, the impugned order dated 12/08/2000 dismissal from service may please be set aside and service of the appellant be restored with all back benefits.

Appellant,

*[Signature]*  
Abdul Haleem

EX- Store Keeper /senior Clerk Govt Stationery and printing press KPK, Peshawar.

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Amma  
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**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Amended Service Appeal No. 464 / 2019



Saadullah, Ledger Clerk  
Govt Printing & Stationary Deptt, KPK, Peshawar  
Through

1. Mst. Sadia Bibi (widow)
2. Usama (son)
3. Mst. Ghania (daughter) *(2. & 3. are minors & callg-1)*  
Residents of Hashimnagri, Main G.T. Stand  
Jan Nisar Plaza, Frontier Diagnostic Centre  
G.T. Road, Peshawar

**Appellants**

**VERSUS**

1. Govt of KPK,  
Through Chief Secretary,  
Civil Secretariat, Peshawar
2. Establishment Department  
Through Secretary Establishment, KPK  
Civil Secretariat, Peshawar
3. Controller,  
Govt Printing Press, Peshawar

**Respondents**

Amended Service Appeal u/s 4 of  
the KPK Service Tribunal Act, 1974  
(as per order of the Tribunal)  
against the impugned order dated  
12.08.2000, whereby the  
predecessor of the appellants  
removed/ dismissed from services  
with the recovery of Rs. 6750/-

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



01.10.2013

Mst. Sadia Saad, widow of the deceased appellant, on her behalf and on behalf of other legal heirs of the deceased appellant Mr. Zafar Ali, Supdt. on behalf of respondents with AAG present. Written reply/para-wise comments on behalf of respondents received copy whereof is handed over to the appellant for rejoinder 16.1.2014.

*[Signature]*  
Chairman

ATTESTED

*[Signature]*



11.10.2013

Counsel for the legal heirs of deceased appellant had made application for grant of pensionary benefits to the legal heirs of deceased appellant, where-upon notices were issued to the respondents particularly respondent No.4, for reply and further proceedings today. Mst. Sadia Saad, widow of the deceased appellant, on her own behalf and on behalf of other legal heirs of the deceased appellant v counsel, and Mr. Kalimullah Khan, Controller, Govt. Printing Press Peshawar (respondent No.4) with Mr. Zafar Ali, Supdt./Accountant on behalf of respondents with AAG present. Respondent No.4 confirm contents of the written reply/comments filed on behalf of respondents from record available with the respondent-department. Reply to application for grant of pensionary benefits to the legal heirs of deceased appellant has not been received. Record perused.

*[Large handwritten signature]*

Deceased Saadullah (appellant) was Ledger Clerk in Govt Printing & Stationary Department, KPK, Peshawar, and was removed from service alongwith three others including former Controller Manager and Store Keeper on the charge of embezzlement/misappropriation to the tune of Rs. 6750/-, out of total embezzlement mis-appropriation of store worth Rs. 5.10 million during the period from 1992 to 1996, besides irregularities in purchases and other financial/administrative matters. The role of the deceased appellant, as is evident from the inquiry report, was that mis-appropriation was made with his connivance and collusion in order to benefit his relative namely Rao Abdul Azizi who was then Manager of Govt Printing Press; and he was removed from service vide order dated 12th August 2000.

ATTESTED

*[Signature]*  
Chairman  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar.

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Notwithstanding the fact that the appellant had challenged his removal from service vide his appeal No. 35/2001, but without success, as his appeal was dismissed by this Tribunal vide order dated 9.4.2007, the fact remains that by the time the appellant was removed from service, he had already rendered 18 years of service in the respondent department, and further the penalty imposed upon him while treating him alike with other employees of the respondent department charged for embezzlement/mis-appropriation of public money in millions, did not commensurate with the gravity of charge of embezzled amount of Rs. 6750/-

In such a situation, without adverting to the merits of the case in view of cases reported as 2007 PLC (C.S) 678 (Supreme Court of Pakistan), 2007 PLC (C.S) 118 (Supreme Court of Pakistan) and 2007 PLC (C.S) 685 (Punjab Service Tribunal), on the partial acceptance of the appeal, the impugned order of removal from service is accordingly converted into that of compulsory retirement from service with pensionary benefits to the legal heirs of the deceased appellant.

ANNOUNCED  
11.10.2013

*[Signature]* Member  
*[Signature]* Chairman

Certified to be true copy  
*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Appeal 24-1-19  
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50 روپے

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ایڈووکیٹ: محمد یاسر امیر دکنہ  
بار کونسل/ایسوسی ایشن نمبر: BC-18-4445  
رابطہ نمبر: 0346-9055214

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سر جسٹس ٹریبونل پشاور

مخائب:	دعویٰ:
عبدالرحمن	Service appeal
بنام	علت نمبر:
حکومت و سربراہ	مورخہ:
	جرم:
	تھانہ:

**باعث تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ  
آن مقام کیس اور کیسے محمد یاسر امیر دکنہ کو وکیل مقرر  
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا  
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 27/05/2012

العبد العبد گواہ شد العبد

مقام کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔  
Acceptance  
M. J. Khan

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