

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Appeal No. 701/2019

Date of institution ... 14.05.2019
Date of decision 14.11.2019

Muhammad Javed Iqbal son of Abdul Baqi Khan, Ex-Controller,
Government Printing Press Peshawar R/O House No. 20, Babar Street,
Gulbahar No. 4, Peshawar. ... (Appellant)

Versus

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

Present

Mr. Umar Farooq,
Advocate ... For appellant.

Mr. Kabirullah Khattak,
Addl. Advocate General ... For respondents.
(On pre-admission notice)

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN

JUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-

1. Instant appeal has been submitted by appellant with the prayer for his reinstatement and grant of pension benefits. Order dated 12.08.2000, regarding his removal from service alongwith recovery of Rs. 2632450/-, has also been impugned.

As per available record the appellant was given appointment in the Government Printing Press Peshawar in the year, 1961. During the course of his service he was proceeded against departmentally on the ground of misappropriation of stores worth Rs. 5.1 million. Three other officials were also proceeded against alongwith the appellant. On

12.08.2000, an order was passed by the competent authority as noted herein above. The appellant preferred Service Appeal before this Tribunal which was dismissed on 26.08.2003, where-against, Civil Petition for Leave to Appeal was also dismissed by the Apex Court on 26.07.2005, on account of non-prosecution. The appellant applied for restoration of the petition but could not succeed and his application was also dismissed on 03.02.2006. In the meanwhile, ensuing an FIR dated 23.06.1997 the criminal trial of appellant and others commenced and upon its conclusion on 19.12.2011 the appellant was acquitted from the charge. An appeal against his acquittal was preferred before the Honourable Peshawar High Court which was dismissed on 07.01.2019. Subsequently, on 30.01.2019 the appellant preferred a departmental appeal with the prayer for his reinstatement in service with effect from 12.08.2000. The appeal was not responded to, hence the appeal in hand.

2. Instant appeal was fixed for preliminary hearing, wherein, on 27.06.2019, the respondents were put on pre-admission notice. Today, learned counsel for the appellant as well as learned AAG on behalf of the respondents were heard.

It was mainly contended by learned counsel for the appellant that upon earning acquittal in his favour the appellant had become entitled for his reinstatement in service. In support of his arguments learned counsel referred to 2010-PLC(C.S)1165. A judgment of this Tribunal handed down on 11.10.2013 in Service Appeal No. 464/2012 was also referred to. It was the contention of learned counsel that the referred appeal was preferred by the legal heirs of a co-accused who also earned

acquittal through the common judgment. The appeal was partially accepted and the order of removal from service passed against the predecessor of appellant was converted into that of compulsory retirement.

Learned AAG, at the outset, referred to Rule 23 of the Khyber Pakhtunkhwa Service Tribunals Rules, 1974 and contended that the appeal in hand was not competent as the matter-in-issue already stood decided by this Tribunal through an earlier appeal submitted by appellant. The decision of Tribunal had attained finality as the Apex Court did not allow any relief to the appellant against the judgment of this Tribunal.


3. Adverting to the provisions contained in Rule 23 of the rules *ibid*, it can be safely held that a subsequent appeal against a matter is not entertainable which has directly and substantially been decided by a court or a Tribunal of competent jurisdiction. It is also a matter of record that Appeal No. 464/2012, as relied upon by the appellant, was preferred before this Tribunal soon after the acquittal of predecessor of appellant, namely Saadullah while, on the other hand, instant appellant waited for about eight years before preferring the departmental appeal as well as the appeal in hand. It requires to be noted further that in the referred appeal the matter was not considered in light of Rule 23 of the Rules *ibid*. Judgment of August Supreme Court of Pakistan reported as 2006-SCMR-453 and 2012-SCMR-195 are worth reliance wherein it is

held that where departmental appeal of a civil servant is delayed, his service appeal would not be competent.

It may not be out of place to note that the judgment of Apex Court cited at the bar by learned counsel, is not relevant for the purpose of appeal in hand. In the cited matter the dismissal of appellant was on the ground of conviction by the trial court. The appellant was, however, subsequently acquitted by the Honourable High Court. It is conspicuously laid in the judgment that the appellant therein had not been terminated on basis of initiation of disciplinary proceedings which is not the circumstance of the appeal in hand. The appellant herein was awarded departmental penalty even before the commencement of his criminal trial cognizance of which was taken by Special Judge, Anti-Corruption (Provincial) Peshawar on 19.12.2001. It is by now well-settled that the departmental as well as judicial proceedings can run independently against a civil servant.

4. In view of the above, the appeal in hand is devoid of merits and is hereby dismissed in limine.

File be consigned to the record.



(HAMID FAROOQ DURRANI)
Chairman

ANNOUNCED
14.11.2019

08.10.2019

Counsel for the appellant and Addl. AG alongwith Syed Shah Said, Superintendent for the respondents present.

Representative of respondents requests for further time to submit reply as the same is yet to be signed by respondents No. 1 & 2.

Learned counsel for the appellant when confronted with the provisions of Rule 23 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 regarding maintainability of instant appeal, requests for time to prepare the brief on the point.

Adjourned to 05.11.2019 for preliminary hearing before S.B.



Chairman

05.11.2019

Appellant in person and Addl. AG alongwith Syed Shah Said, Superintendent for the respondents present.

The appellant has submitted fresh Wakalatnama in favour of Ashfaq Ahmad Daudzai, Advocate and requests for adjournment. Representative of respondents has submitted reply on behalf of respondents No. 1, 2 & 4 which is placed on record.

To come up for preliminary hearing before S.B on 14.11.2019.



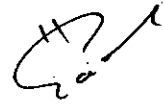
Chairman

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.

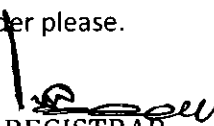



Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 708/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/05/2019	<p style="text-align: center;">The appeal of Mr. Muhammad Javed Iqbal resubmitted today by Mr. Umar Farooq 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 27/5/19</p>
2-	28/05/19	<p style="text-align: center;">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>

The appeal of Mr. Muhammad Javed Iqbal son of Abdul Baqi Khan Ex-Controller Govt. Printing Press Peshawar received today i.e. on 14.05.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.


- 1- Copy of impugned order 12.8.2003 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 2- Copy of departmental appeal and its rejection order are not attached with the appeal which may be placed on it.
- 3- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 4- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 5- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 6- Copy of court permission order for filing of amended appeal be placed on file.

No. 953 /S.T,

Dt. 15-5- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Umar Farooq Adv. Pesh.

Resubmitted
27/5/19 

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. 701 /2019

Muhammad Javed Iqbal.....Appellant

V E R S U S

Govt. of Khyber Pakhtunkhwa through Chief Secretary,
Civil Secretariat, Peshawar & others.....Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-6
2.	Affidavit		7
3.	Addresses of Parties		8
4.	Copy of Order dated 12.08.2000	A	9
5.	Copy of Order of Service tribunal dated 26.08.2003	B	10-29
6.	Copy of order of Supreme Court dated 26.07.2005	C	30
7.	Copy of Order of Supreme Court on the restoration Application dated 03.02.2006	D	31-32
8.	Copy of Anti Corruption Court order dated 19.12.2011	E	33-40
9.	Copy of the High Court order dated 07.01.2019	F	41-45
10.	Copy of representation dated 03.01.2019	G	46
11.	Wakalatnama		47

Appellant
Through



Umar Farooq
Advocate,
High Court Peshawar
Cell No.0334-5088580

Dated 14/05/2019

1

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Amended Service Appeal No. 701 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 752

Dated 14-05-2019

Muhammad Javed Iqbal, Son of Abdul Baqi Khan,
Ex-Controller, Govt. Printing Press Peshawar
R/o House No.20, Babar Street,
Gulbahar No.4, Peshawar.....**Appellant**

V E R S U S

- 1) Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
- 2) Secretary, Govt. of Khyber Pakhtunkhwa Industries Department Peshawar
- 3) Accountant General, Khyber Pakhtunkhwa, Peshawar
- 4) Controller Govt. of Khyber Pakhtunkhwa Printing Press Peshawar.....**Respondents**

**SERVICE APPEAL US 4 OF SERVICE
TRIBUNAL ACT 1974, AND ALL OTHER
ENABLING PROVISIONS OF LAW AGAINST
THE IMPUGNED ORDER DATED 12.08.2003
WHEREBY THE APPELLANT WAS REMOVED
FROM SERVICE WITH RECOVER OF
RS.2632450/-**

Filed to-day

Registrar
14/5/19

Re-submitted to -day
and filed.

Registrar
27/5/19

Prayer in Appeal:

**On acceptance of this appeal the
converting of removal order to**

compulsory retirement with all back benefits and pensionary/retirement benefits

Any other remedy deems proper may also be allowed not specifically asked, in the best interest of justice

Respectfully Sheweth:-

Brief facts of the instant appeal are as under:

1. That the appellant joined service in the year 1961 and the serving as Controller of Govt. Printing Press Peshawar in the year 1997 when suddenly he her made OSD and removed from service on 12.08.2000 just before one month of my date of superannuation i.e. 21.05.2001. (Copy of Order dated 12.08.2000 is attached as annexure "A").
2. That besides the departmental action a criminal case FIR No.01 dated 23.06.1997 U/S 409/468 PPC read with section 5 (2) PC Act has also registered against the appellant alongwith other accused persons on the PS, ACE Peshawar
3. That the appellant against the removal order made appeal in the Service tribunal but unfortunately it was dismissed by the tribunal on 26.08.2003. (Copy of order dated 26.08.2003 is attached as annexure B).

4. That appellant made appeal against the order of service tribunal to Apex Court Supreme Court of Pakistan being civil petition No.3389 of 2003 which was dismissed on 26.07.2006 due to the absence of appellant for non prosecution. (Copy of Order of Supreme Court dated 26.07.2006 is attached as annexure "C").
5. That appellant made application for restoration but it was also dismissed on 03.02.2006 as barred by time. (Copy of Order of Supreme Court on the restoration application dated 03.02.2006 is attached as annexure "D").
6. That the Anti Corruption department submitted challan against the appellant alongwith other co accused of the case in Anti Corruption Court.
7. That the Anti Corruption Court after full trial acquitted the appellant from all charges that case on 19.12.2011. (Copy of Order dated 19.12.2011 is attached as annexure "E").
8. That the state preferred an appeal in the august high Court against the above order of acquittal of Anti Corruption court.
9. That august High Court vide order dated 07.01.2019 dismissed the appeal of state against the acquittal of

appellant and maintained the acquittal judgment of Anti Corruption Court. (Copy of Order dated 07.01.2019 is attached as annexure "F").

10. That after decision of august High Court in which the order of acquittal of appellant was maintained and appellant made representation on 30.01.2019 which has received by the department on 04.02.2019 for reinstatement in service but no reply has been given to me, rather they are not ready to take any action upon any representation. (Copy of Representation is attached as annexure "G").
11. That the court have ample power to revisit the earlier order as the department got the said order through mis-representation.

GROUND S:

- A. That the acquittal of appellant on the Anti Cooperation case it is clear that prosecution could not prove embezzlement/misapplication against the appellant and their stance before Service Tribunal is amount to misrepresentation and concealment of facts.
- B. That if the appeal of the appellant was not dismissed to non prosecution it would be surely decided in favour of the appellant but unfortunately chance of hearing has not avoided by the appellant.

- C. That appellant is also entitled for relief asked for on ground of natural justice and natural justice is part of every statute the petitioner also entitled for relief on humanitarian grounds.
- D. That alongwith appellant one Saadaullah employees of Govt. Printing & Stationary Department was also removed from service by the same order through which the appellant removal the preferred appeal in the service tribunal which was dismissed on 09.04.2007. later on he passed away and his wife and legal heir submitted amended appeal in the service tribunal for grant of pensionary benefit, to the legal heirs of deceased appellant, which has partially accepted and order of removal has converted to compulsory retirement from service with pensionary benefits to the legal heirs of the deceased.
- E. That the case of the appellant is on better footing because the appellant has been acquitted from the Anti Corruption Court being innocent and charge not proved, the august High Court maintained the order/judgment High Court. As appeal of legal heirs of Saadullah has accepted before the decision of Anti Corruption Court,.
- F. That appellant redressed 39 years service to the Government and has removed from service just on before nine month of superannuation.

G. That after decision of august High Court in which the order of acquittal of appellant was maintained and appellant made representation on 30.01.2019 which has received by the department on 04.02.2019 for reinstatement in service but no reply has been given to me, rather they are not ready to take any action upon any representation.

As such the appellant moved this appeal for granting of reinstated and pensionary benefit /back benefit and made the amended appeal for constituting the order of removal to comply retirement.

Any other relief deem fit and appropriate in the circumstance of the case may also be passed in favour of the appellant.

Through


Appellant



Umar Farooq
Advocate,
High Court Peshawar
Cell No.0334-5088580

Dated __/05/2019

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Amended Service Appeal No. _____/2019

Muhammad Javed Iqbal.....**Appellant**

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary,
Civil Secretariat, Peshawar & others.....**Respondents**

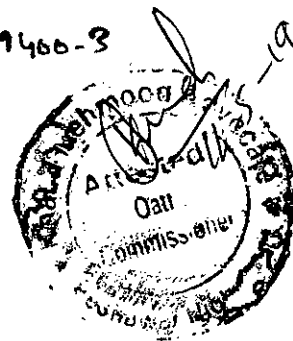
AFFIDAVIT

I, Muhammad Javed Iqbal, Son of Abdul Baqi Khn, Ex-Controller, Govt. Printing Press Peshawar R/o House No.20, Babar Street, Gulbahar No.4, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

[Handwritten Signature]

DEPONENT

NIC=17301-279400-3



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Amended Service Appeal No. _____/2019

Muhammad Javed Iqbal.....**Appellant**

V E R S U S

Govt. of Khyber Pakhtunkhwa through Chief Secretary,
Civil Secretariat, Peshawar & others.....**Respondents**

ADDRESSES OF PARTIES

APPELLANT:

Muhammad Javed Iqbal, Son of Abdul Baqi Khan,
Ex-Controller, Govt. Printing Press Peshawar
R/o House No.20, Babar Street,
Gulbahar No.4, Peshawar

RESPONDENTS:-

- 1) Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
- 2) Secretary Govt. of Khyber Pakhtunkhwa Industries Department Peshawar
- 3) Accountant General, Khyber Pakhtunkhwa, Peshawar
- 4) Controller Govt. of Khyber Pakhtunkhwa Printing Press Peshawar


Appellant

Through



Dated 14/05/2019

Umar Farooq
Advocate,
High Court Peshawar
Cell No.0334-5088580

Dated Peshawar, the 12th August, 2000

ORDER

NO.SOR.V(S&GAD)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 S&GAD (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, 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) | i) Removal from service.
ii) Recovery of embezzled amount of Rs.26,32,450/- |
| 2) Mr. Rao Abdul Aziz,
Manager (BS-16) | i) Removal from service
ii) Recovery of embezzled amount of Rs.27,14,674/- |
| 3) Mr. Abdul Haleem Khan,
Storekeeper (BS-7) | i) Removal from service
ii) Recovery of embezzled amount of Rs.12,28,186/- |
| 4) Mr. Saadullah Khan, | 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(S&GAD)3-20/98 Dated Peshawar, the 12th August, 2000

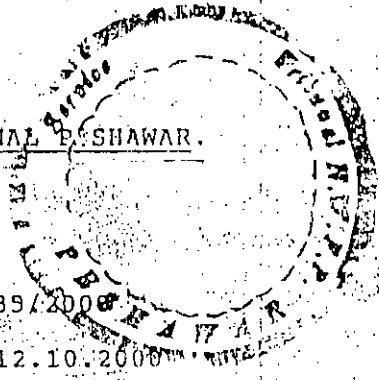
ATTESTED

Copy forwarded to the :-

1. Secretary to the Governor NWFP.
2. Secretary to Govt of NWFP, Industries, Commerce, MD, Labour and Transport Department. He is requested to please ensure the recovery of embezzled amount from the officers/officials concerned.
3. Officers/officials concerned 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.

(AZIZ UR. REHMAN QURESHI)
SECTION OFFICER (REG:V)

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.



Appeal No. 2339/2000

Date of institution - 12.10.2000

Date of decision - 26.8.2003

Muhammad Javed Iqbal, HR-Controller,
Government Press Peshawar. (APPELLANT)

VERSUS

1. Government of NWFP Through the
Chief Secretary, Peshawar.
2. Secretary Industries NWFP,
Peshawar.
3. A.G. N.W.F.P. Peshawar. (RESPONDENTS)

S. Mir Muhammad Advocate. For appellant
Mr. Abdul Qayum Govt. Pleader. For respondents.

MR. ATTAULLAH KHAN MEMBER.
MR. MUHAMMAD SHAUKAT MEMBER.

JUDGMENT.

ATTAULLAH KHAN, MEMBER:-This order will dispose of an appeal filed by the appellant against the order dated 12.8.2000 whereby he was removed from service and recovery of Rs. 26,32,450/- has been ordered with the prayer that the impugned order may be set aside and he be re-instated in service with all back benefits.

Brief facts of the case as averred in the memo of appeal are that the appellant joined service in March 1961 as Junior Clerk in the then West Pakistan Printing Department Lahore. He acquired Diploma from London. He was appointed as Manager Bahawalpur Printing Press in 1970 and was transferred as Manager Printing Press Peshawar in 1971.

ATTESTED
EXAMINER

ATTESTED

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR

Appeal No.2339/2000

Date of Institution – 12.10.2000

Date of Decision – 26.08.2003

(11)

Muhammad Javed Iqbal, Ex-Controller,

Government Press Peshawar. (APPELLANT)

VERSUS1. Government of NWFP Through the
Chief Secretary, Peshawar.2. Secretary Industries NWFP,
Peshawar.

3. A.G. N.W.F.P Peshawar. (RESPONDENTS)

S. Mir Muhammad Advocate

For appellant

Mr. Abdul Qayum Govt. Pleader.

For respondents.

MR. ATTAULLAH KHAN

MEMBER.

MR. MUHAMMAD SHAUKAT

MEMBER.

JUDGMENT.

Attaullah Khan, Member:- This order will dispose of an appeal filed by the appellant against the order dated 12.8.2000 whereby he was removed from service and recovery of Rs.26,32,450/- has been ordered with the prayer that the impugned order may be set aside and he be re-instated in service with all back benefits.

Brief facts of the case as averred in the memo of appeal are that the appellant joined service in March 1961 as Junior Clerk in the then West Pakistan Printing Department Lahore. He acquired Diploma from London. He was appointed as Manager Bahawalpur Printing Press in 1970 and was transferred as Manager Printing Press Peshawar in 1971.

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577



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He was promoted as Controller in 1975 and continued his service vice to the best of his ability when he was made as O.S.D. in 1997 and an enquiry was held and the appellant was removed from service vide order dated 12.8.2000. The appellant preferred a review petition/representation against the impugned order which was rejected vide order communicated to him on 7.10.2000.

The appellant has assailed the impugned order on the grounds that the internal audit was to be conducted under GFR-13 by the Head of department only. The appellant being Head of department could only conduct an internal check and no-body else. In the present case, the internal audit has not been made/ordered by the appellant. The charge sheet neither explained the charge neither gives the exact amount nor specific time of the alleged embezzlement. The charge sheet/statement is not accompanied by the report of Section Officer, Internal Audit Report and report of special audit team, no much so that even the press cutting was also not enclosed with the statement of allegations. In the absence of such documents the appellant was in dark and was unable to prepare proper reply and could not effectively cross examine the witnesses. The appellant placed reliance on the case law laid down in P.L.B-1970-Lr-811. The perusal of enquiry report would show that the same is based on internal/preliminary enquiry and special audit conducted by departmental officials in the absence of the appellant. At no stage he was associated with these proceedings and had no opportunity to cross examine any witness. The store register and other related record of the department has neither been examined nor produced before the enquiry. No witness has ever stated about the corruption and connivance with other officer of the appellant. Charge No. 2 was not proved against the appellant. There was no evidence in support of the charge on the contrary.

ATTESTED

He was promoted as Controller in 1975 and continued his act vice to the best of his ability when he was made as O.D.S. in 1997 and an enquiry was held and the appellant was removed from service vide order dated 12.8.2000. The appellant preferred a review petition/ representation against the impugned order which was rejected vide order communicated to him on 7.10.2000. (15)

The appellant has assailed the impugned order on the grounds that the internal audit was to be conducted under GFR-13 by the Head of department only. The appellant being Head of department could only conduct or order internal check and no-body else. In the present case, the internal audit has not been made/ordered by the appellant. The charge sheet neither explained the charge neither gives the exact amount nor specific time of the alleged embezzlement. The charge sheet/statement is not accompanied by the report of Section Officer, Internal Audit Report and report of special audit team, as much as that even the press cutting was also not enclosed with the statement of allegations. In the absence of such documents the appellant was in dark and was unable to prepare proper reply and could not effectively cross examine the witnesses. The appellant placed reliance on the case law laid down in PLD-1970-Lr-811. The perusal of enquiry report would show that the same is based on internal/preliminary enquiry and special audit conducted by departmental officials in the absence of the appellant. At no stage he was associated with these proceedings and had no opportunity to cross examine any witness. The store register and other related record of the department has neither been examined nor produced before the enquiry. No witness has ever stated about the corruption and connivance with other officer of the appellant. Charge No.2 was not proved against the appellant. There was no evidence in support of the charge on the contrary

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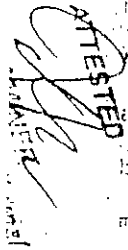


under charge No. 6, the E.O. has found no entry of vouchers in the relevant Register and found the Manager responsible while exonerating the Controller. Again the charge No. 2, regarding Gulue Powder has specifically been proved against the manager and Saadullah, Ledger Clerk by the E.O. Charges No. 1 & 8 have also not been proved. The E.O. has clearly mentioned in letter dated 22.7.97 complaining of non entry of vouchers. S. Kifayat being junior to the appellant and having initiated proceedings against him could not act as E.O./Audit Officer nor as P.W. He has not even produced the material on which his ex parte reports were based and therefore, without such material his report and statement as P.W. could not be tested, through the cross examination by the appellant. The E.O. in the proceedings has not determined the said amount to have been embezzled by the appellant. The E.O. has held that the matter needs further enquiry. The appellant has been condemned unheard. No notice of showing cause has been given to the appellant. The amount given in the charge sheet and mentioned in the ex parte proceedings and the final amount of Rs. 50,12,100/- do not tally while an amount of Rs. 6,12,000/- pertains to A. Abad store for which there is no justification for recovery from the appellant and no officer from Abbottabad has been proceeded.

The respondents were summoned. They appeared through their representative/counsel, submitted written reply, contested the appeal, and denied the claim of the appellant.

The appellant has also submitted his rejoinder in which he has rebutted all the objections of the respondents.

Arguments of the learned counsel for the appellant and Government Pleader for the respondents have been heard and record perused.

ATTESTED

 LIAISON OFFICER

ATTESTED

under charge No.6, the E.O has found no entry of vouchers in the relevant Register and found the Manager responsible while exonerating the Controller. Again the charge No.2, regarding Glue Powder has specifically been proved against the manager and Saadullah, Ledger Clerk by the E.O Charges No.1 & 8 have also not been proved. The E.O. has clearly mentioned in letter dated 22.7.97 complaining of non-entry of vouchers. S.Kifayat being junior to the appellant and having initiated proceedings against him could not act as E.O./Audit Officer nor as P.W. He has not even produced the material on which his ex parte reports were based and therefore, without such material his report and statement as P.W. could not be tested, through the cross examination by the appellant. The E.O. in the proceedings has not determined the said amount to have been embezzled by the appellant. The E.O has held that the matter needs further enquiry. The appellant has been condemned unheard. No notice of showing cause has been given to the appellant. The amount given in the charge sheet and mentioned in the ex parte proceedings and the final amount of Rs. _____/- do not tally while an amount of Rs. _____/- pertains to A.Abad store for which there is no justification for recovery from the appellant and no officer from Abbottabad has been proceeded.

The respondents were summoned. They appeared through their representative/counsel submitted written reply, contested the appeal, and denied the claim of the appellant.

The appellant has also submitted his rejoinder in which he has rebutted all the objections of the respondents.

Arguments of the learned counsel for the appellant and Government Pleader for the respondents have been heard and record perused.

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The perusal of record would show that the appellant was an employee of the Printing and Stationery Department NWFP. He was working as Controller (BS-18) Printing and Stationery Department Peshawar since 1975. The checking/audit of the Printing and Stationery Stores/Depot was carried out by an Internal Audit Party/Special Audit Committee appointed by the Administrative Department for the period from 1991-92 to 1995-96 during March 1997. Both Internal Audit Party as well as Special Audit Party pointed out a number of irregularities as well as shortages in stores amounting to Rs. 5.10 Million due to fraud/negligence on the part of the concerned officers/officials, were served with the charge sheet/statement of allegations and proceeded against under the EAO Rules. Mr. Salim Khan Ex-Secretary Law Department NWFP who was appointed as Enquiry Officer, conducted the enquiry and submitted his report. The competent authority after considering the report of the Enquiry Officer imposed the major penalty of removal from service as well as recovery of the embezzled amount on the four official/officers including the appellant vide the impugned order dated 12.8.2000. The appellant made a departmental appeal which was rejected by the appellate authority hence the present appeal before this Tribunal.

The learned counsel for the appellant vehemently argued that the Internal Audit was required to be made by the Controller of the Stationery and Printing Department being the Head of the attached department. The internal audit on the basis of which the appellant was charge sheeted was alleged without jurisdiction as it was not made by or on the order of the Controller. The learned counsel also contended that the charge sheet issued to the appellant was unspecific and was not supported by the alleged internal audit/special audit report to give proper reply. The appellant was not associated with the enquiry proceedings and

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570

was not given opportunity to cross examine any witness. The enquiry report was based on the ex-parte reports of Internal Audit/Special Audit Parties and not on legal evidence. The learned counsel also argued that the embezzled amount given in the charge sheet and the embezzled amount ordered to be recovered from the appellant do not tally and the enquiry report is based on the numbers and conjectures. The charges against the appellant have not been established and the appellant has been punished unduly while the Accounts Officer and the Manager Works have not been proceeded against. The learned counsel also submitted that the Enquiry Officer repeatedly held in his enquiry report that the matter needs further enquiry/re-checking of stationery stores which shows that the enquiry report is not final and the action against the appellant is pre-mature and unjust and the impugned order needs to be set aside.



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The learned Counsel for the State argued that the appellant while working as Controller (DS-10) in the Printing and Stationery Department was found involved in the matter of Irregularities and embezzlements in the Printing and Stationery Department pointed out by the Internal/Special Audit Party. As the Controller was in Grade 10 and the Controller as well as other employees were collectively responsible for the irregularities/embezzlements, a joint enquiry was needed to be conducted by the same Enquiry Officer, so the Enquiry Officer was appointed by the Chief Secretary and charge sheet/Statement of allegations were served upon all the officers including the appellant containing specific charges in accordance with law. Enquiry was conducted by an Independent Enquiry Officer. The Enquiry Officer afforded all the opportunities to the appellant to cross examine the other accused officers.

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The learned Counsel for the State argued that the appellant while working as Controller (BS-18) in the Printing and Stationery Department was found involved in the matter of irregularities and embezzlements in the Printing and Stationery Department printed out by the Internal/Special Audit Party. As the Controller was Grade 18 and the Controller as well as other employees were collectively responsible for the irregularities/embezzlements, a joint enquiry was needed to be conducted by the same Enquiry Officer, so the Enquiry Officer was appointed by the Chief Secretary and charge sheet/ Statement of allegations were served upon all the officers including the appellant containing specific charges in accordance with law. Enquiry was conducted by an independent Enquiry Officer. The Enquiry Officer afforded all the opportunities to the appellant to cross examine the other accused officers/

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officials and conducted the enquiry quite in accordance with the Law. The charges against the appellant were proved in the enquiry report and the appellant was awarded the impugned punishment in commensurate with his guilt by the competent authority after the issue of proper final show cause notice personal hearing. The learned counsel for the State submitted that the enquiry has been held quite in accordance with the Law, the appellant was found guilty and has been awarded the impugned penalty in commensurate with his guilt and as such the appeal may be dismissed.

The Tribunal observes that the Printing and Stationery Department was an attached Department of the Industries Deptt; NWFP and the Industries Department was Administrative Department of the Printing and Stationery Department as per NWFP Rules of Business. The Administrative Department and its Secretary being Principal Controlling Officer of its attached department, was competent to hold internal checking/enquiry into the accounts of its attached department, as per rule-4 sub-rule-2 of NWFP rules of business 1985. The Internal Audit Party/Special Audit Party appointed by the Administrative Department had discovered the shortages/over-claimment of stationery articles worth more than Rs. 5.00 million in the Printing and Stationery Department due to fraud/connivance/negligence of appellant and other concerned officers of the Department. The appellant and other concerned dealing officers/officials were required to be proceeded against under the E&D Rules. The Law, Rules and justice demanded that the accused officers/officials should be served with the proper charge sheet and statements of allegations and enquiry should be conducted against all the accused by one Enquiry Officer or Enquiry Committee into the matter so that the Enquiry Officer could correctly find the negligence/malafide or guilt of each one of the accused, vis-a-vis his duties/responsibilities, so the Enquiry Officer was rightly appointed by the Chief Secretary who was Authorised officer for the appellant and the charge sheet/

ATTESTED

(21)

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statement of allegations were served upon all the accused. The enquiry was conducted by one and the same Enquiry Officer against all the accused officers/officials including the appellant. The appellant as well as the other accused were given full opportunity to cross examine each other and also to cross examine the prosecuting witnesses as evident from the enquiry report. The contention of the learned counsel for the appellant that the charge sheet issued to the appellant was imprecise and was not supported by the documents is also not tenable as the Internal Audit Party/ special audit were carried by the Audit Parties in the presence of appellant. The Manager and other subordinate staff of the appellant had duly verified shortages/approved their signatures on the shortage list prepared by the Audit Party on 4.3.97. The shortage was discovered in March 1997 and when the enquiry was held in the year 1999, 2 years later the appellant was then failed to produce any documents to falsify the alleged shortage as wrong.

The contention of the learned counsel for the appellant that the amount of embezzlement mentioned in the charge sheet and recovery order do not tally is correct. However, the amount mentioned in the charge sheet was the collective amount of loss which has occurred to the Government Exchequer due to the fraud/embezzlement/negligence of the appellant and other accused officers/officials. When the enquiry was completed and the appellant and other officers/officials were found guilty for the alleged loss, the amount of loss was distributed among them according to the extent of their responsibilities.

The Tribunal observes that the charges levelled against the appellant were established as discussed below :-

The appellant was served with the charge sheet, statement of allegations containing eight charges namely

EXAMINER
NWFP Service Tribunal
Peshawar

ATTESTED

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The Tribunal observes that the charges levelled against the appellant were established as discussed below:-

The appellant was served with the charge sheet/ statement of allegations containing eight charges namely

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1) shortage/embezzlement of stores articles worth more than 10 Million occurred in the Printing and Stationery Deptt. during the period from 1991-92 to 1995-96 due to embezzlement/ fraud/conivance of the dealing officers/officials of the department and the appellant failed to take notice of it, perhaps due to his own interest/involvement in the matter.

2) Purchase order for the supply of 1500 K.G. Glue powder was placed on M/S Naveed Akram and Co. but no supply was made and an amount of Rs. 40,500/- was mis-appropriated.

3) Fake vouchers were issued on different dates and the articles issued on fake vouchers were mis-appropriated and amount embezzled and huge loss caused to the Government Exchequer.

4) The appellant conducted inspections of the stores/Depots at Swat, Abbottabad and D.I.Khan every year and claimed T.A/D.A but did not send any report to the Administrative Department. The appellant some times not visited the Sales Depots and claimed bogus TA/DA. 5) The appellant did not pay 5% compulsory deduction of 5% over the residential telephone Bills as well as excess billing amounting to Rs. 21,791/- over and above his billing during 1994 to 1996. Similarly he did not pay Rs. 44,000/- as compulsory deduction of 5% of pay on residential accommodation during 1989 to 1996.

6) A number of vouchers of Raw Stores shown as issued during 1991-92 worth Rs.14,39,560/- were not entered in the relevant Register and it was not taken notice of by the appellant which reflects the lack of efficiency of appellant.

7) During 1992-96 Mr. Mumtaz Gul Caretaker was appointed as Parallel Store Keeper in the Stationery Store by the appellant who embezzled various stationery articles and caused loss to the Government Exchequer.

8) That being Controller, the appellant failed to exercise full administrative control and supervision over the subject matters which resulted in the mis-appropriation financial irregularities, shortages of stores items and huge loss to the Government Exchequer.

ATTESTED

ATTESTED

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(26)

Regarding charge No. 1 and 8 against the appellant about the shortage of stationery articles worth Rs.5.10 Million, the Enquiry Officer observed in his findings in the enquiry report that there were alleged shortages in the stores in the Printing and Stationery Department but there is nothing on the record to show that the officers of the press found shortages in the stores themselves. It was after 1995 that the shortages came to light through the reports of Audit Parties. All the evidence leads to the conclusion that there was collusion and connivance among the Controller (the appellant), the Manager, the Store Keeper and the Ledger Clerk. The Enquiry Officer also observed that there is no doubt that there have been embezzlement in the Stores, such embezzlement would not have occurred if the Controller (the appellant) had efficiently and vigilently controlled the officers/administration of the Press. The Enquiry Officer held the appellant guilty of Charges No. 1 and 8 and recommended for the imposition of proper penalty/recovery of the loss from the appellant. Similarly regarding Charge No. 2 against the appellant about the embezzlement of Rs. 40,000/- in the purchase of Glue Powder, the Enquiry Officer observed in his findings that there is nothing on the record to show that the Glue Powder was delivered by the Contractor to the Press. The payment to Contractor was fictitious and was shown without delivery of Glue Powder. The Enquiry Officer held the Controller (the appellant) guilty of the charge as he was in collusion and connivance with the Manager and Incharge of Stationery Stores had not objected to the passage of Bills. The Enquiry Officer recommended the imposition of penalty/recovery of the embezzled amount from the appellant. The charges No. 3 and 6 regarding the involvement of appellant in the issue of fake vouchers and non-posting of vouchers worth Rs. 14,39,560/- in the relevant Register were not properly proved against the appellant as the Enquiry Officer recommended to hold detailed enquiry into the matter and

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ATTESTED

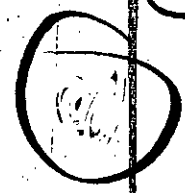
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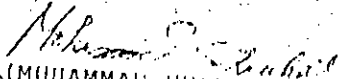
to fix responsibility and the Enquiry Officer did not further probe into these charges. The charge No. 4 regarding the bogus/excess withdrawal of TA/DA was also not properly proved against the appellant as the Enquiry Officer left the matter for the Administrative Department to probe and recover the surplus amount if paid to appellant on account of TA/DA. The charge No. 5 regarding the non-payment of amount of Rs. 44,000/- on account of 5% deduction of Residential accommodation and Rs. 21,951/- on account of excess billing than the prescribed ceiling/was not enquired by the Enquiry Officer and left to the department to settle under the rules. However, the appellant had admitted the non-payment of the amount mentioned in the charge sheet and had agreed to pay the amount as per his reply submitted by him to the charge sheet which means that the charge levelled against him was correct.

In view of the above exposition of the case and in view of the fact that the charges levelled against the appellant in the charge sheet were established by the Enquiry Officer in the enquiry report, there appears no reason for Tribunal to interfere with the impugned order passed/issued by the competent authority. The appeal is hereby dismissed by this Tribunal.

No order as to costs. File be consigned to the record.

ANNOUNCED.
26.8.2003.


(ATTAULLAH KHAN)
MEMBER.


(MUHAMMAD ISHAQ)
MEMBER.

Stamp: **Stamp Service - Tribunal**
Date: **26.8.2003**

ATTESTED

29

to fix responsibility and the Enquiry Officer did not further probe into these charges. The charge No.4 regarding the bogus/excess withdrawal of TA/DA was also not properly proved against the appellant as the Enquiry Officer left the matter for the Administrative Department to probe and recovery the surplus amount if paid to appellant on account of TA/DA. The charge No.5 regarding the non-payment of amount of Rs.44,000/- on account of 5% deduction of Residential accommodation and Rs.21,951/- on account of excess billing than the prescribed ceiling of his residential phone was not enquired by the Enquiry Officer and left to the department to settle under the rules. However, the appellant had admitted the non-payment of the amount mentioned in the charge sheet and had agreed to pay the amount as per his reply submitted by him to the charge sheet which means that the charge levelled against him was correct.

In view of the above exposition of the case and in view of the fact that the charges levelled against the appellant in the charge sheet were established by the Enquiry Officer in the enquiry report, there appears no reason for Tribunal to interfere with the impugned order passed/issued by the competent authority. The appeal is hereby dismissed by this Tribunal.

No order as to costs. File be consigned to the record.

ANNOUNCED

26.8.2003.

Sd/-
(ATTAULLAH KHAN)
MEMBER

Sd/-
(MUHAMMAD SHAUKAT)
MEMBER

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25/10/05
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IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
MR. JUSTICE HAMID ALI MIRZA
MR. JUSTICE FAQIR MUHAMMAD KHOKHAR

CIVIL PETITION NO. 3389 OF 2003
(On appeal from the judgment dated 26.8.2003 in
Appeal No. 2335/2000 passed by the NWFP Service
Tribunal, Peshawar)

Muhammad Javed Iqbal

.... Petitioner

VERSUS

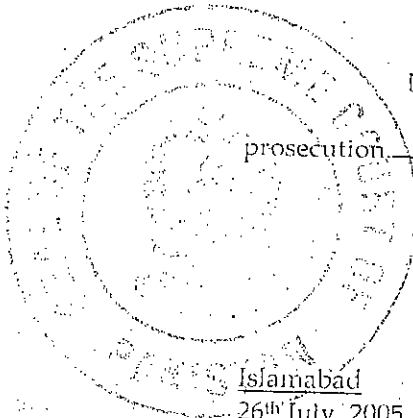
Govt. of NWFP through Chief Secretary & others

.... Respondents

For the petitioner: Nemo
Respondents: N.R.
Date of hearing: 26.7.2005

ORDER

Nemo for the petitioners. Petition is dismissed for non-prosecution.



Sd/- Hamid Ali Mirza
Sd/- Faqir Muhammad Khokhar

Certified to be true copy

A. J. Akram (K) 25/10/2005
Superintendent
Supreme Court of Pakistan
ISLAMABAD

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25-10-2005
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ATTESTED

Signature of Attestation Officer

Signature of Mr. M. Mirza

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

16
"Ö/31
L-11/6 (5)

PRESENT:

MR. JUSTICE RANA BHAGWANDAS
MR. JUSTICE KHALIL-UR-REHMAN RAMDAY
MR. JUSTICE NASIR-UL-MULK

Misc Application
CIVIL PETITION NO. 5416 OF 2005 EX CP 3389/03.

(Restoration application against this Court's order dated 26.7.2005 passed in C.P.No.3389 of 2003)

Muhammad Iqbal Javed.

...Petitioner.

VERSUS

Government of N.W.F.P and others.

...Respondents.

For the petitioner:

Mr. M. Bilal, Sr. ASC with
Ch. M. Adram, AOR.

For the respondents:

Not represented.

Date of hearing:

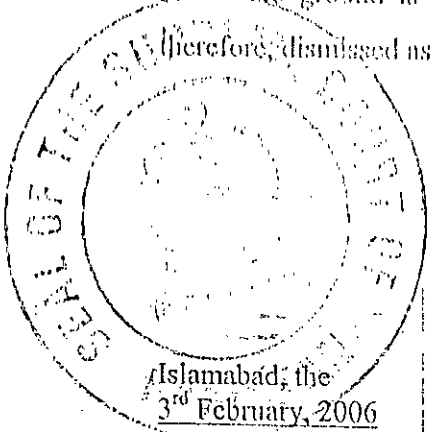
3.02.2006

ORDER

RANA BHAGWANDAS, J.- Application for restoration of the petition is at the out barred by 63 days.

2. Ground urged for extension of time/condonation of delay is that learned AOR could not note the date of hearing due to over-sight and came to know about its dismissal after 61 days whereafter copy of the order was applied for and application filed. The reason advanced for extension of time is far from satisfactory and reflects upon gross-negligence and neglect of duty on the part of AOR. If the petitioner had chosen to appoint such AOR he should thank his stars for his ill luck. If a party negligent and not diligent and sleeps over the matter for long, law and equity would not come to his rescue.

3. No ground is made out for extension of time. Application for restoration is, therefore, dismissed as barred by time.



Islamabad; the
3rd February, 2006

NOT APPROVED FOR REPORTING.

M. Faridul

15/2/06

Ed. Rana Bhagwandas, J
Mr. Khalil-ur-Rehman Ramday, J
Mr. Nasir ul Mulk, J

Certified to be true copy

M. J. Akram
Superintendent
Supreme Court of Pakistan
ISLAMABAD
22/2/2006

ATTESTED

IN THE SUPREME COURT OF PAKISTAN.
(APPELLATE JURISDICTION)

92

S.M.R.P.NO.79 OF 2006 IN C.A.3389 OF 2003.

Muhammad Javed Iqbal.

Petitioner.

VERSUS

Govt. of N.W.F.P. through Chief
Secretary and others.

Respondents.

ORDER

HJ(1).

No ground for review is made out.

Sd/- Rana Bhagwandas,J.
29.7.2006.

HJ(5).

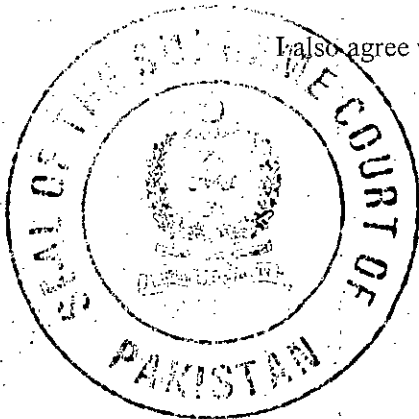
I agree with my lord. HJ(1)

Sd/- Khalil-ur-Rehman Ramday,J.
2.8.2006.

HJ(13).

I also agree with my lord HJ(1).

Sd/- Nasir ul Mulk,J.
3.8.2006



Certified to be true copy.

Amir Ali
4/8/2006
Subintendant
Supreme Court of Pakistan
ISLAMABAD

ATTESTED

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.

Handwritten marks and the number 33.

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 Mr. Abdullah Jan,
Ex-storekeeper, Government
Printing Press Peshawar.

Case FIR No.01 dated 25.05.1997 u/s 409/468/PPC read with section
5(2) PC Act of P.S. ACE, Peshawar.

Signature of Special Judge
Anti-Corruption
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:1,36,12,600/- in the year 1996 to 1997 individually and collectively in abuse of their official position as public servants from the Printing Press, Peshawar.

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

ATTESTED

Stamp: COURT of Special Judge Anti-Corruption Peshawar

04/01/2012

ATTESTED

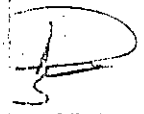
procedural formalities the charge was framed on 18.04.2002. The accused denied the charge and claimed trial. During trial one of the accused Rao Abdul Aziz died and the proceedings to his extent abated. During the trial prosecution produced and examined 35 P.Ws.

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

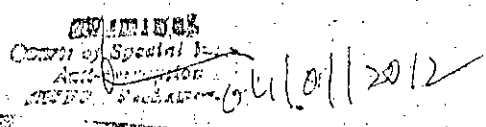
Thereafter arguments pro & contra of prosecution and defence heard and file perused.

The gist of prosecution evidence is as under:-

Israr-ul-Haq, Assistant Accounts Officer, AG Office (PW-3) 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 and 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. That 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 ACE 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 gazette officer approved by the government to see the ground realities. He


Special Judge
in Corruption
Khatankhwa Peshawar
19/12/11

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Special Judge
in Corruption
Khatankhwa Peshawar
19/12/11

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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 does 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 CFR. 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 1996. 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 Peshawar, Hayat Shah and 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.

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Special Judge
Anti Corruption
Khyber Pakhtunkhwa Peshawar

19/12/11

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Special Judge
Anti Corruption
Khyber Pakhtunkhwa Peshawar

04/01/2012

Muhammad Saif ul Kadir 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 persons addressed to the Director ACE regarding misappropriation and embezzlement in the Government Printing Press Peshawar by its

ATTESTED

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 Inayatullah Rehman S.I. who got permission vide Ex.PW-1/1. Subsequently the inquiry was marked to him. After the receipt of audit report, he took into possession the entire record vide recovery memo Ex.PW-1/2 to Ex.PW-1/15 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.PW-1/13. 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.

(96)

Special Judge
Anti-Corruption
Feroz Khan
19/11

(Signature)

Special Judge
Anti-Corruption
Feroz Khan
19/12/11

ATTESTED

Special Judge
Anti-Corruption
Feroz Khan

04/07/2012

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

ATTESTED



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

The remaining PW's 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, Cashwar 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 FSI, 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.

P

Special Judge
Adl. Commission
Fakirchanganj, Patna

19/12/11

ATTESTED

Signature of Special Judge
Adl. Commission
Fakirchanganj, Patna

04/01/2012

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

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the report a sum of Rs.1,36,12,690/- was misappropriated in sl. 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 description 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.



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Special Judge
of Corrupt
Practices
Hyderabad
19/12

Special Judge
Anti-Corruption
Hyderabad
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 vides 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
Anti-Corruption
Hyderabad

04/01/2012

ATTESTED

document to high light 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. EX/1 is insufficient to shed light on the respective responsibilities during the disputed period:

(16)

(4)

(89)

The auditor has 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 implicated accused Muhammad Javed Iqbal, controller on account of being the 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 the Secretary Law and in the light whereof punishment under the E&D rules were given. The I.O. did not bother to include that inquiry 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 framing the charge in terms of section 222 and 234 Cr.Pc. The prosecution could not establish the individual responsibility in terms of time, money and material embezzled by each accused. Accused Javed Iqbal has not been enroped for his hand in misappropriation but under the supposition that being over all responsible, he erred in discharging his responsibilities, as such impliedly held responsible for the acts and commission of his subordinates. Likewise the I.O. also admitted that Saadullah was declared as innocent in his inquiry, but no plausible explanation is given as to why he was kept enroped till the end.

(Signature)
 Special Judge
 Anti-Corruption
 Khyber Pakhtunkhwa Peshawar
 19/10/11

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(Signature)
 Officer of Special Insp
 Anti-Corruption
 Peshawar

04/01/2012

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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.

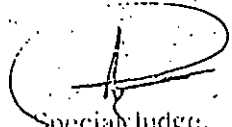
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The case property, be kept intact till the arrest and trial of the absconding accused.

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

Announced.
Peshawar.
19.12.2011.


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

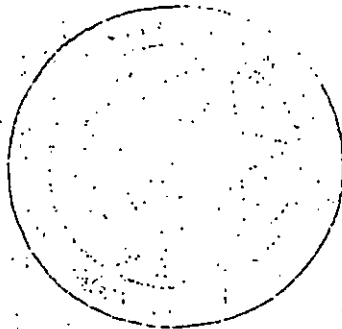
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court of appeal
Anti-Corruption
KPK

04/01/2012

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




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

ATTESTED

JUDGMENT SHEET

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: 7th 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.

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

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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.

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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EXAMINER
PUNJAB HIGH COURT

10 JAN 2019

~~ATTESTED~~

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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(S)

-4-

Muhammad Saleem / Inquiry-Investigating Officer / (P.W.-1)

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.

(S)

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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10/11/2010

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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.

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

Announced.
07. 01. 2019

JUDGE

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

689

Date of Presentation of Appeal: 09/11/19

No of Pages: 2

Copying Fee: _____

Exhibit Fee: _____

Total: 207

Date of Preparation: 10/11/19

Date of Delivery of Court: 10/11/19

Received by: [Signature]

(Fayaz) (S.B. of Hon'ble Mr. Justice Syed Afsar Shah)

[Signature]

No. _____ xyz

Dated : 30-01-2019

"G"
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The Secerteray
Industries Commerce, MD Transport Department
Govt. Of khyber Pakhtunkhwa Peshawar

Subject: Re-Statment in service w.e.f. 12-08-2000 (FN)

Sir,

I have the honour to refer the cheif seceretary order No:SOR.V (S&GAD) 03-20-1998 dated : 12-08-2000 and submit the following two orders of the honourable courts:

1. Mr. Azhar Khan Special Judge anti Corruption Peshawar in Case No.312 of 2001 date of deciesion 19-12-2011.
2. Honourable Justice Syed afsar shah Peshawar High Court Judicial Department judgment on 07-01-2019 in the case of criminal appeal no.259P of 2012.

Both the above courts have equited me from the charges leveled against me.

It is humbly requested that i may kindly be re-instated in service w.e.f 12-08-2000. The date of my super annouation is 12-05-2001.

Your obediently



Muhammad Javed Iqbal

Ex-Controller Stationary and Printing
Dept.

Khyber Pakhtunkhwa Peshawar
C/O House No.20, Babar Street, Opp
Ishrat Cinema, Gulbahar No.4
Peshawar.

Encls Two Judgments

VAKALATNAMA

BEFORE THE SERVICE TRIBUNAL COURT, PESHAWAR



42

For:-

Muhammad Jamel Isbal

Versus

Govt of KPK etc.

I, M. Jamel Isbal

do hereby appoint, **Umar Farooq Advocate High Court**, in the above mentioned case, to do all or any of the following acts, deeds and things:-

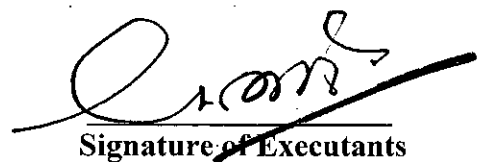
- 1- To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2- To sign and verify and file or withdraw all proceeding, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3- To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.

AND hereby agree:-

That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remain unpaid.

In witness whereof I/We have signed this vakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this day of

14-5-2019


Signature of Executants

Attested & Accepted by:


UMAR FAROOQ
Advocate High Court

Armed
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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) *et al*
Residents of Hashraagni, 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.


Chairman



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, whereupon 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, 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 confirms 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.

Deceased Saadullah (appellant) was Ledger Clerk in Govt. Printing & Stationary Department, KPK, Peshawar, and was removed from service along with 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/misappropriation 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 misappropriation was made with his connivance and collusion in order to benefit his relative, namely Rao Abdul Aziz, who was then Manager of Govt. Printing Press, and he was thus removed from service vide order dated 22 August 2000.

ATTESTED


Chairman
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.



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

Member

Chairman

Certificate to be true copy

CHIEF CLERK
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 24-1-13
Number of Words 1600
Copying Fee 10
Urgent _____
Total 10
Name of Copyist _____
Date of Completion of Copy 01-02-13
Date of Delivery of Copy 01-02-13

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BEFORE THE SERVICES TRIBUNAL, KPK PESHAWAR

Amended Service Appeal No. 466 / 2013



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

1. Mst. Sadia Bibi (widow)
2. Usama (son)
3. Mst. Ghania (daughter) ^{2, 3 and 4} ~~and 5~~ _{and 6}
Residents of Hashimnagar, Main C.T.S Stand
Jan Nisar Plaza, Frontier Diagnostic Centre
G.T Road, Peshawar

Appellants

V E R S U S

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)
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12.08.2000, whereby the
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with the recovery of Rs.6750/-

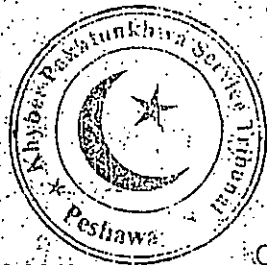
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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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.


Chairman

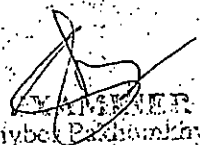


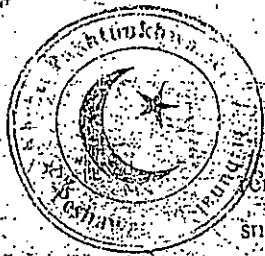
11.10.2013

Counsel for the legal heirs of deceased appellant had no 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 to Mst. Sadia Saad, widow of the deceased appellant, on her own behalf and on behalf of other legal heirs of the deceased appellant, 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.

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/misappropriation of store worth Rs. 5.10 million during the period from 1952 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 misappropriation was made with his connivance and collusion in order to benefit his relative namely Rao Abdul Aziz, who was then Manager of Govt. Printing Press, and he was thus removed from service vide order dated 12 August 2000.

ATTESTED


Attester
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.



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

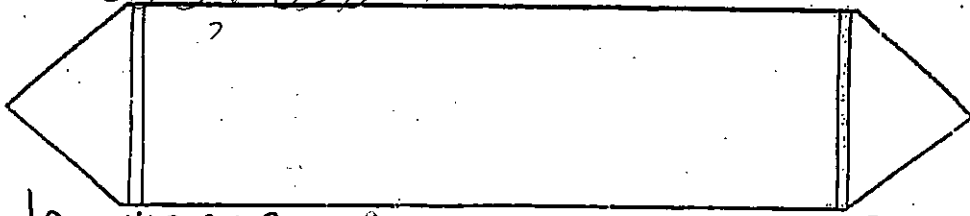
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CLERK
Peshawar Service Tribunal
Peshawar

Date of Presentation of Application 24-1-19
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7

بعدالت جناب سرپرست سپریم کورٹ لاہور



سورجہ
مقدمہ
دعویٰ
پریم

سورجہ
مقدمہ
دعویٰ
پریم

ایپیل نمبر: 701/2019

باعث تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیرودی و جواب وہی وکل کارروائی متعلقہ
آنا مقام السلم کیلئے اشفاق احمد دلوری

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے کے وقت تفرقات و فیصلہ برحلف دینے جواب وہی اور اقبال دعویٰ اور
بلا ضرورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیرودی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیرودی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا سناٹہ
پر اذیت منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجاں التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیرودی
مذکورہ کریں۔ لہذا اوقات نامہ لکھ دیا کہ سند ہے۔

المرقوم س سورجہ 20

واہ التبع

نئے لئے منظور ہے۔

السلم

مقدمہ

سورجہ
مقدمہ
دعویٰ
پریم