

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 10299/2020

Date of Institution ... 24.08.2020

Date of Decision... 01.03.2023

Shahzad-ur-Rehman S/O Haji Rehmat Karim. R/O Kass Dir, District Dir Upper, Ex-Assistant Upper Dir Levies.

... (Appellant)

VERSUS

Deputy Commissioner Dir Upper/Commandant Dir Levies and one another.

... (Respondents)

MR. ARBAB SAIF-UL-KAMAL,
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General


--- For respondents.

MR. SALAH-UD-DIN
MS. FAREEHA PAUL

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts forming the background of the instant service appeal are that the appellant was appointed as Assistant in Federal Levies Force Dir on 29.06.2010.

 During his posting in the office of Assistant Commissioner Sheringal, the then Assistant Commissioner Sheringal submitted a report dated 06.10.2017 to the then Deputy Commissioner Dir Upper regarding embezzlement of Government Compensation Fund by the appellant. Disciplinary action was thus taken against the appellant and on conclusion of the inquiry, he was awarded major penalty of removal from service vide order dated 23.01.2018 passed by the then Commandant Dir Levies/Deputy Commissioner Dir Upper. The

appellant challenged the same by way of filing departmental appeal, which was declined vide order dated 03.09.2018. The appellant then preferred service appeal before Federal Service Tribunal Islamabad on 09.10.2018, however in wake of 25th Constitutional Amendment, the erstwhile FATA and PATA were merged into the province of Khyber Pakhtunkhwa and in consequence thereof, two ordinances were issued by the Government of Khyber Pakhtunkhwa on 12th March 2019, whereby Federal Levies Force and Khassadar Force stood Provincialized. By way of consolidated judgment dated 04.12.2019, passed by Federal Service Tribunal Islamabad, the appeal of the appellant was remitted to the competent Authority to treat the same as departmental appeal and to decide it afresh after giving an opportunity of personal hearing to the appellant. The departmental appeal was again rejected by Secretary Home Khyber Pakhtunkhwa vide order dated 27.07.2020, which has been impugned by the appellant through filing of instant appeal.

2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they refuted the assertion raised by the appellant in his appeal.

3. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Additional Advocate General for the respondents has controverted the arguments of learned counsel

for the appellant and has supported the comments submitted by the respondents.

4. - Sequence of events as divulging from the available record is that initially an inquiry was initiated against one Hussan Zada Subidar Federal Levies Dir Upper on the allegations reproduced as below:-

"1. As reported by Additional Assistant Commissioner Sheringal report communicated vide No. 199/AAC/Shr: dated 27.09.2017 that you purchased 09 numbers scants/timber confiscated by Patrak Check which was case property. This act on your part is against the discipline of the force and amounts to miss-conduct.

2. That reportedly you took out 01 sack of DANDASA confiscated by the Levies which has to be submitted to the DFO Sheringal.."

5. During the above mentioned inquiry proceedings, statement of the appellant was also recorded by the inquiry officer, wherein he had alleged that Assistant Commissioner Sheringal had asked the appellant to sell 09 scants which were confiscated by the Levies; that the appellant received an amount of Rs. 25000/- as sale consideration of 09 scants and brought it into the notice of Assistant Commissioner Sheringal with the request that as the appellant had expended an amount of Rs. 25000/- in kitchen of residence of Assistant Commissioner Sheringal and had also spent certain amount on the event of visit of Vice Chancellor of Quaid-e-Azam University to Kumrat Valley, therefore, as per direction of Assistant Commissioner Sheringal, the amount of Rs. 25000/- was thus deposited in government treasury, which could be confirmed from the monthly statement lying in the office of Deputy Commissioner

Dir Upper; that Assistant Commissioner Sheringal had told the appellant that he will pay the amount of Rs. 25000/- to Hussan Zada Subidar. The statement of the appellant so recorded in the aforementioned inquiry was in a way leveling of certain allegations against Assistant Commissioner Sheringal, whose letter dated 06.10.2017 addressed to the Deputy Commissioner Dir Upper became a base for disciplinary action against the appellant. In the instant case, the inquiry officer exonerated Hussan Zada Subidar and recommended that the appellant may be awarded penalty as he was the actual culprit in the said matter. The available record is, however silent regarding any final outcome of the aforementioned inquiry.

6. In the meanwhile, the Assistant Commissioner Sheringal addressed letter No. 400/AC/Shr dated 06.10.2017 to the then Deputy Commissioner Dir Upper regarding embezzlement of Government Compensation Funds by the appellant and also requested for lodging of FIR against the appellant for early recovery of the embezzled amount as well as taking of disciplinary action against him. Disciplinary action was thus initiated against the appellant and he was issued charge sheet, which is reproduced as below:-

“1) You have withdrawn open cheque No. 21005375 amounting to Rs. 3,00,000/- of the legal heirs of deceased Navid Ali s/o Waseem Khan from Assistant Commissioner Sheringal Account of Khyber Bank Dir and you submitted an affidavit of admitting the embezzlement.

2) You have cashed cheque No. 21005374 amounting to Rs. 11062245/- and cheque No. 212117580 amounting to Rs. 140000/- and has drawn the said amount from bank on forged

signature of the Assistant Commissioner Sheringal and also you admitted the embezzlement on submission of affidavit duly signed by you as well as attested by oath commissioner.

3) You have also embezzled amount recovered as fine under various heads i.e price checking, traffic, narcotics etc for the month of September 2017.

4) You have also remained absent from duty without any proper permission of the competent Authority."

7. In his statement before the inquiry officer, the appellant had taken categorical stance that the cheques were signed by the Assistant Commissioner Sheringal himself and had also received all the amount. The appellant had also requested in his statement that the cheques may be sent to any laboratory for forensic test of the signatures available on the same. The inquiry officer, however did not bother to send the cheques to the FSL for verification of the signatures as to whether the same were genuine or fake. The inquiry officer while holding the appellant guilty of the allegations leveled against him, had mainly relied on an affidavit wherein the appellant has admitted the charge of embezzlement of an amount of Rs. 1546247/-. The appellant had, however taken specific stance in his statement that the said affidavit was obtained from him by Assistant Commissioner Sheringal through coercion by keeping him in illegal confinement. The appellant had also alleged that an application regarding missing of the appellant was also submitted by his brother in local police station. In such circumstances, the inquiry officer was required to have ascertained through any independent evidence as to whether the stance so taken by the appellant was correct or otherwise. Even otherwise too, the appellant has not been

cross-examined and legally his statement shall be deemed to have been admitted as correct.

8. The inquiry against the appellant was initiated on the letter dated 06.10.2017 addressed by the Assistant Commissioner Sheringal to Deputy Commissioner Dir Upper. The status of Assistant Commissioner Sheringal was thus of a complainant in the matter and the inquiry officer was required to have recorded his statement in the inquiry proceedings, however the same has not been done by the inquiry officer for reasons best known to him. The inquiry report would show that the inquiry officer had only recorded the statement of one Ihsanullah, Computer Operator in the office of Assistant Commissioner Sheringal, wherein he has deposed that the appellant had deposited all the amount except an amount of Rs. 15000/-. The available record does not show that statement of Ihsanullah Computer Operator was recorded in presence of the appellant. The appellant has not been provided any opportunity to cross-examine the aforementioned Ihsanullah (Computer Operator).


9. The allegation No. 3 as mentioned in statement of allegations would show that the actual amount of fine allegedly embezzled by the appellant is not mentioned therein. Similarly, allegation No. 4 does not mention the actual date or period of absence of the appellant from duty. Both the aforementioned allegations are thus vague in nature. Moreover, as per the available record, not a single witness in support of the aforementioned allegations was examined during the inquiry but the inquiry officer has ironically held in his report that

these allegations against the appellant also stood proved during the inquiry.

10. In view of the above discussion, the appeal in hand is allowed and the appellant is reinstated in service with all back benefits. The competent Authority shall, however be at liberty to conduct de-novo inquiry in the matter if he so desires but strictly in accordance with relevant rules within a period of 60 days of receipt of copy of this judgment. In case of de-novo inquiry, the issue of back benefits shall be subject to outcome of the same. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

01.03.2023



(SALAH-UD-DIN)
MEMBER (JUDICIAL)




(FAREEHA PAUL)
MEMBER (EXECUTIVE)


ORDER
01.03.2023

Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments have already been heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed and the appellant is reinstated in service with all back benefits. The competent Authority shall, however be at liberty to conduct de-novo inquiry in the matter if he so desires but strictly in accordance with relevant rules within a period of 60 days of receipt of copy of this judgment. In case of de-novo inquiry, the issue of back benefits shall be subject to outcome of the same. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
01.03.2023


(Pareeha Paul)
Member (Executive)


(Salah-Ud-Din)
Member (Judicial)

16th Feb, 2023

Appellant alongwith his counsel present. Mr. Ghulam Mustafa, Superintendent alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

The appeal in hand was partially heard by a bench comprising of one of us (Salah-ud-Din) Member (Judicial) and Ms. Fareeha Paul learned Member (Executive), therefore, the same be fixed before the said Bench. Adjourned. To come up for arguments on 17.02.2023 before the concerned D.B.



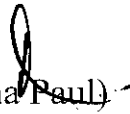
(Salah-ud-Din)
Member (J)

(Kalim Arshad Khan)
Chairman

17.02.2023

Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Arguments heard. To come up for order on 01.03.2023 before the D.B.



(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)

19th Jan. 2023

Lawyers are on strike today.

SCANNED
KPST
Peshawar

On 10.01.2023 partial arguments were heard by Mr. Salah-ud-Din, Learned Member(J) and Mr. Mian Muhammad, Learned Member (E). To come up for remaining arguments on 14.02.2023 before the concerned D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.



(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member (J)

14.02.2023

Appellant alongwith his counsel Mr. Arbab Saif-ul-Kamal, Advocate present. Mr. Ghulam Mustafa, Superintendent alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Partial arguments heard. To come up for remaining arguments on 16.02.2023 before the D.B.


(Fareeha Paul)
Member (E)

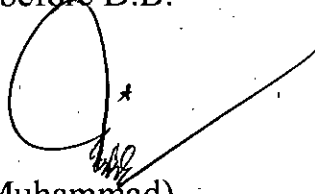

(Salah-ud-Din)
Member (J)

22.12.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought time for preparation of arguments. Adjourned. To come up for arguments on 10.01.2023 before D.B.

SCANNED
KPST
Peshawar



(Mian Muhammad)
Member (E)



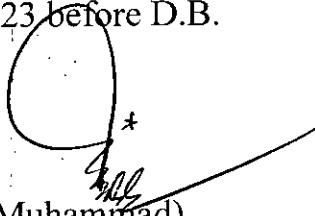
(Salah-ud-Din)
Member (J)

10.01.2023

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

Partial arguments heard. To come up for remaining arguments on 19.01.2023 before D.B.

SCANNED
KPST
Peshawar



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

2nd Nov., 2022

Counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Last chance is given. To come up for arguments on 13.12.2022 before the D.B.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

13.12.2022

Junior to counsel for the appellant present. Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Former made a request for adjournment on the ground that senior counsel for the appellant is busy in Hon'ble Peshawar High Court, Peshawar. Last chance is given. To come up for argument on 22.12.2022 before D.B.



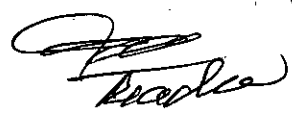
(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

21.12.21

Proper DB not available, therefore case is adjourned to 15.2.22 for same.



15.02.2022



Due to retirement of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 07.06.2022 for the same as before.


Reader

07.06.2022

Clerk of learned counsel for the appellant present. Mr. Ghulam Mustafa, Superintendent alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up arguments on 10.08.2022 before the D.B.


(Fareeha Paul)
Member (E)
(Salah-ud-Din)
Member (J)

10-8-2022

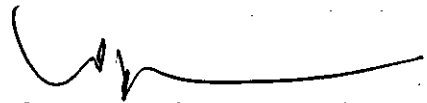
Proper DB not available the case is adjourned to 2-11-2022


Reader

25.03.2021

Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG alongwith Ghulam Mustafa Superintendent and Razaullah H.C for respondents present.

Reply/comments on behalf of respondents not submitted. Representative of respondents requested for time to submit reply/comments. Last opportunity is granted. To come up for reply/comments on 31.05.2021 before S.B.


(Atiq Ur Rehman Wazir)
Member (E)

31.05.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Ghulam Mustafa, Superintendent and Razaullah, Assistant for the respondents present.

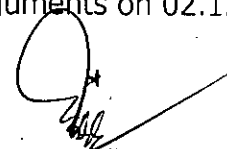
Respondents have furnished reply/comments. Placed on file. The appeal is assigned to D.B for arguments on 05.10.2021.


Chairman

06.10.2021

Appellant in person and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Rejoinder submitted by the appellant which is placed on file. He requests for adjournment due to non-availability of his senior counsel. Request is accorded. To come up for arguments on 02.12.2021 before the D.B.


(Mian Muhammad)
Member(Executive)


Chairman

07.12.2020

Appellant in person present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Khurshid Aalam ADC and Razaullah H.C for respondents present.

Written reply on behalf of respondents is still awaited. Representatives of respondents seek time to furnish written reply/comment. Opportunity is granted. To come up for written reply/comments on 26.01.2021 before S.B.

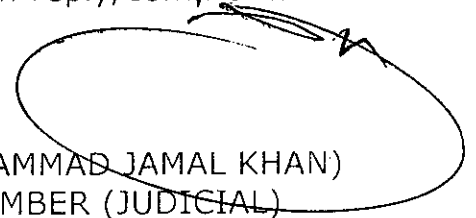


(Rozina Rehman)
Member (J)

26.01.2021

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General alongwith representatives of the department Mr. Razaullah, LHC and Mr. Khurshid Alam, ADC, for the respondents are also present.

Written reply on behalf of respondents not submitted. Representatives of the department are seeking further time for submission of written reply/comments. Adjourned to 25.03.2021 on which date file to come up for written reply/comments before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

07.10.2020

Counsel for the appellant present.

Learned counsel referred to the impugned order dated 23.01.2018, passed by Commandant Dir Levies/Deputy Commissioner Dir Upper and argued that as per contents of the order only a fact finding enquiry was conducted against the appellant. As he was awarded major penalty of removal from service a regular enquiry in accordance with rules was all the more necessitated keeping in view the nature of allegations against the appellant. The charges against him were required to be proved through cogent evidence and also forensic test of allegedly forged documents. Explaining the prima-facie delay in submission of instant appeal, learned counsel stated that service appeal was submitted by the appellant before the Honourable Federal Service Tribunal on 09.10.2018. Due to Constitutional Amendment and resultant devolution the appeal was sent to the respondent department for treatment as departmental appeal. It was subsequently rejected on 27.07.2020.

In view of the arguments of learned counsel and available record, instant appeal is admitted to regular hearing, subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 07.12.2020 before S.B.

Appellant Deposited
Security & Process Fee

07/10/20




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 10299 /2020

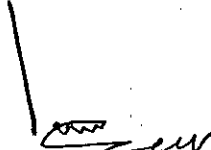
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/09/2020	<p>The appeal of Mr. Shahzad-ur-Rehman resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p>SCANNED KPST Peshawar</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07/10/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Shahzad-ur-Réhman son of Haji Rehmat Khan Ex-Assistant Upper Dir Levies received today i.e. on 24.08.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Annexure-D, page no.48, 61, 62 and 79 are illegible which may be replaced by legible/better one.

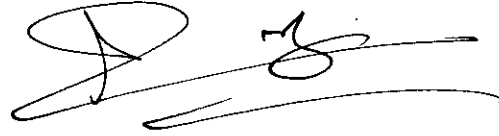
No. 2584 /S.T,

Dt. 02/09 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Adv. Pesh.

Jr
Re-submitted after 2 days.



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A. No. _____ /2020

Shahzad-ur-Rehman


versus

D.C & Others

I N D E X

S. No.	Documents	Annex	P. No.
1.	Memo of Appeal		1-5
2.	Appointment order dated 29-06-2010	"A"	6-8
3.	Commendation Certificates	"B"	9-13
4.	Complaint of Minister dated 11-01-2013	"C"	14
5.	A C E Enquiry Report dated 30-01-2013	"D"	15-28
6.	No Corruption in the Scheme dated 01-12-16	"E"	29-36
7.	Best performance certificate dated 28-04-17	"F"	37-38
8.	Statement of Allegations dated 18-10-2017	"G"	39
9.	Reply to allegations dated 25-10-2017	"H"	40-42
10.	Show Cause Notice dated 22-11-17	"I"	43
11.	Reply to Show Cause Notice dated 27-11-2017	"J"	44-46
12.	Removal from service dated 23-01-2018	"K"	47-49
13.	Representation dated 19-02-2018	"L"	50-53
14.	Detail of Case	"M"	54-60
15.	Rejection order dated 03-09-2018	"N"	61-62
16.	Service Appeal	"O"	63-66
17.	Judgment dated 04-12-2019	"P"	67-78
18.	Rejection order dated 27-07-2020	"Q"	79-80

Appellant
Through


Saadullah Khan Marwat
Advocate
21-A, Nasir Mansion,
Shoba Bazaar, Peshawar
Ph: 0300-5872676

Dated 13-08-2020

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____ /2020

**Khyber Pakhtunkhwa
Service Tribunal**

Shahzad-ur-Rehman
S/O Haji Rehmat Karim,
R/o Kass Dir, District Dir Upper,
Ex-Assistant Upper Dir Levies Appellant

Diary No. 8970

Dated 24-8-2020

VERSUS

1. Deputy Commissioner Dir Upper/
Commandant Dir Levies.
2. Secretary, Government of KP,
Home & Tribal Affairs
Department, Peshawar Respondents

⇄<=>⇄<=>⇄<=>⇄<=>⇄

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OFFICE ORDER NO. 2132-37 / DC / LHC /
EST / REMOVAL / SHAHZAD ASSISTANT, DATED 23-
01-2018 OF R. NO. 01, WHEREBY MAJOR PENALTY
OF REMOVAL FROM SERVICE WAS IMPOSED UPON
HIM AND OFFICE ORDER DATED 27-07-2020 OF R.
NO. 02, WHEREBY DEPARTMENTAL APPEAL OF
APPELLANT WAS REJECTED:**

⇄<=>⇄<=>⇄<=>⇄<=>⇄

Respectfully Sheweth;

1. That appellant was appointed in Federal Levies Force Dir as Assistant B-14 on 29-06-2010. The post of Assistant was upgraded to B-16 on 24-04-2017. (Copy as annex "A")
2. That appellant was serving the department to the best of his ability and to the entire satisfaction of the superiors and no complaint, whatsoever, was advanced against him either from the department or from the General Public. During service period, he was awarded

Filed to-day

Registrar

24/8/2020

Re-submitted to-day
and filed.

Registrar
24/8/2020

with dozens of Commendation Certificates, gained good ACRs and his services were highly appreciated. (Copies as annex "B")

3. That the then Minister for Mines & Mineral, namely Mehmood Zeb Khan submitted complaint to the Chief Secretary, Govt. of KP against the corruption of officers / officials of Upper Dir / Lower Dir Levies and requested for enquiry into the matter. Apart from others, appellant was also figured in the said inquiry report. He also wrote letters to the then Chief Minister KP Peshawar that half of the officials are letting for leave in Lieu of bribe. (Copy as Annex "C")
4. That Anti Corruption Establishment KP investigated the matter regarding the said complaint and even a single charge of corruption was not attributed to the appellant. But R. No. 01 termed the sole person who himself deposited Rs. 8,09,202/- in the State Bank of Pakistan. (Copies as Annex "D")
5. That apart from the aforesaid complaint, the then R. No. 01 noted some irregularities in construction of Drinking Water Supply Scheme at Kass and directed to take legal action against appellant. The spent amount be recovered from him but the Engineer of the Scheme submitted report to the District Officer Dir Upper that construction / work is going on in positive manner which will be completed in the stipulated period. Even the then R. No. 01 admitted that appellant has done satisfactory construction of the said scheme and this chapter be made closed and then the disciplinary proceedings against appellant were withdrawn vide letter dated 24-04-2017. (Copies as annex "E")
6. That on 28-04-2017, the authority issued best performance certificate to appellant. (Copy as Annex "F")
7. That on 18-10-2017, appellant was served with Statement of Allegation which was replied on 25-10-2017 and denied the allegations with cogent reasons. (Copies as annex "G" & "H")
8. That on 22-11-2017, appellant was served with Show Cause Notice containing allegation mentioned therein which was replied on 27-11-2017 and denied the allegations. (Copies as annex "I" & "J")

9. That on 23-01-2018, major penalty of removal from service was imposed upon appellant by R. No. 01. (Copy as annex "K")
10. That on 19-02-2018, appellant submitted departmental appeal before R. No. 02 followed by rejoinder / replication for reinstatement in services which was rejected on 03-09-2018. (Copies as annex "L", "M" & "N")
11. That appellant filed Service Appeal No. 1431/P(CS)2018 before Federal Service Tribunal Islamabad for reinstatement in service which was decided on 04-12-2019 along with other connected appeals and then as per Para No. 08, the appeals were treated as pending appeal before Chief Secretary, Govt. of KP, to decide the same and submit report within three months to the Registrar of the Hon'ble Tribunal. (Copies as annex "O" & "P")
12. That on 27-07-2020, R. No. 02 filed and rejected the appeal for no legal reason. (Copy as annex "Q")

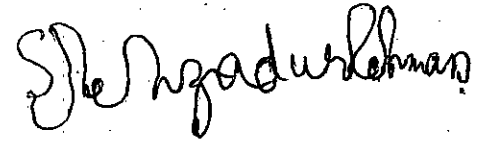
Hence this appeal, Inter Alia, on the following grounds;

GROUND S

- a. That in the case in hand fact finding inquiry was conducted which couldn't be considered alternate of regular employee. The allegations were serious in nature and was requiring full fledged inquiry but no such regular inquiry was conducted in the matter.
- b. That appellant was condemned unheard as he was not provided opportunity of self defense. He was neither served with final Show Cause Notice nor afforded him opportunity of personal hearing, being mandatory.
- c. That appellant was discriminated in the case. Hassan Zada was also termed involved in the same matter/charges but the charges were withdrawn vide order dated 23-01-2011.
- d. That in the case in hand, numerous other officers/officials were involved but no statement of any concerned was recorded nor appellant was provided opportunity of cross examination which was mandatory in the case.

- e. That the authority never rebutted the statement of appellant nor in reply to the Show Cause Notice nor in the departmental appeal which were very comprehensive and still hold field.
- f. That during so called inquiry proceedings, appellant was put behind the bar, he was compelled to make confessional statements with promise of exoneration from disciplinary action but in vein.
- g. That the respondents never exercised powers reasonably, justly, and fairly, thus vested rights of appellant were in-fringed. He was neither associated with facts finding inquiry nor in regular inquiry nor supplied inquiry report to him.
- h. That on one hand, appellant was awarded with commendation certificates, his services were highly appreciated and on the other hand, he was booked for the liability for no legal reason. Both cannot co-exists.
- i. That Anti-Corruption establishment, KP also investigated the matter but no single charge of corruption and embezzlement was attributed to appellant. It was respondent No. 01 who deposited the amount in State Bank of Pakistan under his own signature.
- j. That no corruption was made in the construction of drinking water supply scheme at Kass. The letter of the concerned engineer was ample prove such fact was also admitted by respondent No. 01.
- k. That in the impugned order dated 30-01-2018, numerous charges were attributed to appellant but the same have no concerned with him, i.e. lodging of FIR against appellant but no such FIR was ever lodged by the authority against him.
- l. That appellate order dated 27-07-2020, is not supported by any reason, thus is violative of law.
- m. That respondent No. 01 was responsible for miss-deeds in the matter.
- n. That allegations against appellant was neither processed as per the mandate of law nor were dealt with per legal provisions, so the impugned actions is based on málafide and personal grudged.

It is, therefore, most humbly prayed that on acceptance of the appeal, orders dated 18-01-2018 and 27-07-2020 of the respondents be set aside and appellant be reinstated in service with all consequential benefits:



Appellant

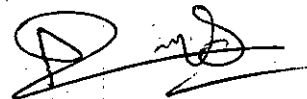
Through



Saadullah Khan Marwat



Arbab Saiful Kamal



Amjad Nawaz.

Advocates

Dated: 13-08-2020

A

6

29-6-10

OFFICE OF THE DISTRICT COORDINATION OFFICER/COMMANDANT

DIR LEVIES DISTRICT DIR UPPER

No: 2861-65/DCO/

Dated Upper Dir the 29/06/2010,



OFFICE ORDER.

On the recommendation of Departmental Selection / Promotion Committee, Mr. Shehzad-ur-Rahman s/o Haji Rahmat Karim r/o District Dir Upper is hereby appointed as Assistant in Federal Dir Levies in BPS-14 Rs: (4920-380-16320) plus usual allowances on temporary basis in the interest of public.

His appointment shall be subject to the following terms and conditions.

TERMS AND CONDITIONS.

1. The appointee will provide Health & Age certificate from Medical Superintendent of DHQ Hospital Dir Upper.
2. His age should not be less than 18 years and above 32 years.
3. He will make all deductions as per Federal Government rules.
4. He will be on probation for a period of one year.
5. He will be governed by such rules and regulation/policy, which may be issued/prescribed by the Federal Government from time to time for the category of Federal Government Servants.
6. In case of resignation from service, the appointee shall have to give advance notice of one month otherwise one month's pay in lieu thereof will be deposited in to government Treasury.
7. In case he shall take over charge within fifteen days positively, otherwise their appointment shall be deemed cancelled automatically.
8. He will be entitled to receive all allowances etc admissible to the category of Federal Government servants under the rules.


District Coordination Officer/Commandant
Dir Upper Levies. 

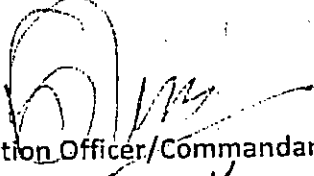



7

Even No, & Dated:

Copy forwarded to :

1. The Additional Chief Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar.
2. The Commissioner Malakand Division at Saidu Sharif Swat.
3. The Deputy Secretary S&LK, Government of Pakistan, States and Frontier Regions Division Islamabad.
For information please.
4. The District Accounts Officer Dir Upper.
5. Official concerned for compliance.


District Coordination Officer/Commandant
Dir Upper Levies. 

8

Nd: 12278-79/DCO/ Dated Upper Dir the: 17/6/2010.

From:

The District Coordination Officer,
Dir Upper.

To,


1. The Deputy Secretary,
Ministry of SAFRON Islamabad.
2. The Secretary Home & Tribal Affairs Deptt;
Khyber Pakhtunkhwa Peshawar.

Subject:- APPOINTMENT AGAINST VACANT POST OF ASSISTANT BPS-14 IN FEDERAL LEVIES DIR UPPER.

Memo:

In order to fill up one post of Assistant BPS-14 recently sanctioned in Federal Dir Levies Dir Upper has been advertised in the Daily Newspaper. Test/interview will be held at 1000 Hours on 29/06/2010 in this office.

It is requested that nominees of your Departments may please be asked to attend the office of undersigned in the selection process.


District Coordination Officer
Dir Upper.

o/c



B

9

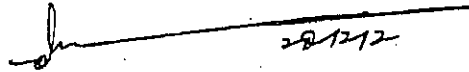
28-12-12

OFFICE OF THE DISTRICT COORDINATION OFFICER/COMMANDANT
DIR LEVIES DISTRICT DIR UPPER

TO WHOME IT MAY CONCERN

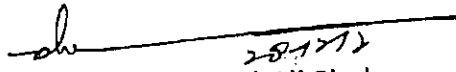
This is to certify that Mr. Shahzad ur Rahman s/o Haji Rahmat Karim has been in our service as Assistant BPS-14 Federal Dir Levies from 29-06-2010 to 31-12-2012. During this period of service, he worked diligently and honestly. His amiability of temperament, sincerity of purpose and honest absorption in the assigned job were some of the commendable traits of his personality that endeared him amongst us.

Through his work and conduct he satisfied us. He has a sound moral character.



Syed Muhammad Ali Shah
DISTRICT COORDINATION OFFICER/COMMANDANT
DIR LEVIES DISTRICT DIR UPPER

No: 15501 /DCO Dir Upper/Dated Upper Dir the: 28/12/2012.



Syed Muhammad Ali Shah
DISTRICT COORDINATION OFFICER/COMMANDANT
DIR LEVIES DISTRICT DIR UPPER



ASSISTANT COMMISSIONER (HQ)/SDM
UPPER DIR

GOVERNMENT OF PAKISTAN

Name of Ministry/Division/Department/Office

ANNUAL
SPECIALREPORT FOR THE PERIOD FROM 01-01-14 to 31-12-2014

PART-I

Name Shehzad-us-Rahman Date of Birth 01-03-1985Designation Assistant BPS 14 Basic Pay Rs. _____Date of entry into Govt. Service 29-06-2010 Date of appointment to the present BPS 29-06-2010Qualifications Bachelor/Graduate

Training Courses, attended if any, _____

Nature of duties on which employed _____

PART-II

Note:- The rating should be recorded by initialing the appropriate box in the column:

"AI" Very Good "A" Good "B" Average "C" Below Average "D" Poor

A.	PERFORMANCE	A-I	A	B	C	D	Remarks
1.	Reference and paging of notes and correspondence	ll					
2.	Keeping of files and papers in tidy conditions	ll					
3.	Maintenance of records (including recording and indexing)	ll					
4.	Skill in noting and drafting, where applicable	ll					
5.	Other duties; e.g. Cashier duties, preparation of bill, statement of cash, statement/returns	ll					
6.	Other Clerical duties e.g. typing, diary / dispatch, disbursement of case, statements/returns	ll					
7.	Regularity and punctuality in attendance	ll					
8.	Standard of work	(a) Quality	ll				
		(b) Out-put	ll				

11

B. PERSONAL TRAITS	A-1	A	B	C	D
9. Intelligence	ll				
10. Perseverance and devotion to duty	ll				
11. Co-operation and tact	ll				
12. Amenability to discipline	ll				
13. Integrity	ll				
14. Trustworthiness in confidential and secret matters		<input checked="" type="checkbox"/>		<input type="checkbox"/> No	

**PART - III
GENERAL ASSESSMENT**

(Appraise in the present grade by initialing the appropriate column below)

Very Good.	Good	Average	Below Average	Poor	Special aptitude, if any
ll					

PART - IV

SUITABILITY FOR PROMOTION
(Initial the appropriate box below)

- (a) Recommended for accelerated promotion ...
- (b) Fit for promotion ...
- (c) Recently promoted/appointed, consideration for promotion premature
- (d) Not yet fit for promotion ...
- (e) Unfit for further promotion ...
- (f) Fitness for retention after 25 years service ... Fit Unfit

12

PEN-PICTURE

Slehzad is a very competent, hard-working & honest staff member & he handles the affairs of Levies with keen interest. He accomplished all the tasks with smiling face upto the entire satisfaction of the undersigned.

Date 31/5/15

Deputy Commissioner
Official Stamp
Dir Upper

M. J. J.
(IMRAN HAMID, PAS)
Signature, Name and Designation
of Reporting Officer

PART - V
REMARKS OF THE COUNTERSIGNING OFFICER

Dated _____ 20 _____ Official Stamp Signature, Name and Designation

A. INSTRUCTIONS FOR MINISTRIES, DEPARTMENTS, ETC.

1. The reports will be initiated by the Officer to whom the Stenographer/Steno typist is attached.
2. When an adverse remark is made in the confidential report of the official reported upon, a copy of the whole report should be furnished to him at the earliest opportunity, and in any case within one month from the date the report is countersigned, with a memorandum, a copy of which should be signed and returned by him in acknowledgement of the report and be in turn placed in the character roll for record. A serious view should be taken of any failure on the part of the official concerned to furnish a copy of the report containing adverse remarks to the person reported upon.
3. The official making representations against adverse remarks recorded in their confidential reports should not make any personal remark or remarks against the integrity of the reporting officers. Violations of this rule will be considered misconduct and will also render the representation liable to be summarily rejected.

13

13-7-15



OFFICE OF THE
COMMANDANT/DEPUTY COMMISSIONER
UPPER DIR

No: 10746 /DC/LHC/Experience/
Dated Dir the: 13/07/2015.



EXPERIENCE CERTIFICATE.

It is certified that Mr. Shahzad-Ur-Rehman Levies Assistant of this office is working since 2010.

Through his work and conduct he satisfied us by providing office services by implementing administrative systems, procedures policies and monitoring administrative projects, contributes to team effort by accomplishing related results as and when needed.

Wishing him success in future.

for Commandant Dir Levies
DEPUTY COMMISSIONER DIR Upper

ASSISTANT COMMISSIONER (HQ)/SDM
UPPER DIR.

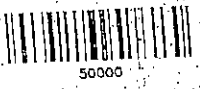
14 8-1-13

(16)

Govt of Khyber Pakhtunkhwa
Dist. No. L.P.L.
Date 11/1/13

OFFICE OF MINISTER FOR TECHNICAL
EDUCATION & MANPOWER TRAINING, MINING
AND MINERAL DEVELOPMENT DEPARTMENT
KHYBER PAKHTUNKHWA

Mahmood Zeh Khan
Minister
031-9213199
091-8213497



حضرت صاحب وزیر اعلیٰ صاحب
نمونہ جسپر چٹوخواہ

صاحب عالی

گزارش کی جاتی ہے کہ خدوئی و ناصر ذراپ
سے معلوم ہوا ہے کہ ذراپ ٹیوٹوریل کے آدھے انٹیکاروں
کو دستور کے عرصہ میں بھی دی جاتی ہے جو کہ خدوئی انٹیکار سے
1/2 حصہ کا (چھوٹا زرہ) لیتے ہیں جس سے پچھلا کو روپ
(1/2 حصہ) لیتے ہیں۔ ان انٹیکاروں سے یہ نتیجہ
اُٹتی ہے کہ انٹیکار لیتے ہیں جو کہ انتہائی سطح پر اور تواریخ
و سوالوں کی خلاف ورزی بھی ہے۔

لہذا آج صاحبان کی رائے متعلقہ ذمہ داران کے
خلاف انٹیکار لے کر ایک خلاف قانونی کارروائی
کی جائے۔

شکریہ

DS/A

Home Secy
Ascertain facts
and file

Chief Secretary

10-1-13
CHIEF MINISTER
KHYBER PAKHTUNKHWA

Agents

D 15 30

ENQUIRY REPORT

Subject; - ENQUIRY REPORT IN A VERIFICATION OF LEVY RECORD IN DIR (UPPER & LOWER).

Reference Diary No. 181 dated 11/01/2013 received from office of the Chief Secretary, Khyber Pakhtunkhwa, Where the Minister for Technical Education & Manpower Training, Mines & Mineral Development Department, Khyber Pakhtunkhwa has submitted a complaint to Chief Minister, Khyber Pakhtunkhwa against the corruption of Officers / Officials of Dir Levies and requested for enquiring the subject matter. The Hon'able Chief Minister, Khyber Pakhtunkhwa, has been pleased to pass the following orders (Annex-I):-

"for n.a at the earliest pl."

2. The Chief Secretary, Khyber Pakhtunkhwa has also directed in these words *"Ascertain facts and p.u"*.
3. The undersigned was directed to have snap checking some of the posts of levies and collect information about irregularities, absence and record etc. (Annex-II).
4. During physical verification and record checking the following findings / irregularities have been un-earthed;

DISTRICT DIR (UPPER)

Total No. of Nafry (Federal) 1038 (Annex-III)

- i. Dir battalion (346)
- ii. Sharingal Battalion (346)
- iii. Warri Battalion (346)

Total No. of Nafry (Provincial) 200.

S.No	Name of post checked	Number of Levy force	Present	absent	Special Duty
1.	Raza Shah Shaheed Co	64	26	16	24
2.	Ayaz Shaheed Co	62	25	8	29
3.	Shah Zalmay Co	102	68	15	19
4.	Ajmal Shaheed Co	64	34	4	26
5.	Saleem Shaheed Co (Warri)	63	51	04	08
6.	Daud Shaheed Co (Warri)	60	46	06	08

53

Amir

[Signature]
Distt. Revenue Officer
District Dir (Upper)

3

16

8

Findings

During preliminary enquiry proceedings, the following irregularities / discrepancies have been noticed:

- Signatures shown in payments slip were checked and it was found that signatures obtained on plain paper did not tally those ones which have been seen on payment slip (Annex-IV).
- Most of the signatures of the recipient of salary are in Urdu and in most cases, signed with one pen by one person.
- It is distressing that no record proper in shape was produced by any quarter concerned i.e. concerned clerk and incharge of Company.
- Mr. Shahzada, Levy clerk who is recently on study leave, was contacted on Cell Phone twice for clearance of some quarries but he did not respond. Similarly, Mr. Razaullah Provincial Levy Clerk was also not available for reasons unknown.
- It is a matter of great concern that no one bothers to maintain proper record or appropriately document any official matter as repeatedly the undersigned asked for record but of no avail.

ACR [It has been learnt from locals that Mr. Shahzada Levy Clerk (Upper Dir) is constructing house in his village which is beyond his resources.

- No attendance register was maintained, no leave record existed and no proper record was available to ascertain fair play.
- No audit has been carried out.
- Some levy Sepoys opened accounts in bank but they were forced by levy clerks (Shahzada and Razaullah) to receive salary manually.
- Most of the levy sepoy complained that they have not been given any T.A, coal charges and Medical allowance etc since long.
- It has also been learnt that one Mr. Haroon Levy sepoy was granted 40 days leave without pay but his salary has been drawn.
- No record available at hand can be tallied with factual situation and number of nafri as papers show something else while on posts, there is another picture.

17

DISTRICT DIR (LOWER)

S.No	Name of post checked	Number of Levy force	Present	absent	Special Duty
1.	Levies Post (Chakdara)	96	84	12 ✓	-
2.	Levies Post (Bandagal)	30	23	7 ✓	-
3.	Levies Post (Khongl Saddu)	31	30	1 ✓	-
4.	Levies Post (Balambat Pull)	13	06	07 ✓	-
5.	D.C Office: Guards	30	14	16 ✓	-

Findings

During preliminary enquiry proceedings, the following irregularities / discrepancies have been noticed in Dir (Lower);

- Salary is paid to levy employees without any sign / thumb impression (Annex-V).

Signatures shown in payments slip were checked and it was found that signatures obtained on plain paper did not tally those ones which have been seen on payment slip (Annex-VI).

needs verification

- Map of Dir Levies posts / guards obtained from DC office Manjara Dir Lower (Annex-VII) also speaks miss-management and disorder in the whole system as it has been observed that there exists difference in DC office list and attendance register (Annex-VIII).
- Even posts in various sites seem deserted while on papers, they have been shown manned with levies.
- No proper record of salaries paid, number of levies and supervisory staff found.
- Subidars who are the heads of various companies, know nothing about their company, its strength, number, place of posting etc.
- No attendance register has been maintained, no leave record exists and no proper record is available to ascertain fair play.
- No audit has been carried out.
- Every scheme of things is in dole drum and scattered. No proper management, check and balance were noticed.
- To utter dismay, some sepoy's were asked about their salaries paid to them, they even knew nothing about exact figure of salary. They uttered something while payment chart shows another story.
- No leave account of any one is maintained, leave is sanctioned without looking for leave account. These were new words to their ears when I asked for leave account.
- No risk allowance, Ration money or uniform etc is provided to sepoy's as they complained.

- Leaves are verbally sanctioned without maintaining any proper record. No leave application approved was found.
- The awesome aspect of this drama is that some posts have not been inspected by any one for the last six (06) months or even beyond that. No one knows who is doing what and on whom direction.
- One Sahib Shah Hawaldar stated that he got Rs. 16200 salary for December 2012 while on checking pay roll, there was written Rs.17269/- (Annex-IX). This deduction from salaries is a routine matter but nobody is there to check it.
- Subider Major at Chakdara HQ stated that he has not visited various posts since May-2012 as he has no amount of fuel for it.

RECOMMENDATIONS

- It is strongly recommended that an enquiry committee comprising members from Home and Finance Departments not below the rank of Deputy Secretary and representative of Commissioner Malakand may be constituted to dig out factual situation and bring to book all those who are involved in corruption and irregularities particularly against the following officials:
 - a) Mr. Shahzada Levy Clerk (Dir Upper) ✓
 - b) Mr. Razauliah Levy Clerk (Dir Upper) ✓
 - c) Mr. Nasir Ali Levy Clerk (Dir Lower) ✓
 - d) Subidar Majors / Subidars of all Companies. ✓
 - e) Muharrars concerned. ✓
- Proper audit must be carried out.
- All salaries be paid through Banks subject to attendance and regularity.
- A mechanism may be devised for posting of levy sepoy on monthly rotation basis.
- Proper record of all leave sanctioned / approved be maintained.
- All those clerks who deal in levy monetary matters must transferred immediately.
- D.Cs be directed to intimate Home Department about attendance of hafiz on monthly basis.

(Bashir Ahmed)

Inquiry officer

Home Department

20/11/12

[Handwritten Signature]

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 - b) Mr. Razaullah Levy Clerk (Dir Upper) ✓
 - c) Mr. Nasir Ali Levy Clerk (Dir Lower) ✓
 - d) Subidar Majors / Subidars of all Companies ✓
 - e) Muharrars concerned ✓
2. Proper audit must be carried out.
3. All salaries be paid through Banks subject to attendance and regularity.
4. A mechanism may be devised for posting of levy sepoy on monthly rotation basis.
5. Proper record of all leave sanctioned / approved be maintained.
6. All those clerks who deal in levy monitory matters must transferred immediately.
7. D.Cs be directed to intimate Home Department about attendance of nafri on monthly basis.

Annexure - B

STATEMENT SHOWING DETAIL OF PAY DRAWN BY THE CONCERNED STAFF OF LEVY FORCE (FEDERAL)
DISTRICT UPPER DIR.

S.No	NAME OF OFFICIAL	FATHER NAME	SRIC NO.	DATE OF APPOINTMENT	DISMISSAL DATE	DATE OF DEPARTURE	PAID UPTO	TOTAL MONTH	PAY PER MONTH	TOTAL
1	Ijaz Hussain	Badshah Hussain	1570287352697	10-02-2010	01-05-2013	10-02-2013	April 2013	3 months	13953	37374
2	Qayum Shah	Muhiuddin	1570117536749	10-02-2010	01-05-2013	07-02-2013	April 2013	3 months	13953	38869
3	Umar Hayat	Muhammad Saeed	1570112000575	11-02-2010	01-06-2013	24-11-2012	April 2013	23 months	1387x1 8323x3 11682x1 11507x4 11767x7 13301x1 13641x1 13953x5	263142
4	Sharif Ullah	Hayat Gul	1570206096357	01-06-2010	01-05-2013	19-02-2013	April 2013	3 months	13886	36698
5	Muhammad Usman	Muhammad Iqbal	1570141493955	01-06-2010	01-05-2013	20-04-2013	April 2013	1 month	13886	5092
6	Ghawas Khan	Shah Hussain	1570208342135	01-06-2010	01-05-2010	26-09-2012	April 2013	6 months	13574x3 13886x3	71068
7	Abdul Qadar	Hazrat Khan	1570299938265	01-06-2010	01-05-2013	15-11-2012	April 2013	6 Months	13574x3 13666x3	76046
8	Muhammad Shafiq	Sher Bahadar	1570279523979	13-02-2010	01-06-2013	18-02-2013	May 2013	4 months	13953	47341
9	Sahib Ullah	Ta Zamir	1570426506295	01-06-2010	01-06-2013	11-01-2012	May 2013	1 year 5 months	11700x6 13234x5 13885x6	233572
									TOTAL	809202

DC/Commandant
Dir Levies

Handwritten signature and text on the right side of the page.

(12)

20

20



21

19-3-13

~~Confidential~~
GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

No. SO (Com/ Eng)/HD/1-20/ACD/201.
Dated Peshawar, the 19/03/2013



To

The Director,
Directorate of Anti-Corruption,
Khyber Pakhtunkhwa, Peshawar.

Subject: - COMPLAINT AGAINST IRREGULARITIES IN LEVY STAFF DIR
(UPPER & LOWER).

R/Sif,

I am directed to refer to the subject noted above and to enclose herewith a copy of self-explanatory complaint received from office of the Chief Secretary, Khyber Pakhtunkhwa vide Diary No. 181 dated 04/01/2013, submitted by Ex-Minister for Technical Education, Khyber Pakhtunkhwa alongwith a copy of fact finding inquiry report in the subject matter, and to request that the matter may be probed and further necessary action be initiated accordingly please.

Encl: As above

Yours faithfully,
19/3/13
(RASHID AHMAD)
SECTION OFFICER (Com/Eng)

Endst. No. & Date Even

Copy forwarded for information to the:-

1. Ps to Chief Secretary, Khyber Pakhtunkhwa w/r to his diary number quoted above please.
2. PS to Secretary, Home and Tribal Affairs Department, Khyber Pakhtunkhwa.

1347
21/3/2013

ADCSwat
C/E No 13 / CD-173
21-3-2013
SECTION OFFICER (Com/Eng)
Allowed. Shale Jehan for resolution to carry out audit at the earliest. D.O. I would like to see the final report at the earliest.
21/3

Director
Public Commission

22

(17)

22

13 / OF

13

PAYROLL SYSTEM
STATEMENT FORM
WHOLE EMPLOYEE ENTRY

Deputy

Verified

13-6-13

Accounts Officer,
Upper

STATE BANK OF PAKISTAN

Dated 13.6.2013

Received from the Commandant D.V. Upper

the sum of Rs. 221,880/- (Two Lacs Twenty One Thousand Eight Hundred Eighty only)

to be credited to government account under the head COB
in account of ROD of D.V. Upper

This portion to be returned to the payees received by the Agent

Note: The bank agent is instructed not to receive money unless both portions of the invoice are carefully and clearly filled in

Signature

STATE BANK OF PAKISTAN

Dated 13.6.2013

Received from the Commandant D.V. Upper

the sum of Rs. 2,21,880/- (Two Lacs Twenty One Thousand Eight Hundred Eighty only)

to be credited to government account under the head COB
in account of ROD of D.V. Upper

This portion to be returned to the payees received by the Agent

Note: The bank agent is instructed not to receive money unless both portions of the invoice are carefully and clearly filled in

Signature

Waqar
Deputy Commandant

23

12-12-13

Verified

District Accounts Officer
Dir Upper

STATE BANK OF PAKISTAN

Federal

OS

Dated 12/12/2012

Received from the Commandant Levies Dir Upper
The sum of Rs. 13,886/- Thirteen thousand eight hundred eighty six
To be credited to government account under the head Co 2024
on account of ROP Pay and Allowances

This portion to be returned to the payees received by the Agent
Note: The bank agent is instructed not to receive money unless both
portions of the invoice are properly and duly filled in

STATE BANK OF PAKISTAN

RS=13,886

OS

Dated 12/12/2012

Received from the Commandant Levies Dir Upper
The sum of Rs. 13,886/- Thirteen thousand eight hundred eighty six
To be credited to government account under the head Co 2024
on account of ROP Pay and Allowances

This portion to be returned to the payees received by the Agent
Note: The bank agent is instructed not to receive money unless both
portions of the invoice are properly and duly filled in

Signature
District Accounts Officer
Dir Upper

24

(19)

24

12-12-13

Verified

[Signature]

RS= 55812/-

Federal District of Upper **STATE BANK OF PAKISTAN**

Received from the Commandant Lower Or Upper Dated 12/12/2012
The sum of RS= 55812/- Fifty five thousand Eight hundred Twelve
To be credited to government account under the head Co. 2624
on account of Pop pay & Allowance

This portion to be returned to AGS if not received by the Agent
Note: The bank agent is instructed not to receive money unless both
portions of this invoice are carefully and cleanly filled in

[Signature]
District Accounts Officer
District Upper

Federal **STATE BANK OF PAKISTAN**

RS= 55812/-

Received from the Commandant Lower Dated 12/12/2012
The sum of RS= 55812/- Fifty five thousand Eight hundred Twelve
To be credited to government account under the head Co. 2624
on account of Pop pay & Allowance

This portion to be returned to AGS if not received by the Agent
Note: The bank agent is instructed not to receive money unless both
portions of the invoice are carefully and cleanly filled in

[Signature]
District Accounts Officer
District Upper

[Signature]

25

25

12-12-13

Verified Rs. 11,0152/-

Signature of District Accounts Officer

STATE BANK OF PAKISTAN

Federal

Dated 12/12/2013

Received from the Commandant Levies Div Upper
The sum of Rs. 110152/- one lac Ten thousand one hundred fifty
To be credited to government account under the head Co 2624 two
on account of Roy pay & Allowances

This portion to be returned to the payees received by the Agent
Note: The bank agent is instructed not to receive money unless both
portions of the invoice are correctly and completely filled in

STATE BANK OF PAKISTAN

Federal 110,152

Dated 12/12/2013

Received from the Commandant Levies Div Upper
The sum of Rs. 110152/- one lac Ten thousand one hundred fifty
To be credited to government account under the head Co 2624 Two
on account of Roy pay & Allowances

This portion to be returned to the payees received by the Agent
Note: The bank agent is instructed not to receive money unless both
portions of the invoice are correctly and completely filled in

12-12-13

26

12/12/2012

Received from the Commandant, Levies, Upper Dir
The sum of Rs. 110,688/- One lac ten thousand six hundred Eighty Eight
To be credited to government account under the head Code 2014
on account of Rep. pay & Allowance

Eighty Eight

This portion to be returned to the payee...
unless the Government is informed and no receipt is received...
within the period of the validity of the order...

CASH RECEIPT

Handwritten notes: *sent*, *10/12/12*

STATE BANK OF PAKISTAN

RECEIPT

Date: 12/12/2012

Received from the Commandant, Levies, Upper Dir
The sum of Rs. 110,688/- One lac ten thousand six hundred Eighty Eight
To be credited to government account under the head Code 2014
on account of Rep. pay & Allowance

Eighty Eight

This portion to be returned to the payee...
unless the Government is informed and no receipt is received...
within the period of the validity of the order...

FAB/22 2015 10:15AM P5

CSH/BBB/130

FAB/22 2015 10:40AM P7

CSH/BBB/130

Handwritten signature: *Zahid*

(29)

27

41859/-

27

12-12-13

Verified

STATE BANK OF PAKISTAN

District Officer
Dir Upper

Dated 12/12/2013

Received from the Commandant, Leves, Dir Upper

The sum of Rs. 41,859/- Forty one thousand Eight hundred Fifty Nine

To be credited to government account under the head (2024)

on account of Pop Pay & Allowances

This portion to be returned to the payees received by the Agent Assistant Treasury Officer. Note: The bank agent is instructed not to receive money unless both portions of the invoice are carefully and clearly filled in

Signature

STATE BANK OF PAKISTAN

Federal

TRIPPLICATE

Dated 12/12/2012

Received from the Commandant, Leves, Dir Upper

The sum of Rs. 41,859/- Forty one thousand Eight hundred Fifty Nine

To be credited to government account under the head Co. 2024

on account of Pop Pay & Allowances

This portion to be returned to the payees received by the Agent Assistant Treasury Officer. Note: The bank agent is instructed not to receive money unless both portions of the invoice are carefully and clearly filled in

Signature

Deputy Commissioner

28

41658 / - 28

12-12-13

STATE BANK OF PAKISTAN
 Received from the Commandant, Upper Dir dated 18/12/2013
 The sum of Rs. 41658/- forty one thousand six hundred fifty eight
 to be credited to government account under the head Gr 204
 on account of Rep. pay & Allowance
 This portion to be returned to the payee received by the bank
 Note: The bank agent is instructed not to receive if any endorsement
 on the invoice is not present and the invoice is filled in
 CASH RECEIVED Signature

STATE BANK OF PAKISTAN
 Received from the Commandant, Upper Dir dated 18/12/2013
 The sum of Rs. 41658/- forty one thousand six hundred fifty eight
 to be credited to government account under the head Gr 204
 on account of Rep. pay & Allowance
 This portion to be returned to the payee received by the bank
 Note: The bank agent is instructed not to receive if any endorsement
 on the invoice is not present and the invoice is filled in
 FROM: SIGNATURES
 FBI NO. : 394160583
 FBI. 22 2015 10:12AM P

Handwritten signature/initials

Handwritten signature: Deputy Commissioner

E

29

3-32-16

Construction of DWSS at Kass: Irresponsible Approach of Mr. Shehzad, President of CBO Towards Implementation of Project

Dear Sir,

The construction activities regarding the subject scheme is in suspension from 30 days. Regarding the subject scheme, 1st installment amounting to Rs. 380,541 @ 30% was released to the CBO. The 1st installment was utilized in full at site against the construction of intake chamber and supply of HDPE pipe 1.5" in diameter measuring 5,000 fts.

As per the CDLD policy, 2nd installment was released to the CBO amounting to Rs. 761,083. The president of the CBO has not yet commenced the work on ground despite repeated request from PoE,s. The progress of work has been seriously jeopardized by the irresponsible approach of Mr. Shehzad, President of CBO.

It is requested that Assistant Commissioner, Tehsil Dir may please be directed to initiate legal action on emergent basis against Mr. Shehzad, employee of Deputy Commissioner office and resident of village Kass, Tehsil Dir. The amount may please be recovered from the president of CBO in the best interest of public as the people of the area are facing acute shortage of potable water.

[Signature]
District Officer (F&P)
Dir Upper
01/12/06

DC (Sb)

4)

As proposed in para 3/A.
However conduct inquiry
as to why the second
installment was released
despite the fact that no
work is started.

Asham Khan / P.O. Asstt

Put up the file on 06/12/06
for further proceedings

No 2024
1/12/06

[Signature]
DO (F)
5)

[Signature]

It was discussed with worthy Deputy
Commissioner, ~~the~~ as per submitted
monthly action as per the rules/regulation.
The concerned quarters may please be instruct
for early recovery of funds amounting to
Rs. 161,083.

(Signature) 6/12/16.
RIE - POB

DO (F&P)

Forwarded to the worthy Deputy Commissioner
for perusal / further favor of action please
(Signature)
6/12/16

DO (sb)

put up letter to AC D.T.

DO (D)



Mr. Asif Javed Egan

Do the needful as directed
at the earliest.

(Signature)
13/12/16

12497 No. 2063
7/12/16 6/12/16

(Signature)

31

15-12-16

OFFICE OF THE DEPUTY COMMISSIONER DIR UPPER
FINANCE SECTION

No. 2138-4 BO (F)/CDLD Dated: 15/12/2016

To

Assistant Commissioner,
Dir, District Dir Upper

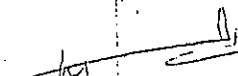
Subject: Construction of DWSS at Kass: Irresponsible Approach of Mr. Shehzad, President of CBO Towards Implementation of Project

Enclosing the self explanatory correspondence materialized with the worthy Deputy Commissioner regarding the subject cited above.

The construction activities regarding the subject scheme is in suspension from 45 days. Regarding the subject scheme, 1st installment amounting to Rs. 380,541 @ 30% was released to the CBO. The 1st installment was utilized in full at site against the construction of intake chamber and supply of HDPE pipe 1.5" in diameter measuring 5,000 fts.

As per the CDLD policy, 2nd installment was released to the CBO amounting to Rs. 761,083. The president of the CBO has not yet commenced the work on ground despite repeated request from PoE.s. The progress of work has been seriously jeopardized by the irresponsible approach of Mr. Shehzad, President of CBO.

It is requested to initiate legal action on emergent basis against Mr. Shehzad, employee of Deputy Commissioner Office and resident of village Kass, Tehsil Dir. The amount may please be recovered from the president of CBO in the best interest of public as the people of the area are facing acute shortage of potable water. Please


District Officer (F&P)
Dir Upper

Copy forwarded:

1. The Deputy Commissioner, Dir Upper
2. Coordinator, TA Team, Dir Upper
3. BM 26, Brigade Dir at Panakot, Dir Upper

01

32

19-4-17

OFFICE OF THE POOL OF ENGINEERS DIR UPPER

No. 250 /DO (F) /CDLD Dated: 19/04/2017.

To

The District Officer (F&P),
Dir Upper

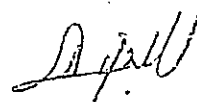
Subject: DRINKING WATER SUPPLY SCHEME IN V/C KASS

Reference to the letter of Assistant Commissioner Office No. 1299/AC/ST/ Dated 18/04/2017 regarding the subject cited above.

It is to inform that Mr. Shahzad, President of CBO has commenced the construction work on site. As per the visit conducted by the undersigned, the President of CBO has supplied sand, crush and bricks to the site of storage tank. Work on construction of storage tank is in progress. In addition to the supply of material, 6,888 fts HDPE Pipe, 32 mm in diameter, PN 16 has been supplied and handed over to the community of the scheme. Work on construction of 2nd storage tank will commence shortly.

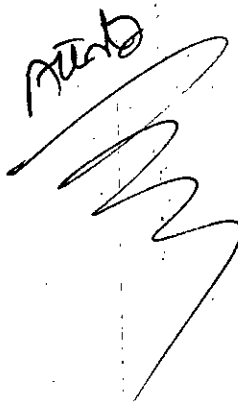
As per the discussion with Mr. Shahzad, President of CBO work on the scheme will complete in all respect by 10th May 2017. The present intent of Mr. Shahzad, President of CBO is positive. With the present approach, the scheme will reach its completion within the stipulated time i.e. 10th May 2017.

Submitted Please:



Asif Jamal

Rural Infrastructure Engineer
Tehsil Dir, District Dir Upper



33

19-4-17

OFFICE OF THE DEPUTY COMMISSIONER DIR UPPER
FINANCE SECTION

No. 249-50 / DO (F)/CDLD Dated: 19/04/2017.

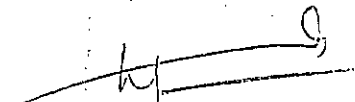
To

The Assistant Commissioner Dir,
District Dir Upper.

Subject: Construction of Drinking Water Supply Scheme at V/C Kass

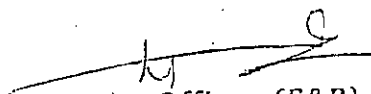
I am enclosing the report of the engineer in charge of the subject scheme. As per report, construction activities are in progress in a satisfactory manner. The president of the CBO has commenced work on the site. The construction material and pipe has been supplied. At present there is no issue in the scheme and work on the project is in progress.

Encl As Above:


District Officer (F&P)
Dir Upper

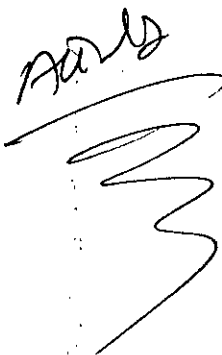
Copy forwarded:

1. Deputy Commissioner, Dir Upper


District Officer (F&P)
Dir Upper

ACD/930 dated 19/4/17

St enls
AC (H&P) Dir



34

21-4-17



DISTRICT ADMINISTRATION UPPER DIR
OFFICE OF THE ASSISTANT COMMISSIONER/SDM

UPPER DIR

No: 1347 /AC/ST/Dated: 21 /04/2017.
P#0944880506-E.mail: acdiru@gmail.com

To: The Deputy Commissioner,
Upper Dir.

Subject: CONSTRUCTION OF DWSS AT KASS IRESPONSIBLE APPROACH OF MR. SHAHZAD PRESIDENT OF CBO TOWARDS IMPLEMENTATION OF PROJECT.

Memo: Please refer to your good office letter bearing No.610/DC/CDLD/R.5/DDC#31/2016-17 dated 15-03-2017 on the subject cited above.

In the letter under reference, the undersigned was directed to recover the amount allocated for Water Supply scheme Kass due to non completion of the said scheme. In this regard the District Officer (F&P) Upper Dir was asked vide letter N.1299/AC/ST dated 18-04-2017 (copy enclosed as Annexure-A) to apprise this office with regard to present status of the said scheme. In response to the letter mentioned above, the District Officer (F&P) Upper Dir has intimated this office vide his letter bearing No.849-50/DO(F)/CDLD dated 19-04-2017 (copy enclosed as Annexure-B) stating that the construction work is actively in progress on the project and will be completed in all respect by 10-05-2017 as enunciated in the letter addressed to District Officer (F&P) Upper Dir by the Rural Infrastructure Engineer Tehsil Dir vide letter No.850/DO(F)/CDLD dated 19-04-2017 (copy enclosed at Annexure-C).

Under the circumstances mentioned above, it is crystal clear that work on the intended scheme is in progress which will be completed by 10th of May 2017. Hence it is recommended that this chapter may kindly be closed without any further action please.

Assistant Commissioner (HQ)/SDM
Upper Dir.

Handwritten signature/initials

35

24-4-17



Office: 0944880394 & 880104
Fax: 0944881130

OFFICE OF THE
DEPUTY COMMISSIONER
DIR UPPER

No. 6614-18 /DC/Estt: (Exp)
Dated Dir Upper the 24-04-2017
Email address: dcdirupper@gmail.com

OFFICE ORDER

Reference: Assistant Commissioner/Deputy Commandant Operations Dir Levies with regard to best performance report in respect of Mr. Shehzad ur Rahman (Assistant/PS to Assistant Commissioner Headquarter Dir).

The undersigned is pleased to withdraw disciplinary proceedings against Mr. Shehzad ur Rahman Assistant Federal Dir Levies w/r to this office memo No.1519-22/DC/Estt:/15(Exp) dated 01-02-2017 in the best interest of public service.

DEPUTY COMMISSIONER/COMMANDANT
UPPER DIR

Endst: No. 6614-18 /DC/Estt/dated Upper Dir the: 24/04/2017.

Copy forwarded to: -

1. The Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar w/r to this office letter bearing No. 1519-22/DC/Estt:/15(Exp) dated 01-02-2017 may kindly be treated as withdrawn.
2. The Commissioner Malakand Division at Saidu Sharif Swat.
3. The Section Officer LK&B SAFRON Islamabad.
4. The Assistant Commissioner Upper Dir.
5. LHC Dir Levies.
6. The Official concerned.

DEPUTY COMMISSIONER/COMMANDANT
UPPER DIR

Handwritten signature

36

25-4-17



DISTRICT ADMINISTRATION UPPER DIR

OFFICE OF THE DEPUTY COMMISSIONER

No: 9817-21 UPPER DIR /DC/Dated: 25 /04/2017.
P#0944880394-E.mail: dcdiru@gmail.com

OFFICE ORDER

Reference Assistant Commissioner Dir Inquiry Report 1347/AC/ST/ dated 21-04-2017 and District Officer Finance & Planning (Focal Person) CDLD letter No, 849-50/DO(F)CDLD dated 19-04-2017, on construction of DWSS at kass. The undersigned is please to withdraw this office letter bearing no. 610/DC/CDLC/R-5/DDC#31/2016-17 dated 15-03-2017 and no recovery should be made due to on going satisfactory construction activities of the said scheme.

Moreover, Mr. Shehzad ur Rahman Assistant is directed to discharge his duty in the office of Assistant Commissioner (HQ) Dir till further orders.

may

DEPUTY COMMISSIONER
UPPER DIR

Even No, & Dated:-

Copy forwarded to the:-

1. BM, 26 Brigade Dir at Panakot, Dir Upper.
2. Assistant Commissioner (HQ) Dir.
3. District Officer F&P Dir Upper.
4. Coordinator, TA Team, Dir Upper.
5. President, Council of Social Services Dir.

may

DEPUTY COMMISSIONER
UPPER DIR

Adnan

F

37

28-4-17



DISTRICT ADMINISTRATION UPPER DIR

OFFICE OF THE ASSISTANT COMMISSIONER/SDM

UPPER DIR

No: 1450 /AC/ST/Dated: 28 /04/2017.

P#0944880506-E.mail: dcdiru@gmail.com

To,

The Deputy Commissioner,
Upper Dir.

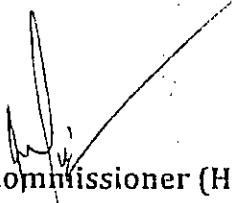
Subject:-

BEST PERFORMANCE REPORT IN RESPECT OF SHEHZAD UR RAHMAN ASSISTANT.

Memo:

The service of Mr. Shehzad ur Rahman Assistant was placed at the disposal of the undersigned to evaluate his performance. For the last two months he has been discharging his legitimate duties in a manner diligently and honestly what can be expected from a veteran, experienced and an efficient incumbent. }

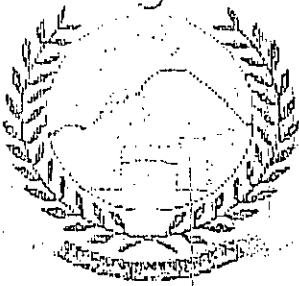
His work and conduct remained unprecedented during the month both qualitatively and quantitatively to run the system administratively. His punctuality, efficiency and sincerity shows that he is a willing worker and need further appreciation to keep up his performance in a like manner.


Assistant Commissioner (HQ)/SDM
Upper Dir.

AWDs


38

25-8-17



**OFFICE OF THE
ASSISTANT COMMISSIONER/SDM
SHERINGAL**

No 328 /AC/SDM/17
Dated: 25 /08/2017.

To,

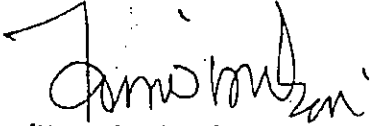
The Deputy Commissioner,
Upper Dir.

Subject: REPORT REGARDING MR. SHEHZAD UR RAHMAN ASSISTANT.

Memo:

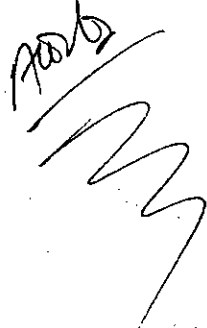
Reference your good office order No. 16295-97/DC/Estt:/P/T Dated Upper
Dir the 02-08-2017. Report is hereby submitted that;

Mr. Shehzad ur Rahman has been posted as an Assistant. He found to be
hardworker, obedient and dutiful official. Undersigned is fully satisfied from his
performance and wish him success in future life.


{Tanwir Khan}

ASSISTANT COMMISSIONER/SDM
SHERINGAL

9c





Off: 0944880394 & 880104
Fax: 0944-881130

OFFICE OF THE
DEPUTY COMMISSIONER
DIR UPPER

No. 21942-43 /DC/Estt./15(Exp)
Dated Upper Dir the 18 /10/2017
Email address (dcdirupper@gmail.com)

STATEMENT OF ALLEGATION.

Mr. Shehzadur Rahman while posted as Assistant in the office of the undersigned has committed the following acts/omission:-

- 1) You have withdrawn open cheque No. 21005375 amounting to Rs. 3,00,000/- of the legal heirs of deceased Navid Ali s/o Wassem Khan from Assistant Commissioner Sheringal Account at Khyber Bank Dir and you submitted an affidavit of admitting the embezzlement.
- 2) You have cashed cheque No. 21005374 amounting to Rs. 11062245/- and cheque No. 212117580 amounting to Rs. 140000/- and has drawn the said amount from bank on forged signature of the Assistant Commissioner Sheringal and also you admitted the embezzled on submission of affidavit duly signed by you as well as attested by oath commissioner.
- 3) You have also embezzled amount recovered as fine under various heads i.e. price checking, traffic, narcotics etc for the month of September 2017.
- 4) You have also remained absent from duty without any proper permission of the competent authority.

Even No & date

CC

1. Mr. Fahidullah Additional Assistant Commissioner (Revenue) Dir Upper.
2. Mr. Shehzadur Rahman Assistant/accused official for information

ready
Deputy Commissioner
Dir Upper

ready
Deputy Commissioner
Dir Upper

Handwritten signature

(بیان شہزاد الرحمن اسٹنٹ)

میں شہزاد الرحمن، اسٹنٹ فیڈرل دیر لیویز دیر بالا جناب فہید اللہ خان صاحب ایڈیشنل اسٹنٹ کمشنر (ریونیو)

دیر کے سامنے بغرض انکوائری اپنا بیان اچ بمورخہ 2017-10-23 ذیل کرتا ہوں۔

۱۔ یہ کہ جناب ڈپٹی کمشنر صاحب ضلع دیر بالانے میرا ٹرانسفر بزرگیہ چھٹی نمبری

16295-97/DC/Est/01/PT بمورخہ 02-08-2017 کو اسٹنٹ کمشنر انسٹریٹنگ کیا جہاں میں اپنی ڈیوٹی

انتہائی خوش اسلوبی کیساتھ سرانجام دیتا رہا ہوں اور میری اچھی کارکردگی کا سرٹیفکیٹ جو کہ اسٹنٹ کمشنر انسٹریٹنگ نے ڈپٹی کمشنر

صاحب کو ارسال کیا جسکی کاپی Annex-A لف ہے۔ اور وہاں پر میں ریڈر کے سیٹ پر کام کرتا ہوں۔

۲۔ جی ہاں۔ صرف یہ بات درست ہے کہ میں نے اپنے افسر مجاز جناب تنویر خان صاحب، اسٹنٹ کمشنر

انسٹریٹنگ کے حکم و ہدایت پر خود اسکے دستخط شدہ چیکس پر بینک اف خیبر دیر برانچ سے (-/1546245) روپے کیش کر کے

(-/1106245) روپے اے۔ سی صاحب کو اسکے رہائش گاہ میں نقد دئے اور بقایا رقم (-/440000) روپے انس کی الماری

میں رکھے جو کہ پیر کے دن اسٹنٹ کمشنر تنویر خان کے حکم پر عوالدار شاہ محمد نے الماری کا تالا تھوڑا تھوڑا کر AC صاحب نے

الماری سے پیسے نکال کر اپنے پاس رکھے اس بات کے چشم دید گواہ نائب کورٹ منہاج، ریاض اسٹنٹ، احسان KPO و

دیگر تمام سٹاف ہیں۔ نیز اسکے علاوہ بھی ایک اور چیک جو کہ عید الفطر سے چند دن پہلے جسکی مالیت -/70000 روپے تھے افسر

مجاز جناب اسٹنٹ انسٹریٹنگ جناب تنویر خان صاحب نے مجھے کیش کرنے کا کہا تھا کہ میں نے انہیں نقد دئے۔ اس چیک کا

بھی ریکارڈ انس میں موجود ہے جو کہ انس نوٹ شیٹ پر بھی نہیں شو کیئے گئے۔ یہ کہ میں نے افسر مجاز کے حکم کی تعمیل کی نہ کہ کوئی

غبن کیا۔ لہذا مہربانی فرما کر سچ اور جھوٹ کا پتہ کرنے کیلئے بینک سے چیکس نکال کر کسی ملکی یا غیر ملکی اعلیٰ

signature testing labouratory میں بھیج دئے جائے تاکہ یہ معلوم ہو سکے کہ چیکس میں نے یا اسٹنٹ

کمشنر صاحب نے خود سائن کیئے جسکا اے سی نے مجھ پر جھوٹا اور بے بنیاد الزام لگایا ہے۔ اور انصاف کا تقاضا پورا ہو۔

۳۔ بعد ازیں یکم اکتوبر بروز اتوار اسٹنٹ کمشنر تنویر خان نے مجھے اپنے رہائش گاہ انسٹریٹنگ بلا یا اور وہاں ۵ دن

کیلئے جلس بے جا میں لیوی اہلکاران کے ذریعہ گرائی بند رکھا اور مجھے انتہائی ڈرا دھمکا اور نارچر کیا اور ہر روز کسی غلام فاروق نام

عرض نوٹس کو بلا کر مجھ سے زور زبردستی مختلف شامپ پیپرز، انس نوٹ شیٹس اور میرے ذاتی اکاؤنٹ کے چیکس پر بھی سائن

لئے اور اس بات کے گواہ EM انسٹریٹنگ، لیوی اہلکاران، غلام فاروق عرض نوٹس و دیگر چشم دید گواہ ہیں۔ مزید یہ کہ ایک ہفتے

AT 10/10/17

تک جب میرا اپنی فیملی سے رابطہ نہ ہو سکا تو میرے بھائی نے لوکل پولیس سٹیشن دیر میں گمشدگی کا درخواست بھی دیا تھا۔ اور ۵ اکتوبر کو اے سی شرینگل نے مجھے غیر قانونی طور پر شرینگل پولیس سٹیشن کے حوالات میں بند کیا جس کا ریکارڈ بھی وہاں کے روزنامہ پورٹ میں درج ہیں۔ اسکے اگلی صبح ۱۶ اکتوبر 2017 کو جب مجھے پولیس حوالات سے باہر نکالا گیا تو شرینگل پولیس کے SHO، DSP وغیرہ مجھے اے سی افس لے گئے جہاں پر ای۔ ایم صاحب عصمت اللہ، مشتاق صالح، رحمان ولی اور دیگر اشخاص کی موجودگی میں اے سی شرینگل نے اسی غلام فاروق عرض نوٹس کو بلا کر مجھ سے 16 لاکھ روپوں کے سٹامپ پیپر پر سائن لیا اور مذکورہ رقم کا ذمہ دار مجھے ٹھہرایا اور رحمان ولی نام شخص کو اے سی صاحب دیر لے جا کر اپنے اکاؤنٹ میں نکال شدہ رقم جمع کروایا۔

۳۔ درج بالا حالات کے بارے میں میں نے جناب ڈپٹی کمشنر صاحب کو بموردہ 06-10-2017 کو انصاف و قانونی کارروائی / انکوائری کیلئے ایک درخواست بھی دیا جس پر تا حال کوئی ایکشن نہیں لیا گیا۔

۵۔ یہ کہ ماہ ستمبر میں جتنا سرکاری جرمانہ وصول ہوا ہے باقاعدگی سے سرکاری خزانے میں جمع شدہ ہے جس کا ریکارڈ ڈی سی صاحب کے افس میں موجود ہے جو کہ نیشنل بینک آف پاکستان سے verify بھی کیا جا سکتا ہے۔

۶۔ اے سی صاحب کے کہنے پر میں نے ان کے لکس اور VC QAU University کا کنٹریکٹ وزٹ پر اسٹنٹ ریاض شاہد کو پیسے دیئے جن کا اے سی سر نے مجھے واپس کرنے کا کہا تھا ابھی تک نہیں ملے۔ جو تقریباً 45 ہزار روپے بنتے ہیں۔ تاریخ وار تفصیل پیش کر سکتا ہوں۔

۷۔ غیر حاضری کا چھپسے میں نے اوپر بیان کیا کے میں یکم اکتوبر ۱۶ اکتوبر تا اے سی ہاؤس شرینگل میں بند تھا اسکے بعد EM صاحب نے تین دن کی چھٹی بھی دی تھی اور ایک دن کے لئے ADC افس دیر کسی کیس hearing کیلئے گیا تھا اور بعد میں بھی میں وہاں افس میں رہا جس کا ثبوت یہ ہے کہ وہاں بجلی نہ ہونے کی صورت میں میں نے اپنے hand writing سے ڈی سی صاحب افس کو لیٹرز درافت کیئے جو کہ ریکارڈ پر موجود ہیں۔ اور غلام فاروق عرض نوٹس کے رجسٹری سے بھی پتہ چلتا ہے کہ میں وہاں ڈیوٹی پر موجود تھا۔ لہذا اے سی سر نے اپنے اچکوبے گناہ ثابت کرنے کیلئے میرے خلاف بے بنیاد اور جھوٹے الزام لگائے اور مجھے حاضری رجسٹر میں غیر حاضر شو کیا اور رجسٹر اپنے پاس رکھا ہوا ہے اور مجھے یہ بھی کہا کہ تمہارے سرسبز میں نے ڈی سی صاحب کے افس surrender کیئے ہیں لہذا تم یہاں آنے کی زحمت نہ کرو۔

Handwritten signature and scribble.

۸۔ لہذا آپ صاحبان نے التماس ہیں کہ اے سی شرینگل تو میر خان صاحب سے میرے چیکیں، پیسے اور دیگر کاغذات جو مجھ سے زور زبردستی لئے گئے ہیں واپس کراوے اور مجھے میرے designated post جو کہ اسٹنٹ فیڈرل لیویز ہے پر تعیناتی کے احکامات صادر فرمائیں۔ اور اگر میرے خلاف جو الزامات لگائے گئے ہیں درست نکلے تو مجھے نوکری سے درخواست کرنے پر کوئی اعتراض نہیں بصورت دیگر جسکی گناہ ہے اسے قانون کے مطابق مزادی جانے تاکہ قانون کا تقاضہ پورا ہو۔ یہی میرا بیان ہے جو کہ درست اور صحیح ہے۔

شہزاد ارمان ولد حاجی رحمت کریم ساکن کس

Shahzad Arman

17/11/2017

Arman





Off: 0944880394 & 380104
Fax: 0944-881130

43 22-11-17

OFFICE OF THE
COMMANDANT DIR LEVIES/DEPUTY COMMISSIONER
DIR UPPER

No. _____ /DC/Estt./LHC
Dated Upper Dir the 22/11/2017
Email address (dcdirupper@gmail.com)

SHOW CAUSE NOTICE.

I, Muhammad Usman Mehsud, Commandant Dir Levies/Deputy Commissioner Dir Upper as competent authority, hereby charge you Mr. Shehzadur Rehman Assistant/Reader to Assistant Commissioner Sheringal as follows:-

- 1) That according to report of Assistant Commissioner Sheringal conveyed vide letter No. 398/AC/Shr: dated 05/10/2017 and letter No. 400/AC/Shr: dated 06/10/2017, you have withdrawn open cheque No. 21005375 amounting to Rs. 3,00,000/- of the legal heirs of deceased Navid Ali s/o Waseem Khan from Account of Assistant Commissioner Sheringal at Khyber Bank Dir and according to your statement/affidavit dated 05/10/2017, you have admitted the same embezzlement.
- 2) That you have also cashed cheque No. 21005374 amounting to Rs. 11062245/- and cheque No. 212117580 amounting to Rs. 140000/- from bank on forged signature of the Assistant Commissioner Sheringal and you have also admitted this embezzlement vide affidavit duly signed by you as well as attested by oath commissioner.
- 3) That you have also embezzled the amount of fine imposed in various heads i.e price checking, traffic, narcotics etc for the month of September 2017.
- 4) That you remained absent from the official duty without any proper permission of the competent authority since 09/10/2017.
- 5) That on your directions Mr. Hussan Zada Levy Subidar/SDLO Sheringal sold the sleeper/scants confiscated by Levy personnel at Patrak Check Post.
- 6) That in this regard inquiries were conducted through the Additional Deputy Commissioner Dir Upper and Additional Assistant Commissioner (R) Dir Upper wherein the inquiry officers in their reports/recommendations recommended that major penalty under the rules may be imposed against you.
- 7) That as the result thereof, I as competent authority, is of the view that major penalty of "Removal from Service" under the rules be imposed upon you.

Therefore, you are directed to show cause within seven days as to why the aforesaid penalty should not be imposed against you.

In case no reply to this notice received within seven days, it shall be presumed that you have nothing in your defense and your service will be laid off.

No. 25146 /DC/Estt./LHC

Copy forwarded to Mr. Shehzadur Rehman. (Assistant AC office Sheringal) s/o Rahmat Karim r/o Kass Dir Tehsil Dir District Dir Upper for necessary action and compliance within the stipulated period of time.

Mab
Deputy Commissioner
Dir Upper

Mab
Deputy Commissioner
Dir Upper

Mab
Deputy Commissioner
Dir Upper

بخدمت جناب ڈپٹی کمشنر صاحب / کمانڈنٹ ویریوریٹر ضلع ویربالا۔

عنوان:- شوکار نوٹس۔

جناب عالی،

بحوالہ شوکار نوٹس محررہ 22-11-2017 جو کہ مجھے آج بمورخہ 27-11-2017 موصول ہوا کی روشنی

میں درجہ ذیل وضاحت برائے ہرردانہ غوراپ صاحبان کے سامنے عرض کرتا ہوں۔

1- جناب عالی، یہ بات بہت درست ہے کہ میں نے اسٹنٹ کمشنر صاحب شرینگل (تنویر خان) کے حکم و ہدایت پر اے۔ سی صاحب کے خود دستخط شدہ 3 نہیں بلکہ پانچ عدد چیکس جسمیں 4 عدد چیکس میں نے کیش کرائے تھے اور ایک چیک جسکی مالیت -/140000 تھی اے سی صاحب نے خود بینک آف خیبر دیبر برانچ سے کیش کرایا تھا۔ تفصیل درجہ ذیل ہیں؛

۱- چیک نمبر 21005375 مالیت -/300000 روپے۔

۲- چیک نمبر 21005374 مالیت -/11062245 روپے۔

۳- چیک نمبر 212117580 مالیت -/140000 روپے۔

۴- چیک نمبر ----- مالیت -/70000 روپے۔

۵- چیک نمبر ----- مالیت -/45000 روپے۔

جناب عالی، درجہ بالا چیکس میں میں نے صرف -/45000 روپے جو کہ گانتال شرینگل کی ایک بیوہ ہے اسکو دی تھی

جسکار یکارڈ فائل پر موجود ہے جو کہ اپ صاحبان کسی بھی وقت چیک کر سکتے ہیں۔ اور بقایا رقم سیریل نمبر اے ۴ تک

میں نے اے۔ سی صاحب کے حکم پر انہیں دیئے جسمیں -/440000 مجھے افس اکی الماری میں رکھنے کی ہدایت کی تھی۔

جو کہ پیر کے دن اے سی صاحب کے حکم پر حوالدار شاہ محمد کے ذریعے موجودگی دیگر دفتری سٹاف جو کہ اس بات کے

چشم دید گواہ بھی ہے الماری کا تالہ تھوڑ کر رقم اے سی صاحب نے اپنے تحویل میں رکھے جو کہ بعد میں deceased

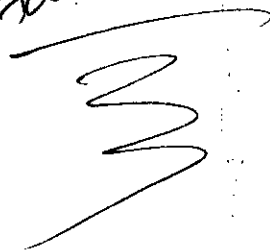
کے ورثا کو دیئے گئے اور -/70000 روپے اے سی صاحب نے اپنے پاس رکھے۔ جسکار یکارڈ فائل پر موجود ہے۔

سر، مزید یہ کہ میں نے کسی بھی قسم کا خرد برد نہیں کیا جو کہ سراسر مجھ پر ایک جھوٹا اور بے بنیاد الزام لگایا گیا ہے۔ لہذا اپ

صاحبان سے التماس کی جاتی ہے کہ درجہ بالا چیکس کسی بھی سرکاری یا اعلیٰ ترین signature testing labouratory

بھیج کر سچ کا پتہ کریں تاکہ انصاف کا تقاضا پورا ہو اور یہ بھی واضح ہو جائے کہ چیکس پر دستخط میں نے یا اے سی صاحب

دعا



صاحب نے خود کیئے۔ سر، میں نے کسی کے سامنے جس کا کوئی گواہ بھی نہیں یہ بیان دیا ہو کہ میں نے سرکاری نوکری میں کوئی کوتاہی یا خرد برد کیا ہو۔ اور لیکن اسٹنٹ کمشنر شرینگل (تنویر خان) اور ایڈیشنل اسسٹنٹ کمشنر شرینگل عصمت اللہ صاحب نے مجھے بمورخہ 01-10-2017 کو اپنے رہائش گاہ بلا کر وہاں ۴ دن کیلئے جس بے جا میں رکھ کر اور ذاتی تاجر کے ساتھ ساتھ شرینگل کے کچھ بد معاش لوگوں سے ڈرا دھمکاتے تھے اور اس بات کا ایک نہیں بلکہ درجنوں اشخاص گواہ ہیں اور انہی چار دنوں میں دونوں صاحبان کی غلام فاروق نام عرض نویس کو بلا لیتے تھے اور مجھ سے زبردستی خالی شامپ پیپرز، آفس نوٹ شیٹس، اور میرے اپنے ذاتی اکاؤنٹ کے چیک بک پر مجھ سائن لیتے تھے۔ بعدہ بمورخہ 05-10-2017 کو AC صاحب نے مجھے لیوی اور پولیس اہلکاران کے ذریعے تھانہ شرینگل کے حوالات میں ایک رات کیلئے بند رکھا اور اس بات کے بھی درجنوں گواہ ہیں۔ جناب عالی، جب اس بات کا میری فیملی کو شک ہوا تو میرے بھائی نے پولیس ہیڈ کوارٹر میں میرے گمشدگی کے نسبت ایک درخواست بھی دی تھی نقل درخواست annex-a لف ہے۔ سر، جب اے سی صاحب کو اس بات کا پتہ چلا تو انہوں نے مجھے بمورخہ 06-10-2017 کی صبح حوالات سے نکال کر اپنے رہائش گاہ لے گئے جہاں پر اے سی اور اے سی صاحب نے مشتاق صالح اور رحمان دلی نام اشخاص کے موجودگی میں مجھ سے ایک -/1600000 مالیت کا ایک شامپ پیپر پر سائن لیا جس کا ذمہ دار مجھے ٹھہرایا۔ اس واقعے کے فوراً بعد میں نے اپ صاحبان کے خدمت میں درجہ بالا حالات کی انکوائری اور فراہمی انصاف کیلئے درخواست دیے لیکن بد قسمتی سے تاحال اس پر کوئی ایکشن نہیں لیا گیا نقل درخواست annex-b لف ہے۔

2- جناب والا، ماہ ستمبر میں ہر head کے اندر جتنا بھی سرکاری جرمانہ وصول ہوا ہے میں نے باقاعدگی کیساتھ قومی بینک نیشنل بینک اپ پاکستان میں بذریعہ بختیار پر اس سرور جمع کروائے ہیں جس میں ایک پیسے کا کوئی خرد برد نہیں کیا جس کا تصدیق شدہ ریکارڈ اپ صاحبان کے آفس میں موجود ہے کہ کسی بھی وقت قومی بینک سے تصدیق کرا سکتے ہیں۔

3- جناب والا جیسا کہ میں نے اوپر ذکر کیا کے ۴ دنوں کیلئے اے سی اور اے سی صاحبان نے مجھے جس بے جا میں رکھا تھا اور اس بات کا لیوی اہلکاران اور دیگر دفتری سٹاف گواہ ہیں۔ اور 06-10-2017 سے 12-10-2017 تک اے سی صاحب کے حکم پر میں چھٹی پر تھا اور اے سی صاحب نے مجھے حاضری لگانے سے بھی منع کیا تھا اور حاضری رجسٹر بھی اپنے پاس رکھا تھا۔ بعد ازیں اے سی سے نے مجھے کہا کہ میرے آفس میں آنے کی زحمت نہ کریں اور میں نے تمہیں ڈی سی آفس سرینڈر کیا ہے۔ تو اسی دن سے آج تک میں اپ صاحبان کے آفس میں روز

Amir



حاضری دیتا ہوں۔ اور آپ صاحبان کو کئی دفعہ اپنے پوسٹنگ کیلئے درخواستیں جمع کراتا رہا ہوں۔ اسی اثناء میں میں کئی بار اے ڈی سی صاحب اور اے سی صاحب کے دفاتر میں انکوائری کیلئے آنے روبرہ حاضر ہوتا رہا ہوں تو اے سی صاحب کے مجھ پر غیر حاضری کا الزام کیسا چھو سکتا ہے۔

4- جناب والا اے سی صاحبان نے مجھے ارڈر دیا کہ ہم نے وائس چانسلر قائد اعظم یونیورسٹی کے وزٹ پر ڈی سی صاحب کے حکم پر -/25000 لگ بگ روپے خرچ کیئے ہیں تو تم صوبیدار کو کہو کہ ہمارے اپنے جو سلیر ان پڑے ہیں وہ بیچ کر ہمیں وہ پیسے دیدے تو میں نے صوبیدار کو صرف صاحبان کا بیج دیا تھا جو مجھے ہدایت کی گئی تھی اور وہی سلیر ان اے سی صاحب نے اپنے ڈرائیور کے گھر رکھے ہوئے ہیں اور میں نے کوئی سلیر ان نہیں فروخت کیئے۔

لہذا آپ صاحبان سے انتہائی ادب احترام کیساتھ عرض ہے اگر میں قصور وار ہوں یا ایک پیسے کا کوئی خرد برد کیا ہو تو مجھے اسکی سزا اور نوکری سے برخواستگی پر کوئی اعتراض نہیں بصورت دیگر مہربانی فرما کر اے سی صاحب شرینگل سے میرے ذاتی اکاؤنٹ کے چیکس واپس کرنے کا حکم صادر فرماویں اور برائے مہربانی کر کے مجھے اپنے (Assistant Federal Levies Force) designated post پر کام کرنے کے احکامات صادر فرماویں۔

اپکا تابع فرمان
 Shaukat Khan
 شہزاد الرحمان اسٹنٹ ٹیڈرل لیویز ضلع دیر بالا۔

Handwritten signature/initials.

Subm. in De
 Office Diary
 27/11/17



Off: 0944880394 & 880104
Fax: 0944-881130

**OFFICE OF THE
COMMANDANT DIR LEVIES/
DEPUTY COMMISSIONER**

DIR UPPER

No. _____ /DC/Estt./LHC
Dated Upper Dir the 23 /01/2018
Email address (dedirupper@gmail.com)

OFFICE ORDER.

Whereas, the Additional Assistant Commissioner Sheringal reported vide his letter No. 199/AAC/Shr: dated 27/09/2017, that Sub Divisional Levy Officer Sheringal namely Hussan Zada had illegally sold "case property" i.e 09 number illegal scants taken in possession by Levy Post Patrak and also pilfered 01 sack of "Dandasa" confiscated by Levies which was to be handed over to Divisional Forest Officer Sheringal without bringing the same into the notice of the Additional Assistant Commissioner Sheringal. To probe into the matter the Additional Deputy Commissioner Dir Upper was nominated as inquiry officer to conduct proper inquiry against the Levy subedar under the provision of levy Rules-2013. Accordingly the inquiry officer/Additional Deputy Commissioner Dir Upper conducted proper inquiry into the matter and submitted his report/recommendations vide letter No. 22110/ADC/Reader dated 19-10-2017 and recommended that the Sub-Divisional Levy Officer Sheringal is innocent and the disciplinary proceedings against him may be withdrawn while Mr. Shahzad-ur-Rahman Assistant is the actual guilty of the offence and he has actually sold out the case property and major penalty may be imposed upon Mr. Shahzad ur Rahman Assistant under the relevant Rules.

Whereas, in the meanwhile the Assistant Commissioner Sheringal reported vide letter No. 400/AC/Shr: dated 06-10-2017, that Mr. Shahzad ur Rahman Assistant/Reader to AC Sheringal has embezzled the Government compensation amounting to Rs. (300000/-, 1106245/- & 140000/- total = 1546245) from the Assistant Commissioner Sheringal Account at Khyber Bank Dir Branch which was to be paid to the legal heirs of the deceased persons under relief compensation head. He reported that Mr. Shehzada-ur-Rahman Assistant flew away with amount which was later on recovered from him and he has given an affidavit confessing the embezzlement and receiving the embezzled amount. Further reported that the accused official has also embezzled the amount recovered as fine under various heads i.e price checking, traffic, narcotics etc for the month of September 2017. The Assistant Commissioner also reported vide No. 448/AC/Shr: dated 03-11-2017 and No. 29/AC/Shr: dated 10/01/2018; that Mr. Shahzad ur Rahman Assistant has remained absent from his duty since October 2017 without any prior permission of the competent authority.

Whereas, owing to the reason above, Mr. Faheed Ullah Khan Additional Assistant Commissioner (R) Dir Upper was appointed as inquiry officer vide this office order No. 21937-39/DC/Estt./LS (Exp:) dated 18-10-2017, to conduct fact

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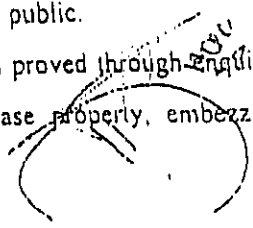
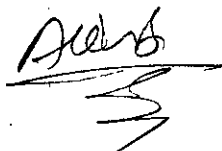
Findings inquiry into the matter and submit report/recommendations within 02 weeks time positively. Statement of allegations was also served upon the accused official vide this office letter No. 21942-43/DC/Estt:(Exp:) dated 18-10-2017. After conducting fact finding inquiry, inquiry officer submitted his report/recommendations vide his letter No. 338/AAC(R) dated 16-11-2017, stating therein that all the allegations leveled against the official concerned have been proved and recommended that major penalty of "Removal from Service" may be imposed against Mr. Shahzad ur Rahman Assistant under the Rules.

Whereas, the defaulting official was given a show cause notice in light of the report/recommendations of the enquiry officers vide this office order No. 25146/DC/Estt:/LHC dated 22/11/2017, to show cause as to why his service should not be laid off and to appoint another responsible official but the reply of the accused official to show cause notice dated 27/11/2017 was not convincing, therefore, the accused official was also called for personal hearing on 06/12/2017 and 19/12/2017 followed by a notice through print media (Daily Mashriq) dated 30/12/2017 but he did not turned up for personal hearing nor submitted any written reply and continuously remained absent from his duty.

Whereas, previous record of the accused official also reveals that he is involved in illegal practices/financial irregularities from time to time such as due to his involvement salaries of such levy officials was withdrawn from the head of Federal Levies Dir Upper who were abroad for earning livelihood as well as he embezzled the annual fund of Federal Levies Dir Upper, resultantly the Anti Corruption Department Dir Upper lodged FIR against him but on the basis of plea bargain the accused official paid an amount of Rs. 6000000/- (approximately) to the Anti Corruption Department and the case against him has been closed. Moreover, he has also applied for a scheme in the CDLD Project Dir Upper which was approved and he got the first installment, draw the money and instead of starting the work he flew away with the fund and FIR was registered against him. It is worthwhile to mention here that the official concerned is also not taking interest in his legitimate duties and always remained absent without any prior permission of the competent authority due to which explanation, show cause notice followed by a notice through print media (Daily Mashriq) have been issued against him but on humanitarian grounds he was forgiven several times without taking any stern action.

Whereas, the general public has informed that he is involved in such criminal activities as gambling etc which always propel him to financial impropriety. He being senior official is using the name of District Administration and thus cheating public by getting loans and then disappearing. Keeping him in service is tantamount to helping him cheat the general public.

Whereas, it has been proved through enquires that Mr. Shahzad-ur-Rahman Assistant is guilty of selling case property, embezzlement of compensation

amount of poor people and then the same being recovered from him, recoveries, misappropriation of government dues recovered through fines, cheating public at large by using his employment in Deputy Commissioner Office Dir Upper, and whereas the undersigned being Commandant of Federal Levies is the Competent Authority for all type of recruitment and removal in Federal Levies, do hereby impose major penalty of "Removal from service" upon Mr. Shehzad-ur-Rehman Assistant (Federal Levy) with immediate effect.

Commandant Dir Levies/
Deputy Commissioner
Dir Upper

No. 2132-37

DC/LHC/Estt./Removal/Shahzad Assistant

Copy forwarded to the:-

- 1) Secretary Home and Tribal Affairs Department Khyber Pakhtunkhwa Peshawar.
 - 2) Commissioner Malakand Division Saidu Sharif Swat.
 - 3) All Assistant Commissioners in Dir Upper.
- For information.
- 4) District Accounts Officer Dir Upper.
 - 5) LHC Local Officer.
- For necessary action
- 6) Mr. Shahzad ur Rahman (Assistant) s/o Rahmat Karim r/o Kass Dir Tehsil Dir District Dir Upper for information.

Commandant Dir Levies/
Deputy Commissioner
Dir Upper

ATC-402
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TO,

THE HON'BLE SECRETARY,
HOME & TRIBAL AFFAIRS DEPARTMENT
KHYBER PAKHTUNKHWA.

DEPARTMENTAL APPEAL AGAINST THE REMOVAL ORDER
OF THE COMMANDANT LEVIES FORCE / DEPUTY
COMMISSIONER DIR UPPER OFFICE ORDER NO. 2132-37
DATED 23/01/2018.

Respected Sir,

With due respect I have the honour to submit the departmental appeal for your kind consideration and favorable action on the following facts & grounds.

1. That the Appellant was appointed as Assistant in Federal Dir Levies in (BPS-14) via Office Order No. 12861-65/DCO/, dated 29/06/2010. And now is working under scale BPS-16 as an Assistant (Federal Levy) (order of appointment is attached as (Annex-A.)
2. That since the date of appointment, Appellant performed his duty to the entire satisfaction of his superiors and never has any complaint ever arose against him.
3. That the Appellant during period of service 29/06/2010 to 22/11/2017 performed his duties honestly and punctually, to that effect certificates for the best performance certificate was issued by the Assistant Commissioner Dir via No. 1450/AC/ST/ dated 24/04/2017 as well as via No. 1437/AC/ST/dated 21/04/2017. & Best performance certificate issued by the Assistant Commissioner Sharingal via No. 328/AC/SDM/17 dated sharingal the 25-08-2017. These certificates show the honesty and punctuality of the Appellant. (copies attached as Annex-B).

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4. That Letter No. 25112-15/DC/Estt:/15 (Exp) dated 22/11/2017, the Deputy Commissioner Dir upper issue a show cause notice/called for explanation from the Appellant addressing him in the following words "(as reported by Assistant Commissioner Shringal vide his letter No. 499/AC/Shri: dated 15/11/2017,

"that you were not punctual and often remained absent from duty without any permission of the competent authority which is against the law/Service Rules." (Copy of Explanation Call is attached as (Annex-C).

5. That on 27/11/2017 the Appellant replied to the explanation call/ show cause notice of the Deputy Commissioner Dir Upper, that the Appellant had never been absent from his duty, while he has remained punctual and honest during his service. Moreover, the Appellant made the application to the DC Dir upper via diary No. 12463 dated 27/11/2017, to the same effect. (Copy of reply of explanation is attached as (Annex-D).
6. That the Appellant was astonished to receive the show cause notice from the DC Dir Upper via letter No. 25146/DC/Estt:/LHC, dated 22/11/2017, where he had been charged with baseless, wrongful allegations, Where after, Incredulously via Office Order No. 2132-37 dated 23/01/2018, the DC Dir Upper removed the Appellant from service. The order of the DC Dir Upper is illegal against the law and rules of Levies Force. (Copy of Show Cause Notice and Reply via Diary No. 12460 dated 27/11/2017 are attached as (Annex-E).
7. That the first allegation made by the DC Upper Dir that Appellant has sold the case property (Dandasa) is baseless, false, groundless , because no Case Property has been has been sold by the Appellant and there is no justified/sound evidence regarding sale of case property available against the Appellant. Moreover, the Reader of the AC has no power to retain the custody of the case property, hence, the allegation is without any foundations.
8. That the second Allegation made against the Appellant regarding the embezzlement of the cheques is frivolous, incorrect based on malafide intentions for ulterior motives and consideration . Furthermore, it is pertinent to mention that the AC wrongfully confined the appellant and there he forcefully taken/received signatures on the forged documents, against which

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the Appellant made a complaint in writing to the Dir Police and requested for inquiry against the allegations. (copy enclosed as Annex-F).

9. That the 3rd Allegation made by the DC Dir Upper that the Appellant embezzled the fine (Rupees) whereas the record shows that even single penny had not been embezzled, hence the allegation being incorrect and frivolous is without any foundation.
10. That the 4th Allegation made by the DC that an FIR has been lodged against the Appellant in Anti Corruption, whereas the fact is that no FIR has been lodged against the appellant, hence the allegation is wrongful and baseless.
11. That so far as concerned the CDLD project, the project is almost complete and the certificates for satisfactory work completion issued to the Appellant by the Focal Person CDLD & DC Dir is self explanatory. (copies enclosed as Annex-G).
12. That the 5th allegation made against the Appellant that he is involved in criminal activities is incorrect, furthermore no reliable Proof/Evidence available against the appellant to proof the same.
13. That all the allegations made by the DC Dir Upper, AC/AAC, Shringal & Dir, ADC Dir are baseless, incorrect, illegal, without evidence and based on presumptions.
14. That the impugned Order of the DC Dir Upper is against the law and Rules/Regulations.
15. That no Fair Opportunity has given to the Appellant about his innocence. No impartial inquiry had made by the DC Dir Upper.
16. That under the law and Rules, the DC Dir Upper has no Power/Authority to remove the Appellant.
17. That the impugned order is violation of the rules, policy on subject and law and therefore, the same is not legally correct, hence liable to be set-aside.
18. That no proper charge sheet and statement of allegation have been issued to the Appellant, nor any enquiry much less regular has been conducted in the

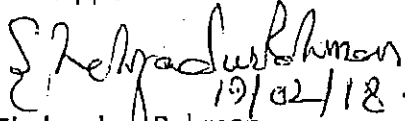
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case, which are the essential requirements of law and without which no action can be taken against a civil servant being mandatory law.

It is therefore, humbly prayed that on acceptance of this Departmental Appeal the impugned Office Order of the DC Dir Upper may kindly be set aside.

Dated 19/02/2018

Appellant.


19/02/18

Shahzad-ur-Rehman

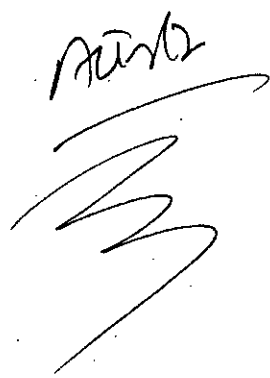
S/O Haji Rehmat Karim

Moh:KASS, P.O DIR, DIR TOWN

Tehsil DIR , Upper Dir.

CNIC # 15701-0982027-7

Mobile: 0307-5122269



TO,

M 54
THE HON'BLE ADDITIONAL SECRETARY (SECURITY),
HOME & TRIBAL AFFAIRS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.

REJOINDER/REPLICATION ON BEHALF OF THE
APPELLANT/PETITIONER.

Respected Sir,

PRELIMINARY OBJECTIONS.

1. That the Petitioner/Appellant has filed an appeal against the Removal Order of the Deputy Commissioner Upper Dir before the Hon'ble Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa on 19-02-2018.
2. That the Respondent submitted the reply before the Hon'ble Additional Secretary (Security).
3. That the hearing was conducted before the Court of Hon'ble Additional Secretary (Security) on 28-05-2017.
4. That the Removal Order of the Respondent is against the Law & Levies Force Rules & Regulations framed by the Federal & Provincial Government until now. Moreover, As per Levies Force Rules & Regulations issued by the Federal & Provincial Government Khyber Pakhtunkhwa the Deputy Commissioner/Commandant Levies Force has no authority to remove the Appellant/Petitioner from service serving in BPS-16. Furthermore according to the Notification issued by the Home & Tribal Affairs Department Government of Khyber Pakhtunkhwa Peshawar dated the 14th April, 2015 NO. ALD-III/REG:1(6)2012/8066-68. Under schedule-III of the said notification it is crystal clear that the Deputy Commissioner/Commandant Levies may impose penalties upto the Rank of BPS-13. (Copy Enclosed As Annexure-A).
5. That all the charges leveled against the Appellant/Petitioner is baseless, groundless and need proof/evidence.

FACTS:

- A. That in reply of the Respondent S.# 2, is incorrect/baseless and needs evidence/proof. As reply of the Respondent reveals that the Appellant/Petitioner was indifferent to his duties but the Best Performance Certificates & Annual Confidential Report (ACR) on record in respect of the Appellant/Petitioner duly issued to the Petitioner/Appellant by the various worthy Deputy Commissioners during their period of stay in Upper Dir District shows that the Appellant/Petitioner always remained very loyal, hard worker, punctual and honest in discharging his official

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duties up to the entire satisfaction of the Superiors & no indifference attitude was reported against the Appellant/Petitioner till the removal order.

(Copies of best performance certificates and ACR are attached as Annexure-B1 to B6).

That during the entire 13 years of service neither any FIR has lodged against the Appellant/Petitioner by the Anti Corruption Department nor has the Appellant/Petitioner made any embezzlement/plea bargain with the Anti Corruption Department. Furthermore he Respondent narrated the story in the Removal Order Para No. 5 that an amount of Rs. 6000000/- (Sixty Lacs) plea bargained with Anti Corruption Department but in personal hearing before the worthy Additional Secretary (Security) Home & Tribal Affairs Department Khyber Pakhtunkhwa the respondent revert from his stance and amount reduce to 600000/- (Six Lacs) which clearly shows malafide intentions on the part of Respondent. And no recovery has been made from the possession of Appellant/Petitioner. And record show no FIR has been registered against the Appellant/Petitioner. As per challans the amount has been recovered from the then Deputy Commissioner & in meanwhile the Appellant/Petitioner was on long leave since 2012-2015. The Respondent has no proof/evidence regarding such malafide/hurtful allegation.

(Copy of sanction leave is attached as Annexure-C).

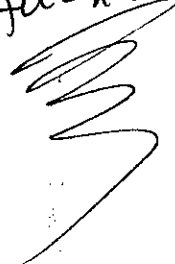
That so far as concerned the CDLD Project, the project is almost complete and proof/evidence duly issued by the Deputy Commissioner (Chairman CDLD Upper Dir), Focal Person of CDLD and Pool of Engineers CDLD Upper Dir are attached as Annexure-D1, D2 & D3 which are self explanatory and on the basis of satisfactory project/work completion final bill was released to the Petitioner/Appellant.

Moreover, it is correct to the extent that the then Deputy Commissioner (Zaka Ullah Khattak) issued explanation & show cause notice against the Appellant/Petitioner followed by a notice through print Media. But keeping in view the following facts and figures it is crystal clear that the petitioner was very dedicated while discharging the legitimate duties and never remained absent without the prior permission from the Superiors.

- That the Appellant/Petitioner was proceeded on leave duly sanctioned by the then Deputy Commissioner (Dr. Imran Hamid Sheikh) in respect of the Appellant w.e.f 01-09-2015 to 31-08-2018. (Copy of Sanction Leave is attached as Annexure-E) but later on the Petitioner/Appellant submitted an application to the DC/Commandant Levies (Zakaullah Khattak) for cancellation of un availed portion of leave and submitted arrival report & resumed his duty as Assistant Federal Levies Upper Dir as it was clearly mentioned in the sanction leave that " *on expiry of leave, the official is likely to return to the same post and station*". Furthermore after arrival the Appellant/Petitioner submitted an Office

Note to the Competent Authority to allow him for his seat work being a regular/permanent incumbent on the strength of Federal Levies Force Upper Dir who held responsible to all the matter regarding Levies Force as per guidelines/Rules framed by the Provincial as well as Federal Government. (copy of the Office Note is attached as Annexure-F). and only dealing hand to assist the commandant/Deputy Commissioner. Furthermore during the absence period of the Petitioner his seat work was temporarily entrusted to Mr. Salahuddin office Assistant to run the office work who was not a regular employee of Federal/Provincial Levies Force which was against the Law & Levies Force Rules/Regulations. And unfortunately the then Deputy Commissioner (Zakaullah Khattak) called an explanation from the Petitioner/Appellant that in which capacity the Petitioner submitted the office note before the worthy Deputy Commissioner and transferred the services of the Petitioner/Appellant to the office of Additional Assistant Commissioner at Sheringal where the petitioner submitted arrival report on 06-06-2016 (copy enclosed as Annexure-G). Though the transfer order was irregular & against the Levies Force Ruels.

- In meanwhile as per Rules & Regulations/Notification issued by the Provincial Government Peshawar, dated the 14th April, 2015 No. ALD-III/Reg:1(6)2012/8066-68 the Appellant/Petitioner filed an appeal before the Hon'ble Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa against the irregular/illegal order for sympathetic consideration (copy of appeal is attached as Annexure-H). The Hon'ble Secretary Home & Tribal Affairs Department Accepted the appeal (copy attached as Annexure-I which is self explanatory).
- In light of the judgment passed by the Hon'ble Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa the newly posted Deputy Commissioner (Muhammad Usman Mehsud) placed the services of the Petitioner in the office of Assistant Commissioner Dir on 23-08-2016 without restoration of the actual seat work as Assistant Federal Levies. & with regard to best performance report in respect of the Appellant /Petitioner the Deputy Commissioner withdraw the disciplinary proceeding initiated against the Petitioner/Appellant. (Copy of Arrival Report for duty is attached as Annexure-J & Office order of DC Dir as Annexure-J1).
- That on 02-08-2017 the Deputy Commissioner (Muhammad Usman Mehsud) once again transferred the services of the Petitioner/Appellant on the disposal of Assistant Commissioner Sheringal vide order No. 16295-97 dated 02-08-2018/ (copy attached as Annex-K). Moreover, the Appellant/Petitioner obeyed the order of the Deputy Commissioner Dir and submit arrival report duly countersigned by the Assistant Commissioner Sheringal (Tanvir Khan) and was performing his duties upto the entire satisfaction of his

Attested


Officer. (Copy of Arrival Report & Best Performance Certificate issued by the AC Sheringal are attached as Annexures L).

B. That the S.# 3 of Respondent reply is incorrect, that how a subordinate pressurized and force an Assistant Commissioner for issuance of best performance certificate as the Assistant Commissioner is an Administrative Officer and no one can force/pressurized him in any matter. Furthermore by keeping in view my hard work, loyalty and punctuality in discharging my duties under his supervision the worthy Assistant Commissioner not only issued me a Best Performance Certificate but also assigned/ordered the Appellant/Petitioner with another office order No. 1458/AC/PS/CDLD/ dated 28-04-2017 which is self explanatory. (Copies of Best Performance Certificates are attached in Annexures-A). Furthermore no letter issued by the Assistant Commissioner for release of the Petitioner/Appellant salary. The Petitioner/Appellant himself submitted application to the Deputy Commissioner/Commandant Dir Levies Upper Dir for release of salary on 27-03-2013. & with regard to best performance report in respect of the Appellant /Petitioner the Deputy Commissioner withdraw the disciplinary proceeding initiated against the Petitioner/Appellant. (Copy of Application for Release of salary with other supporting documents are attached as annexure M).

C. That S # 04 of the Respondent Reply is incorrect as the Respondent leveled the Allegations against the Petitioner/Appellant that Petitioner/Appellant embezzled the cheques and money. All the embezzlement of the cheques is frivolous, incorrect based on malafide intentions for ulterior motives. Furthermore it is pertinent to mention that the Assistant Commissioner wrongfully confined the Petitioner/Appellant and forcefully received signatures on forged documents i.e (Office Note Sheets, Affidavits, and on Petitioners Cheque book leafs), against which the Petitioner/Appellant made a complaint in writing to the Deputy Commissioner and local police to conduct an inquiry. Moreover the Petitioner/Appellant has several witnesses/evidence/Proofs to that confinement and forged documents as the Assistant Commissioner Bysell written the affidavits in his own handwriting. Furthermore the amount of the deceased person have already been given to the legal heirs of the deceased persons. (Copy of application and statements submitted by the Petitioner in this regard to the Deputy Commissioner are enclosed as Annexure-N & N1).

Moreover, as per record lying in the office of Deputy Commissioner Dir, Assistant Commissioner Sheringal and National Bank of Pakistan shows that even a single penny had not been embezzled by the Petitioner/Appellant. Hence the allegation being incorrect and frivolous is without any foundation. Moreover, the Respondent leveled the allegation against the Petitioner/Appellant that is not punctual and remained absent from duty which is extremely baseless and incorrect as according to facts the AC Shringal himself give the best performance certificate to the Petitioner/Appellant and the Petitioner has the evidence/proofs that in

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mean while the Petitioner/Appellant drafted many official letter on hand writing due to load shedding in Sheringal Sub Division and attended each and every enquiry made against the Petitioner/Appellant by the Deputy Commissioner. & the Petitioner/Appellant remained present all the time when called by the Superiors and it is worth mentioning that the Assistant Commissioner Sheringal ordered the Petitioner not to come to his office as the AC has surrendered his services to DC office Upper Dir, in light of which the Petitioner submitted written application for further course of action but in vain no single fair Opportunity has given to the Appellant by about his innocence. Nor any impartial inquiry had made by the Deputy Commissioner.

D. That S# 05 of the Respondent Reply is incorrect. As the Petitioner/Appellant attended each and every inquiry conducted against him proof/evidence are on the record which can be produced any time before the worthy Additional Secretary (Security) Home & Tribal Affairs Department Khyber Pakhtunkhwa. Furthermore no order has been communicated/issued to the Petitioner/Appellant for discharging duty in the office of the Deputy Commissioner Upper Dir.

E. That S # 06 of the Respondent Reply is incorrect. As the Petitioner submitted reply to the explanation and show cause notice on time but on the date of hearing before the Deputy Commissioner Upper Dir had refused to meet/hearing in person the Petitioner/Appellant which is against the law and Rules/Regulations framed by the Government of Pakistan. *(Copies of Explanation, Show cause Notice along with replies are attached as Annexure-O & O1).*

F. That S # 07 of the Respondent Reply is incorrect. That allegation made by the Deputy Commissioner Dir Upper that Petitioner/Appellant has sold the case property (Dandasa) and 09 no illegal scants. Is baseless, false and groundless because no case property has been sold by the Petitioner/Appellant and there is no justified/sound evidence regarding sale of case property available against the Petitioner/Appellant. Moreover the confiscated Dandasa has been handed over to the Forest Department by the Incharge Subidar Hussan Zada record is available in Forest Office Sheringal. Furthermore 09 No scants were kept in the residence of AAC Driver later on furniture was made from them for AAC proof, all kind of evidence, witnesses can be produced before the Hon'ble Court. Further more the reader of the Assistant Commissioner has no power to retain the custody of the case property hence the allegation is without any foundations. *And the AAC Sheringal vide his letter No. 199/AAC/SHR: dated 27-09-2017 stated that the Sub Divisional Levy Officer Sheringal illegally sold out the case property.* So the Appellant/Petitioner have no concerned with case property.

G. That S # 08 of the Respondent Reply is incorrect, baseless and groundless as the detailed reply is given in Para C above.

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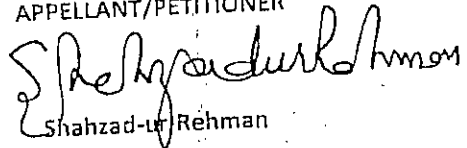
- H. That S # 09 of the Respondent Reply is incorrect, baseless and groundless as the Appellant/Petitioner given the detail answer in Para C of replication/Rejoinder.
- I. That S # 10 of the Respondent Reply is incorrect, baseless and groundless, and need proof/evidence. Furthermore the appellant/Petitioner already made online payment to the dealers receipts of which are on the record. (Copy of the bank receipt are enclosed as Annexure-H).
- J. That S # 11 of the Respondent Reply is incorrect, baseless and groundless, as the Appellant/Petitioner given the detail answer in Para A above with all the proofs.
- K. That S # 12 of the Respondent Reply is incorrect, baseless and groundless and without evidence and based on presumptions.
- L. That S # 13 of the Respondent Reply is incorrect that no independent/Freely inquiry has been carried out by the Deputy Commissioner Upper Dir. Furthermore no fair oppoutunity has given to the Petitioner/Appellant about his innocence. No impatial inquiry had made by the DC Upper Dir.
- M. That S # 14 of the Respondent Reply is totally incorrect as the detial answer/reply is given in Preliminary objections.
- N. That S # 15 of the Respondent Reply is incorrect as the detail answer is given in Para L and E above.
- O. That S # 16 of the Respondent Reply is incorrect as per reply/answer given above in Preliminary Objections.
- P. That S # 17 of the Respondent Reply is incorrect, detail answer/reply in given Preliminary objections above.
- Q. That S # 18 of the Respondent Reply is incorrect as answered in the above paras. And no proper charge sheet and statement of allegation have been issued to the appellant, nor any enquiry much less regular has been conducted in the case, which are the essential requirements of law and without which no action can be taken against a government servant being mandatory law.
- R. That the respondent stated in his reply that the Appellant/Petitioner committed many financial irregularities is baseless, groundless and against the facts and based on presumptions only with ulterior motives which needs prrof/evidence. Moreover the responded stated that an FIR lodged against the Appellant/Petitioner in Police Station Timergara of dishonoring of a check, the fact is that no FIR lodged against the Appellant/Petitioner.

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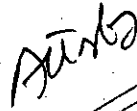
That all the rest of allegations were baseless, groundless and against the facts. The appellant/Petitioner has never involved in such like offences as these irregularities and offences/deception why not inquired into their inquiry and later on incorporated in their reply. These allegations show the malafidly on the part of the respondent.

it is therefore, once again humbly prayed that on acceptance of this Replication/Rejoinder, Office Order of the Deputy Commissioner Upper Dir may kindly be set aside.

APPELLANT/PETITIONER



Shahzad-ur-Rehman
S/O Haji Rehmat Karim
Moh: KASS, P.O DIR, DIR TOWN
Tehsil DIR, Upper Dir.
CNIC # 15701-0982027-7
Cell: 03005592866
03155524017







N 61
IN THE COURT OF SECRETARY HOME

KHYBER PAKHTUNKHWA

(APPELLATE AUTHORITY)

N - (61)

CASE TITLE:

APPELLANT: SHAHZAD UR REHMAN, ASSISTANT FEDERAL LEVIE, DIR UPPER
VERSUS
COMMANDANT LEVIES, DIR UPPER.

INTRODUCTION:-

The applicant was appointed as Assistant in Federal Dir Levies in BPS-14 on dated 29.06.2010. The applicant was removed from service on 23.01.2018. The applicant submitted an appeal before the Competent Authority on 19.02.2018 for re-instatement into service.

The Deputy Commissioner / Commandant office was asked to furnish comments in the instant case. The office of DC/Commandant, Dir Upper provided details of the appeal in parawise comments, the appellant bearing the certain allegation of financial matter and not attending the duties remaining absent without any prior permission and recommended that appellant liabilities propel him to more crimes and reinstatement at District Administration is likely to increase his deception capacity and prayed that the appeal filed by the appellant does not merit consideration, may be dismissed and DC order should be maintained.

PROCEEDINGS:-

The applicant was heard on 28.05.2018 in person and decided that fresh inquiry in the case may be initiated. In light of fresh inquiry the appellant was again heard on 30.08.2018 and supporting documents were also checked / scrutinized in details. The applicant submitted that the allegations mentioned by the DC office were baseless, groundless and against the facts. The applicant humbly prayed that to accept the application and DC order may be set aside.

DECISION:-

After perusal of available record, the appeal is rejected in light of the comments / views of Deputy Commissioner / Commandant Levies, Dir Upper. The appellant may be informed accordingly.

(Signature)
Distt. Record Room
Deputy Commissioner Office
Dir Upper.

(Signature)
(IKRAM ULLAH)
SECRETARY HOME
KHYBER PAKHTUNKHWA

Announced
Dated 03.09.2018

(Signature)

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11-9-18



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

No. SO (Levies)/HD/6-212/018:Shahzad
Dated Peshawar the 11.09.2018

To

The Deputy Commissioner
Commandant Levies
Dir Upper.

Subject -

DEPARTMENTAL APPEAL AGAINST THE REMOVAL ORDER OF THE
COMMANDANT LEVIES FORCE / DEPUTY COMMISSIONER DIR UPPER
OFFICE ORDER NO. 2132-37 DATED 23.01.2018.

Sir,

I am directed to refer to your letter No. 7714/DC/(Estt: 15(Exp) dated 30.03.2018 on the subject noted above and to forward herewith a copy of Order dated 03.09.2018 passed by Home Secretary on the departmental appeal of Mr. Shahzad ur Rehman, Assistant Federal Levies, Dir Upper Self-explanatory), for information and further necessary action. The appellant may be informed accordingly.

Yours faithfully

L/Hc

Encls as Above

Date: 11/9/2018

Section Officer (Police-II)
Phone: 091-0210703 / 0210704

Copy forwarded to the:-

1. District Account Officer, Malakand.
2. PS to Secretary Home & Tribal Affairs Department.

Section Officer (Police-II)

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BEFORE THE FEDERAL SERVICE TRIBUNAL ISLAMABAD.

Appeal No _____ P(CS)/2018.

Shahzad ur Rehman, Ex- Assistant/ reader, Dir Levies.

Address for the purpose of service

S/o Haji Rehmat Karim, R/o Moh: Kass, P.O Dir, Dir Town Tehsil Dir, Upper Dir.

Appellant.

VERSUS

1. The Secretary SAFRON Islamabad.
2. The Secretary, Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar.
3. The / Commandant/Commissioner Dir Upper.

Respondents.

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1973 AGAINST THE IMPUGNED ORDER DATED 23-01-2018 (ANNEX-A) WHEREBY THE APPELLANT HAS BEEN IMPOSED MAJOR PENALTY OF REMOVAL FROM SERVICE AGAINST WHICH THE APPELLANT FILED DEPARTMENTAL APPEAL dated 19-02-2018 (ANNEX-B) FOR REINSTATMENT IN SERVICE WHICH HAS BEEN REJECTED ON VIDE APPELLATE IMPUGNED ORDER DATED 03-09-2018 ISSUED ON 11-09-2018 (ANNEX-C), HENCE, THE INSTANT APPEAL, INTER ALIAS, ON THE FOLLOWING FACTS AND RELIABLE GROUNDS.

Respectfully Sheweth;

1. That the appellant has been appointed in Federal Levies Dir as Assistant in (BS-14) vide office order dated 29-06-2010 (Annex-D). Since his initial appointment, the appellant has been performing his duties honestly, regularly, diligently, devotedly, sincerely and to the entire satisfaction of his superiors. He has loyal to his duty during his service career. The appellant has never provided any single opportunity of complaint to his high officials and obeyed the order of the superiors during his service period.
2. That in the light of good performance the respondents department issued certificates dated 28-04-2017 and 25-08-2017 to the appellant which show the honesty and punctuality of the appellant. Copies attached as (Annex-E&F).
3. That the post of appellant i.e Assistant (BS-14) has upgraded to (BS-16) vide letter dated 24-04-2017 (Annex-G).
4. That while the appellant was performing his duties against the post of Assistant Federal Levies Dir upper his services has been transferred to Sharingal Sub Division vide office order dated 02-06-2016 (Annex-H) where there was no post of Assistant Federal Levies. Against the transfer order the appellant filed departmental appeal dated 15-08-2016 (Annex-I) wherein he requested to department for withdrawal of transfer order for the reason tha since 2010 he is responsible for the seat work according to the guidelines

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of Federal government to run the official matter regarding levies efficiently but his request was rejected vide order dated 19-10-2016 (Annex-J)

5. That while the appellant was posted as Assistant Federal Leavies Dir, in Sheringal he was issued a show cause notice dated 22-11-2017 with baseless and wrongful allegations (Annex-K) The main charge against the appellant was that he has withdrawn open cheque amounting of Rs. 3,00,000/- of the legal heirs of deceased and also cashed cheque No. 21005374 amounting of Rs. 11062245/- and cheque NO.212117580 amounting of Rs.140000 from the bank on forged signature of Assistant Commissioner Sheringal etc. The appellant submitted his defence reply to the show cause notice on 27.11.2017 (Annex-L) wherein he refuted the allegations leveled against him and explained his position.
6. That That the explanation given by the appellant in reply to the show cause notice was not considered at all and ultimately vide impugned order dated 23-01-2018, the appellant was imposed major penalty of removal from service without issuing charge sheet, statement of allegations and conducting a regular enquiry against which the appellant filed departmental appeal dated 19-02-2018 which was rejected vide appellate impugned order dated 03-09-2018 issued on 11-09-2018. Hence this appeal inter alia on the following grounds: -

GROUNDS

- A. The impugned order is evasive, elusive, slippery, illegal, un-authenticated, whimsical, capricious and against the administration of natural justice and rules.
- B. That a fact finding enquiry was conducted at the back of the appellant. It is an established law that a fact finding enquiry cannot be considered as a substitute of a regular inquiry. When the allegations leveled against the appellant were denied by the appellant, a regular inquiry was required to be conducted, hence the proceedings initiated and penalty imposed upon the appellant only on the basis of show cause notice is illegal especially when the allegations were denied by the appellant;
- C. That the appellant has not received any inquiry report. He has not been afforded opportunity to personal hearing. He has been totally condemned unheard which is against the principles of natural justice and fair play. In the absence of a regular/full-fledged inquiry containing statements of witnesses etc. the appellant cannot be given any punishment. Such an arbitrary action is not supported by any law or judicial ruling.
- D. That the act of the respondent is also violative to the Article 4 and 25 of the constitution of Islamic Republic of Pakistan, 1973 as the appellant has been treated with discrimination. In the instant case one officer namely Hussan Zada involved in the same case and on the same charges but the charges against him has been withdrawn vide impugned order dated 23-01-201, hence the act of the respondent is also violative to Article 27,37 and 38 of the constitution of Islamic Republic of Pakistan, 1973;
- E. That the assertions made by the respondent-department in the impugned order in respect of personal hearing is just an eye wash as the appellant was not heard absolutely under the law despite of under bounden duty. Here too, they have not been provided any opportunity of defense in order to prove him innocent. All the charges leveled against the appellant are incorrect, base-less and unfounded. No independent witness has been made a part of the record against the appellant which supports the version of respondent-department.

Amm


F. That the impugned order dated 23-01-2018 and show cause notice dated 22-11-2017, in fact, are 'blank' and defective documents which are not conveying the proved allegations. On the contrary, the law provides the appellant a vested right to know as to which and how charges stood proved against him. By violating the relevant provisions of the law, his right was overlooked which amounted to denial of reasonable opportunity provided under the law. As a result, the penalty order was affected by knowingly avoiding such a mandatory provision of the law.

G. That it is well settled proposition of law that where nature of charges in a departmental inquiry is such that the same could not be proved without recording statements of witnesses, then holding of a regular inquiry through an inquiry officer cannot be dispensed with. In absence of an independent regular inquiry in the charge of unauthorized absence the appellant can neither be held guilty nor can he be imposed penalty of compulsory retirement from service, as held by the superior courts in a number of cases including the following:-

- i. 2004-SCMR-316
- ii. 2004-PLC-CS-524
- iii. 2002-SCMR-57
- iv. 2001-SCMR-1566
- v. 2000-SCMR-1321 & 1868

H. That on merit, the appellant has explained his position in details in his departmental appeal, the contents of which may be treated as integral part of this appeal to avoid repetition and for the sake of brevity.

I. That the impugned order has been passed without issuing a final show cause notice or without affording an opportunity of personal hearing which in mandatory provision of law, hence the impugned order is against the principle of natural justice and also against the dictum laid down by the apex Court in its judgments reported as 2000-SCMR-1034 and 1994-SCMR-2232;

J. That Before initiation of the fact finding inquiry, the appellant was persuaded and put under undue influence to make confessional statements with the promise that no disciplinary action would be taken against him. Now the appellant being proceeded against under Federal Levies. Any statements recorded before initiation of fact finding inquiry cannot be relied upon against an accused, as held in 1988-PLC-CS-451. Further after recovery of loss of curtains, he cannot be charge-sheeted for the same offence again. Such an action would definitely amount to double jeopardy. On this reliance may be placed on 1989-SCMR-1224.

K. That it is an established law that a mere confessional statement is not sufficient for conviction. Such a statement must be corroborated by the circumstantial evidence, which was lacking in the instant case. Therefore the appellant was wrongly sentenced.

L. That the impugned order has been passed without due application of mind. The authority acted in mechanical way and influenced by extraneous considerations. The impugned order is therefore violative of Section 24-A of General Clauses Act, 1897 which provides that an authority vested with a power to make any order is bound to exercise that power reasonably, justly, fairly and for the advancement of the purpose for which such power is vested in him. The authority is further bound to mention the reasons for passing the adverse order. In the instant case the authority has failed to act reasonably, justly and fairly in that the appellant was not associated in fact finding inquiry and also not supplied copy of any inquiry report. Secondly, he was not communicated proper reasons for holding the appellant guilty and turning down his viewpoint.

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- M. That no charge sheet whatsoever has been issued to the appellant, which is mandatory requirement, therefore, the proceedings initiated and impugned order passed without issuing a charge sheet is not maintainable in the eye of law. It is proscribed manner, but in the instant case neither the formal procedure has been adopted by the respondents nor has the appellant been given a fair chance of defense.
- N. That the appellant was not afforded an opportunity of personal hearing. He was thus condemned unheard which is against the principles of natural justice and fair play.
- O. That even otherwise the penalty imposed upon the appellant is very harsh and does not commensurate with the facts and circumstances of the case of the appellant which is not maintainable in the eye of law;
- P. That by imposition of the major penalty, the appellant has been deprived of the means of livelihood without considering his viewpoint, which is against the Constitutional Obligation imposed on the State and its Agencies regarding Promotion of Social Justice. On this reliance may be placed on 1994-SCMR-2232.

PRAYER

It is therefore respectfully prayed that by acceptance of the instant appeal with costs the impugned order dated 23-01-2018 and appellate impugned order dated 03-09-2018 may be set aside/ quashed/ declared illegal/ unlawful and consequently, the appellant may be reinstated in service with all back benefits.

Any other relief, which this Honourable Tribunal deems fit and appropriate, may also be granted.

Nehaluddin
Appellant

Through :-

M
MISBAH ULLAH KHAN
ADVOCATE, SUPREME COURT

AMAAD NASIR KUNDI
Advocate High Court

MUHAMMAD RAFIQ KHATAK
Advocate High Court

Atul
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Judgement Sheet
IN THE FEDERAL SERVICE TRIBUNAL, ISLAMABAD

BEFORE : **Qazi Khalid Ali, Chairman and**
: **Raja Hasan Abbas, Member**

S. No.	Appeals No.	Appellants	Date of Institution
1.	87(P)CS/2019	Mr. Sher Gulab, Ex-Sepoy, S/o Bacha Syed, R/o Shandai Morh, Shandai, P.O. Khar, Tehsil Khar, District Bajaur	18.01.2019
2.	88(P)CS/2019	Najeeb Ullah, Ex-Sepoy, S/o Shina R/o Bara Laghary, P.O. Tarkho, Tehsil Mamund, District Bajaur	18.01.2019
3.	89(P)CS/2019	Saleem, Ex-Sepoy, S/o Saeed ur Rehman, R/o Meena Mamund P.o. Tarkho, Tehsil Mamund, District Bajaur Agency	18.01.2019
4.	1118(P)CS/2017	Bacha Muhammad, Ex-Sepoy S/o Gul Muhammad, R/o Gang, P.O. Khar, Tehsil Khar, District Bajaur Agency.	18.10.2017
5.	1221(P)CS/2017	Muhammad Yar, Ex-Sepoy, R/o P.O. Raghagan, Odigerum, Salarzai, District Bajaur Agency.	06.12.2017
6.	862(P)CS/2018	Shireen. Havaladar, S/o Painsa Khan R/o Pashat P.O. Khar, Tehsil Salarzai, District Bajaur Agency.	15.05.2018
7.	85(P)CS/2019	Saur Khan, Ex-Sepoy, S/o Chamni Khan, R/o Mano Dherai, P.O. Gharday Tehsil Utman Khel, District Bajaur Agency.	18.01.2019
8.	86(P)CS/2019	Jamal ud Din, Ex-Sepoy. S/o Mainawar, R/o Odigram. P.O. Raghgan, Tehsil Salarzai, District Bajaur Agency.	18.01.2019
9.	93(P)CS/2019	Ummer Rehman S/o Wali Muhammad, Ex-Khasadar. R/o Lagha Post Office Annayat Kalay, Tehsil Memond, District Bajaur Agency.	07.02.2019
10.	94(P)CS/2019	Mudeer Khan S/o Muhammad Noor, Ex-Sepoy R/o Lagha Post Office Annayat Kalay, Tehsil Memond. District Bajaur Agency.	07.02.2019
11.	95(P)CS/2019	Abdul Azim Jan, Ex-Khasadar, Reg # 3700, Bajour Levies	07.02.2019
12.	264(P)CS/2019	Hayyat Khan S/o Mian Gul Jan Ex-Khasadar, R/o Gaga Post Office Teshil Mamond, District Bajaur Agency.	21.03.2019
13.	1008(P)CS/2018	Baz Muhammad, Ex-Sepoy, S/o Sher Muhammad R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
14.	1010(P)CS/2018	Muhammad Khan, Ex-Sepoy, S/o Muhammad Ahaz, R/o Tarkho P.O. Khar, Tehsil Barang, Ex-Sepoy, District Bajaur Agency, District Bajaur Agency.	08.06.2018
15.	1011(P)CS/2018	Fos Khan, Ex-Sepoy, S/o Ahwan, R/o Kat Kot P.O. Tarkho Tehsil Barang, District Bajaur Agency.	08.06.2018
16.	1019(P)CS/2018	Abdul Rehman, Ex-Sepoy, S/o Nadir Khan, R/o Bati Khar, District Bajaur Agency.	08.06.2018
17.	1022(P)CS/2018	Muhammad, Ex-Sepoy, S/o Murad Gul R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018

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18.	1023(P)CS/2018	Wazir Khan, Ex-Sepoy, S/o Khial Gul, R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
19.	1024(P)CS/2018	Faiz Khan, Ex-Sepoy, S/o Shehzada R/o Mandal Tehsil Khar, District Bajaur Agency.	08.06.2018
20.	1025(P)CS/2018	Abdul Hadi, Ex-Sepoy, S/o Muhammad Hassan, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
21.	1026(P)CS/2018	Shoukatullah, Ex-Sepoy, S/o Musafar R/o Kat Kot, P.O. Tarkho, District Bajaur Agency.	08.06.2018
22.	1028(P)CS/2018	Sultan Muhammad, Ex-Sepoy, S/o Abdul Ameen, R/o Khar, Tehsil Salarzai, District Bajaur Agency.	08.06.2018
23.	1030(P)CS/2018	Sardar Alam, Ex-Sepoy, S/o Muhammad Alam, R/o Tarkho, P.O. Khar, Tehsil Khar, District Bajaur Agency.	08.06.2018
24.	1031(P)CS/2018	Noor Sim, Ex-Sepoy, S/o Saz Noor, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
25.	1032(P)CS/2018	Waheed Ullah, Ex-Sepoy, S/o Lal Khan, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
26.	1033(P)CS/2018	Qadir Khan, Ex-Sepoy, S/o Hazrat Gul R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
27.	1035(P)CS/2018	Niaz Muhammad, Ex-Sepoy, S/o Taj Muhammad Said, R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
28.	1036(P)CS/2018	Gul Bar Gul, Ex-Sepoy, S/o Alam Khail R/o Tarkho, P.O. Khar Tehsil Barang, District Bajaur Agency.	08.06.2018
29.	1037(P)CS/2018	Naeem Ex-Sepoy, S/o Behram Khan R/o Dabar Barsadin, P.O. Pasht Salarzai, District Bajaur Agency.	08.06.2018
30.	1038(P)CS/2018	Asmad Yar, Ex-Sepoy, S/o Syed Akbar Khan, R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
31.	1042(P)CS/2018	Noor Muhammad, Ex-Sepoy, S/o Niaz Muhammad, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
32.	1043(P)CS/2018	Naseeb Shah, Ex-Sepoy, S/o Gul Said, R/o Tarkho, P.O. Khar Tehsil Barang, District Bajaur Agency.	08.06.2018
33.	1044(P)CS/2018	Anwar Ex-Sepoy, S/o Chaman R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
34.	1088(P)CS/2018	Fazal Ameen, Ex-Sepoy, S/o Musharaf, R/o Sadiq Abad Paktak, P.O. Khar, District Bajaur Agency.	10.07.2018
35.	1349(P)CS/2018	Siraj ud Din, Ex-Sepoy, s/o Malak Toor Khan R/o P.O. Khar, Tehsil. Salarzai, District Bajaur Agency.	16.08.2018
36.	1350(P)CS/2018	Muhammad Zada, Ex-Sepoy, S/o Lajbar, R/o Kher Kano, P.O. Khar, Tehsil Salarzai, District Bajaur Agency.	16.08.2018
37.	1351(P)CS/2018	Gul Zada, Ex-Sepoy, S/o Pachay, R/o Hayat e Skandaro, P. O Karoee, Tehsil Utmankhel, District Bajaur Agency.	16.08.2018
38.	377(P)CS/2019	Nisar Khan Ex-Sepoy, S/o Nadir Khan R/o	23.04.2019

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		Mano Dheri, P.O. Gardai, Tehsil Utman Khel, merged District Bajaur Agency	
39.	781(P)CS/2017 with MP	Abdullah Jan, Naib Subedar, R/o Reedo Shah Gai, Yusuf Abad, P.O. Khar, Raado Shah Ghai, Tehsil Khar, District Bajaur Agency	26.05.2017
40.	742(P)CS/2018	Abdullah Jan, Ex-Naib Subedar, S/o Bakhtiar, Reedo Shah Gai, Yusuf Abad, P.O. Khar Raado Shah Ghai, Tehsil Khar, District Bajaur Agency	18.04.2018
41.	743(P)CS/2018	Munasib Khan, Ex-Naib Subedar, R/o Mir Afzal Labour Colony C/o Asar Khan S/o Mashoq Khan Quarter No. 10, District Mardan	18.04.2018
42.	744(P)CS/2018	Jan Alum, Ex-Naib Subedar, R/o Mir Afzal Labour Colony C/o Asar Khan S/o Mashoq Khan Quarter No. 10, District Mardan	18.04.2018
43.	1441(P)CS/2018	Rehmat Gul, Ex-Subedar Major, S/o Hameed Gul R/o P/o Khar Shah Narai, Tehsil Khar District Bajaur Agency	19.10.2018
44.	527(P)CS/2016	Naeem Khan, Ex-Sepoy, S/o Akbar Khan R/o Muharram Ghundai, P.O. Khar, Tehsil Khar, District Bajaur Agency	11.08.2016
45.	546(P)CS/2016	Mohammad Younas, Ex-Sepoy, R/o Moltallah Eid Gah, Tehsil Khar, District Bajaur Agency	26.08.2016
46.	857(P)CS/2018	Muhammad Shah, Ex-Sepoy, S/o Noor Zamini, R/o Ghar Shamoza Barkalay, P.o Qalangai Sher Batai, Tehsil Barang, District Bajaur Agency	11.05.2018
47.	858(P)CS/2018	Saeed Gul, Ex-Sepoy S/o Ajab Gul, R/o Sher Batai, P.O. Qalangai, Tehsil Barang, District Bajaur Agency	11.05.2018
48.	974(P)CS/2018	Muhammad, Ex-Sepoy, S/o Itbar Gul, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency	25.05.2018
49.	975(P)CS/2018	Abdul Haq, Ex-Sepoy, S/o Rofat Khan R/o Muslim Bagh, P.O. Inayat Kalay, District Bajaur Agency.	25.05.2018
50.	976(P)CS/2018	Waheed Ullah, Ex-Sepoy, S/o Gul Nazir, R/o Shah Saray P. O. Pnshat Salarzai, District Bajaur Agency.	25.05.2018
51.	980(P)CS/2018	Muhammad Jamshed, Ex-Sepoy, S/o Muhammad Shah, R/o Garodi, P.O. Gazafi, District Bajaur Agency.	25.05.2018
52.	1409(P)CS/2018	M. Farooq, Ex-Sepoy, R/o Ladaee Tarkho, Tehsil Mamond, District Bajour Agency	28.09.2018
53.	1410(P)CS/2018	Shah Hussain, Ex-Sepoy, Reg # 5155, District Bajour Agency	28.09.2018
54.	1411(P)CS/2018	Ikram S/o Syed Ahmad, Ex-Sepoy, R/o Ladaee Tarkho, Tehsil Mamond, District Bajour Agency	28.09.2018
55.	1412(P)CS/2018	Abdullah Ex-Sepoy, R/o Village Shanki, Tehsil Khar, District Bajour Agency	28.09.2018
56.	1431(P)CS/2018	Shahzad ur Rehman Ex-Assistant/Reader, S/o Haji Rehmat Karim R/o Moh. Kass, P.O. Dir, Dit Town, Tehsil Dir, Upper Dir.	09.10.2018
57.	1503(P)CS/2018	Laiq Rehman, Ex-Levy Sepoy, R/o Village Kot Tehsil Batkhela District Malakand	14.11.2018
58.	877(P)CS/2017	Feroz S/o Muhammad Shah, Ex-Sepoy R/o Hital Khail Charmang, Tehsil Nawagai,	21.06.2017

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		Bajaur Agency.	
59.	878(P)CS/2017	Aziz Ullah S/o Gul Zaman, Sepoy, C/o Fazal Haq R/o Khar, Tehsil Khar, Bajaur Agency	21.06.2017
60.	879(P)CS/2017	Fazal Haq S/o Muhammad Hakeem, Sepoy, R/o Khar, Tehsil Khar Bajaur Agency.	21.06.2017
61.	880(P)CS/2017	Burhan S/o Gul Zaman, Sepoy, C/o Fazal Haq, R/o Khar, Tehsil Khar, Bajaur Agency.	21.06.2017
62.	263(P)CS/2019	Muhammad Ameen. Ex-Khasadar. R/o Gaga Post Office, Tehsil Mamond, District Bajaur Agency	21.03.2019
63.	91(P)CS/2019	Said Aziz, Sepoy, S/o Saeed Rahim Jan, R/o Aman Kot, District Tribal Bajaur.	04.02.2019
64.	178(P)CS/2019	Liaqat Khan, Ex-Sepoy, s/o Abdullah R/o Dag Qila P.O. Raghan Tehsil Salarzai, District Bajaur Agency	14.02.2019
65.	252(P)CS/2019	Habib Rasool, Ex-Sepoy, S/o Bahri Mulk, R/o Mohallah Boodha Baba Oach, Tehsil Adin Zai & District Dir Lower.	20.03.2019
66.	344(P)CS/2019 With MP	Amir Nawab, Subedar, Malakand Levies at Malakand.	03.04.2019
67.	831(P)CS/2019	Shaifullah, Sepoy, R/o Anayat Kalay, Kakah Tehsil Mamond, District Bajaur Agency	08.11.2019
68.	832(P)CS/2019	Khan Alam, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajour Agency.	08.11.2019
69.	833(P)CS/2019	Abdul Qayyum, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajour Agency.	08.11.2019
70.	834(P)CS/2019	Alam Zeer, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajour Agency.	08.11.2019
71.	835(P)CS/2019	Dilwar Khan, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajour Agency.	08.11.2019
72.	13(P)CS/2017	Muhammad Ayaz, Moharrir/Sepoy No.5010, Malakand Levies, District Malakand.	11.01.2017
73.	777(P)CS/2019	Sajjad Ali, Sepoy, S/o Ghulam Jan, Villag Kulala, P/o Gardai Tehsil utaman Khel, Tribal Bajaur District	

Misc. Petition for Implementation

74.	MP No.320/2018 1106(P)CS/2017	Nasir Khan S/o Fateh Mal Khan R/o Village Qazafi, Bandagai Marano Sha, Tehsil Utmankhel, District Bajaur Agency	16.02.2018
75.	MP No.321/2018 1116(P)CS/2017	Navah Zada S/o Nadir Khan R/o Shiinkay Utmankhel, Tehsil Utmankhel, District Bajaur Agency	16.02.2018
76.	MP No.2488/2018 591(P)CS/2015	Ismail S/o Imtiaz Jan. Ex-Sepoy, R/o Badi Samar P.O. Inayat Kaly, District Bajaur Agency	28.12.2018
77.	MP No.2487/2018 38(P)CS/2016	Fazal Malik Ex-Sepoy S/o Ghulam Rabani, R/o Kaga Landi, Tehsil Mamond District Bajaur Agency	28.12.2018
78.	MP No.2098/2018 19(P)CS/2014	Hameed Ullah S/o Muzammil Khan Ex-Sepoy, R/o Alizo Dag, Tehsil Khar, District Bajaur Agency	13.11.2018
79.	MP No.2099/2018	Muhabat Khan, Ex-Sepoy, S/o Rehnat	14.11.2018

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	348(P)CS/2014	Khan R/o Qillah Ali Jan Tehsil Khar, District Bajaur Agency	
80.	MP No.342/2018 1117(P)CS/2017	Fazal i Wahid r/o Khar, Tehsil Nawagai, District Bajaur Agency	21.02.2018
81.	MP No.343/2018 1119(P)CS/2017	Bacha Reahim S/o Abdul Saeed R/o Madil Dianga, P.O. Khar, District Bajaur Agency	21.02.2018
82.	MP No.344/2018 1120(P)CS/2017	Mansoor Ahmed S/o Said Muneer R/o Barani Kandaro P.O. Khar Tehsil Khar, District Bajaur Agency	21.02.2018
83.	MP No.345/2018 1121(P)CS/2017	Nisar Khan S/o Khan Bachai R/o Salarzai, Koi, P.O. Raghan Tehsil Khar, District Bajaur Agency	21.02.2018
84.	MP No.346/2018 1122(P)CS/2017	Bacha Rehman s/o Muhammad Yousaf R/o Mandal Dianga, P.O Khar, Tehsil Khar, District Bajaur Agency	21.02.2018
85.	MP No.347/2018 1123(P)CS/2017	Amin Ullah S/o Din Muhammad R/o Momand, Tehsil Salarzai District Bajaur Agency	21.02.2018
86.	MP No.348/2018 1125(P)CS/2017	Gulab Khan S/o Razi Khan, R/o Village Bajigrm, Tehsil Salarzai, District Bajaur Agency	21.02.2018
87.	MP No.349/2018 1126(P)CS/2017	Alif Khan S/o Sharif Khan R/o Village Siya Baran, Tehsil Barang, District Bajaur Agency	21.02.2018
88.	MP No.350/2018 1127(P)CS/2017	Yar Muhammad S/o Ali Muhammad R/o Village Haryan Kot, Tehsil Barang, District Bajaur Agency	21.02.2018
89.	MP No.351/2018 1128(P)CS/2017	Faiz Ullah S/o Zubair Khan R/o Village Khar, Tehsil Khar, District Bajaur Agency	21.02.2018
90.	MP No.352/2018 1129(P)CS/2017	Amir Badshah S/o Shah Zad Mir, R/o Village Takht Barang, Tehsil Khar, District Bajaur Agency	21.02.2018
91.	MP No.353/2018 1130(P)CS/2017	Abdul Hakim S/o Ahmed Jan R/o Village Mano Dherai, Tehsil Utmankhel, District Bajaur Agency	21.02.2018
92.	MP No.354/2018 1131(P)CS/2017	Muhammad Zada S/o Ali Muhammad R/o Village Shinko, Tehsil Utmankhel, District Bajaur Agency	21.02.2018
93.	MP No.355/2018 1132(P)CS/2017	Ahmad Yousaf S/o Abdul Wakeel Khan R/o P.O. Khar, Tehsil Khar, District Bajaur Agency	21.02.2018
94.	MP No.356/2018 1133(P)CS/2017	Rizwan Ullah S/o Gul Nabi, R/o Ali Zo Dag, Tehsil Khar, District Bajaur Agency	21.02.2018
95.	MP No.357/2018 1134(P)CS/2017	Abdul Wakeel S/o Sultan Muhammad R/o Ali Zo, P.O. & Tehsil Khar, District Bajaur Agency	21.02.2018
96.	MP No.358/2018 1135(P)CS/2017	Israr Khan S/o Nowsherwan R/o Shenky, Ali Zai, Tehsil Khar, District Bajaur Agency	21.02.2018
97.	MP No.359/2018 1136(P)CS/2017	Asmat Khan S/o Bakht Zareen R/o Sara Cheena Tehsil Khar, District Bajaur Agency	21.02.2018
98.	MP No.2144/2016 340(P)CS/2014	Shoaib S/o Gulab Karim, Ex-Sepoy, R/o Kot kay Tehsil Salarzai, District Bajaur Agency	04.11.2016
99.	MP No.352/2017 211(P)CS/2014	Ghulam Qadir S/o Kalam Khan, Ex-Sepoy, R/o Atkay P.O. Raghan, Tehsil Salarzai, District Bajaur Agency	10.02.2017
100.	MP No.353/2017 301(P)CS/2014	Anwar Zeb S/o Said Karim, Ex-Sepoy, R/o Qamar Dag, Tehsil Khar, District Bajaur Agency	17.11.2014

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101.	<u>MP No.354/2017</u> 312(P)CS/2014	Sahib Zada S/o Madali Jan, Ex-Sepoy, R/o Islam Dahri, Utman Khil, District Bajaur Agency	10.02.2017
102.	<u>MP No.1017/2017</u> 584(P)CS/2015	Hussain Badshah, Ex-Sepoy, S/o Amir Nawab, R/o Dag Qila P.O Khar, District Bajaur Agency.	17.04.2017
103.	<u>MP No.935/2017</u> 635(P)CS/2015	Hafiz ur Rehman, Ex-Sepoy, S/o Shams ur Rehman R/o Khar P.O. Khar, District Bajaur Agency.	06.04.2017
104.	<u>MP No.936/2017</u> 10(P)CS/2016	Firdoos Khan, Ex-Sepoy, S/o Zar Muhammad, R/o Guman Kot, P.O. Khar, Tehsil Barang, District Bajaur Agency.	06.04.2017
105.	<u>MP No.937/2017</u> 14(P)CS/2016	Muhammad Sarwar Khan, Ex-Sepoy, S/o Naik Muhammad R/o Rod Soli Khar Tehsil Salarzai, District Bajaur Agency.	06.04.2017
106.	<u>MP No.934/2017</u> 24(P)CS/2016	Suleman Khan, Ex-Sepoy, S/o Muhammad Gul R/o Skandaro Tehsil Utman Khail District Bajaur Agency.	06.04.2017
107.	<u>MP No.938/2017</u> 27(P)CS/2016	Sarwar Ex-Sepoy, S/o Ameer Gul, R/o Qumber P.O. Khar, Tehsil Barang, District Bajaur Agency	06.04.2017
108.	<u>MP No.2118/2018</u> 27(P)CS/2014	Nawab Khan S/o Gul Qayum Ex-Sepoy, R/o Nogay Tehsil Khar, District Bajaur Agency	19.11.2018

Review Petitions.

109.	<u>RP No.78/2019</u> 711(P)CS/2017	Asghar Khan, Sepoy, Tehsil Khar, District Bajaur Agency.	19.06.2019
110.	<u>RP No.84/2019</u> 720(P)CS/2017	Umer Ayub, Sepoy, Tehsil Khar, District Bajaur Agency.	28.06.2019
111.	<u>RP No.85/2019</u> 721(P)CS/2017	Imran, Sepoy, Tehsil Khar, District Bajaur Agency.	28.06.2019
112.	<u>RP No.86/2019</u> 722(P)CS/2017	Nowshad, Sepoy, Tehsil Khar, District Bajaur Agency.	28.06.2019
113.	<u>RP No.87/2019</u> 723(P)CS/2017	Noor Zada, Sepoy, Tehsil Chum, Khar, District Bajaur Agency.	28.06.2019
114.	<u>RP No.88/2019</u> 724(P)CS/2017	Ghulam Younis, Sepoy, Sadiqabad, Tehsil Khar, District Bajaur Agency.	28.06.2019
115.	<u>RP No.89/2019</u> 725(P)CS/2017	Najeeb Ullah, P.O. Sepoy Annayat Kalay, Katkoot Tehsil Momand, Bajaur Agency.	28.06.2019
116.	<u>RP No.90/2019</u> 726(P)CS/2017	Shams ur Rehman, Sepoy Annayat Kalay, Katkoot Tehsil Momand, Bajaur Agency.	28.06.2019
117.	<u>RP No.91/2019</u> 760(P)CS/2017	Saeed Habib Jan, R. No. 4322, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019
118.	<u>RP No.92/2019</u> 761(P)CS/2017	Abdullah R. No. 3413, Sepoy, Bajaur levies. Bajaur Agency Khar	28.06.2019
119.	<u>RP No.93/2019</u> 762(P)CS/2017	Mozamin, R. No. 4384, Sepoy, Bajaur levies. Bajaur Agency Khar	28.06.2019
120.	<u>RP No.94/2019</u> 763(P)CS/2017	Saeed Ullah, R. No. 4279, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019
121.	<u>RP No.95/2019</u> 764(P)CS/2017	Imran, R. No. 4769, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019
122.	<u>RP No.96/2019</u> 766(P)CS/2017	M. Ayub, R. No. 5806, Sepoy, Bajaur levies. Bajaur Agency Khar	28.06.2019
123.	<u>RP No.97/2019</u> 767(P)CS/2017	Faizullah R. No. 4366. Sepoy, Bajaur levies. Bajaur Agency Khar	28.06.2019
124.	<u>RP No.98/2019</u> 768(P)CS/2017	Imran Ullah, R. No. 4775, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019

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125.	<u>RP No.99/2019</u> <u>776(P)CS/2017</u>	Tilla Muhammad, R. No. 4508, Sepoy, Bajaur levies, Bajaan Agency Khar	28.06.2019
126.	<u>RP No.100/2019</u> <u>777(P)CS/2017</u>	Abdul Rahim, R. No. 5883, Sepoy, Bajaur levies, Bajaan Agency Khar, R/o P.O. Loe Same Sharif Khan Tehsil Nawagai, District Bajour Agency.	28.06.2019
127.	<u>RP No.101/2019</u> <u>778(P)CS/2017</u>	Rohul Amin, R. No.4293, Sepoy, Bajaur levies, Bajaan Agency Khar, R/o P.O. Loe Same Sharif Khan Tehsil Nawagai, District Bajour Agency.	28.06.2019

Date of Hearing	:	28.11.2019
Date of Judgement	:	04.12.2019

-:VS:-

RESPONDENTS

1. The Secretary, SAFRON, Islamabad.
2. The Additional Chief Secretary, FATA Civil Secretariat (FATA), Warsak Road, Peshawar.
3. The Political Agent/Commandant/Deputy Commissioner Bajaur Levies, District Bajaur at Khar.
4. Mr. Farced Ullah, Subedar Major (BS-16), Malakand Levies at Malakand.
5. Mr. Muhammad Hussain, N/Subedar, Reg. No.3164, posted in the office of Political agent/commandant/Deputy Commissioner, Bajaur Levies, District Bajaur at Khar.

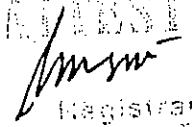
PRESENT

Mr. Misbahullah Khan, Rana Samreen Akhtar, Noor Muhammad Khattak, Sardar Saleem Akhtar and Amaad Nasir Kundi, Advocates for the Appellants. Ch. Ishtiaq Meherban, Deputy Attorney General for the Federation, Mr. Siraj Haider, Legal Coordinator, M/o SAFRON, Mr. Nisar Khan, Asstt. Accounts Officer, District Accounts Office, Malakand and Mr. Sajjad Ahmad, Litigation Clerk, Deputy Commissioner's Office, Bajaur as DRs and Mian Gulzar Hussain, Advocate for Respondent No.4

JUDGEMENT**RAJA HASAN ABBAS, MEMBER:-**

These appeals and petitions can be categorized into appeals, implementation petitions and review petitions.

2. Appellants are ex-employees of Federal Levies Force. The Competent authority imposed major penalty of dismissal from service in most of the cases on charge of misconduct, whereas in some other cases they were retired. Aggrieved by these orders instant appeals were filed before Federal Service Tribunal which are pending decision. Notices were issued to the respondents i.e. M/o SAFRON, FATA Secretariat through Additional Chief Secretary, FATA and the concerned Political Agent/Commandant.

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 Federal Service Tribunal
 Islamabad

Attar


Comments/objections were received partially and in most of the cases notices were being issued for submission of the same. In the meantime, Federal Government through 25th Constitutional Amendment Act passed in May, 2018 paved the way for merger of FATA in the province of Khyber Pakhtunkhwa. As a result thereof Government of KPK issued Ordinance 1 of 2019 (later passed as an Act), in order to allow Federal Levies Force to continue their functions and to regulate and maintain them under the administrative control of Government of KPK. The force was renamed as Khyber Pakhtunkhwa Levies Force under Section 3 of the Act, comprising the Director General, the Deputy Director General, Commandant and all existing strength of members of the Levies Force, working in the merged Districts and Sub-divisions. Above mentioned Officers would be the Officers from Police. Section 9 of the Act provided for absorption of the members of Federal Levies in the Police. Section 9 (2) stipulates that "until their absorption in the police, the members of the Levies Force shall be governed by their existing terms and conditions of service under Federal Levies Force (Service) Rules, 2012.

3. It is important to refer to a letter from M/o SAFRON dated 24th April, 2019 addressed to Secretary Home & Tribal Area Department, Government of KPK on the subject pertaining to service matters regarding Levies/Khassadars, admitted in Federal Service Tribunal, Islamabad. It is imperative to reproduce para 2-3 of the letter:-

"2. It is stated that consequent to the 25th Constitutional Amendment, the erstwhile PATA and FATA have been merged into the province of Khyber Pakhtunkhwa. Furthermore, on 12th March, 2019 the Government of Khyber Pakhtunkhwa has promulgated two Ordinances whereby the Federal Levy Force and Khassadar Force, stand provincialized. We had already written to the concerned Registrars of Courts and Service Tribunals to delete the name of Secretary, SAFRON from the array of respondents.

3. It is requested that these alongwith future appeals in connection to the Federal Levy Force and Khassadar Force, may now be addressed at your end while ensuring that reports/comments are submitted to Honorable Federal Service Tribunal, Islamabad on the scheduled date of hearings.

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Federal Service Tribunal
Islamabad

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Another Memorandum from M/o SAFRON dated 18th March, 2019 addressed to Chief Secretary, KPK, Advocate General, KPK and Additional Chief Secretary, Merged Areas Secretariat states as under:-

"Now, therefore all the administrative, legal and ancillary matters, including service appeals, promotions and litigation in respect of both the forces i.e. Levies Force and Khasadar Force have been transferred to the Government of Khyber Pakhtunkhwa and its relevant forums from 12th March, 2019, the date of the issuance of above said Ordinance.

It is clarified that Ministry of States and Frontier Regions (SAFRON) has ceased to be the controlling authority in respect of Levies Force and Khasadar Force working in erstwhile FATA & PATA. All concerned commandants and others Forums may kindly be informed accordingly".

4. It was in this back drop that we had issued Notices to the learned Attorney General for Pakistan in accordance with Orders 27 Rule 1 of CPC to assist the Tribunal with regard to the point of jurisdiction as well s 25th Constitutional Amendment including interpretation of Levies Amendment Rules, 2013. After hearing the learned Deputy Attorney General and counsels of the appellants on 30.07.2019 a detailed order was passed. Relevant portion is reproduced:-

"7. We have carefully considered the arguments. Notwithstanding, the submissions made by the learned counsels, fact of the matter is that Government of Pakistan Ministry of States and Frontier region has made a formal request for their deletion from the list of the respondents in all these appeals with a further request that these matters may now be addressed to Secretary, Home and Tribal Areas Department, Government of Khyber Pakhtunkhwa.

8. By operation of the Ordinance supra and 25th Constitutional Amendment, employees of the Federal Levies and Khassadar Force have become provincial Government employees. In several implementation petitions, which are pending at the moment before the Tribunal, provincial Home and Tribal Area Department have been issued notices of appearance, however, they have shown very lukewarm response. This is despite the fact that notices were served through Chief Secretary, KPK. We are cognizant of the fact that Constitutional and legal provisions allow continuation of proceedings before the Tribunal, however, we are concerned

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 Federal Service Tribunal
 Islamabad

about the practical aspects of the issue. Since the petitioners have become provincial Government employees, no proceedings can move unless the respondent Provincial Government discharges its legal responsibilities.

9. It is therefore, imperative and prudent to direct Secretary Ministry of States and Frontier Region to depute an officer not below the rank of J.S to appear and assist the Tribunal in the matter.

10. Chief Secretary KPK Government is required to direct Secretary Home and Tribal Areas Department to depute an officer not below the rank of Additional Secretary (BS-19) to appear in the pending proceedings before the Tribunal.

11. Advocate General KPK is directed to depute a law officer to appear and assist the Tribunal in the matter on the next date".

5. Since then Provincial Government of KPK has been represented twice by learned Assistant Advocate General. He was not present today nor on 18.11.2019. We have not received any written statement on behalf of Government of KPK since 30.07.2019 despite clear direction vide order dated 18.11.2019.

6. Today we have heard learned Counsels of the appellants who are also present in large number. Learned Counsels of the appellants stated that the appellants are poor low paid employees. Since their dismissal in 2007-2008, they have been running from pillar to post for getting justice. The constitutional amendment and subsequent legislation has further complicated matters for them. However, the Tribunal is still vested with the jurisdiction as already determined vide order dated 30.07.2019 and the appeals may be decided on merits of each case.

7. We are conscious of the fact that the appellants are facing hardship on account of prolonged judicial proceedings. It is however, more dismaying that the respective provincial authorities are not paying due attention to these matters, pending before us. There is an attitude of indifference towards these proceedings. We are afraid even if the pending issues are decided on merit, their implementation would be still more complicated as is the case even now. No meaningful proceedings can take place in the absence of a positive response from Government of Khyber Pakhtunkhwa.

RECORDED
 18/11/2019
 JUDGE
 JUDICIAL TRIBUNAL
 PAKHTUNKHWA

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8. We have apprised the learned Counsels of the practical aspects/difficulties and with their consent remand all the pending appeals to the respective competent authority to treat them as pending departmental appeals and decide them afresh after giving the appellants opportunity of personal hearing. These appeals are disposed of in the above terms.

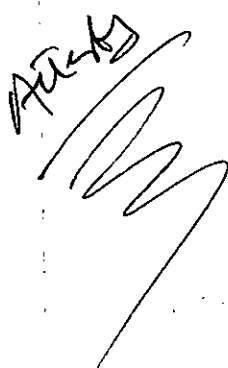
Misc. Petition Nos.320, 321, 2488,2487,2098,2099./2018, 342 to 359/2017, 2144/2016, 352 to 354, 1017, 935 to 937, 934, 938/2017, 2118/2018

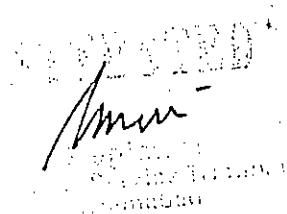
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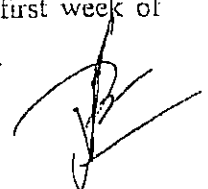
Appeal No.1106, 1116(P)CS/2017, 591(P)CS/2015, 38(P)CS/2016, 19, 348(P)CS/2014, 1117, 1119, 1120 to 1123, 1125 to 1136(P)CS/2017, 340, 211,304, 312(P)CS/2014, 584, 635, 10, 14, 24, 27(P)CS/2016 & 27(P)CS/2014

Above Misc. Petitions were filed seeking implementation of judgement dated 11.05.2015 and 30.10.2017. Whereas vide order dated 30.10.2017 direction were given for deciding pending departmental appeals, vide judgment dated 11.05.2015 directions were given for reinstatement of the appellants. However, for the question of back benefits it was directed to decide the same in accordance with instructions contained in Sl. No. 155 of ESTACODE (Edition 2007 Volume-II). The Petitioner have been reinstated however, through these petitions the issue of implementation of the order for determination of back benefits was raised. The respondents, despite repeated notices failed to respond and provide the latest status about implementation of the judgement.

10. These petitions are also remanded to the competent authority for implementation in the light of the direction of the Tribunal in Judgements dated 11.05.2015 and order dated 30.10.2017. A compliance report be furnished to the Registrar of the Federal Service Tribunal by first week of February, 2020. The petitions stand disposed of.

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FEDERAL SERVICE TRIBUNAL
REGISTRAR
ISLAMABAD



Review Petition Nos.78, 84 to 101/2019

in
Appeal No.711, 720 to 726, 760 to 764, 766 to 768, 776 to 778(P)CS/2017

This brings us to the above titled review petitions which were disposed of vide order dated 20.05.2019.

12. It is contended that the appellants were given to understand that with the promulgation of 25th Amendment, Federal Service Tribunal had been divested of jurisdiction. The provincial authorities were not inclined to listen to their grievances and it would be travesty of justice if they are left without any forum to seek justice.

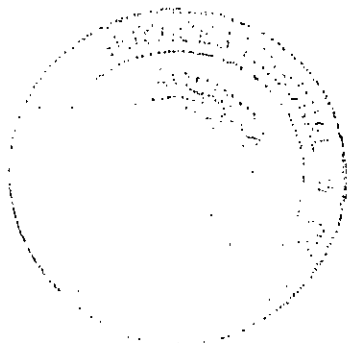
13. Strictly legally speaking the petition could not be entertained because of the limitation of scope of review. However, keeping in view the facts that finer legal aspects of the issues arising out of the merger of tribal areas and their administrative setup in KPK were beyond their comprehension and they might not have got the necessary assistance to pursue their appeals, we are inclined to *accept* these review petitions. As a result thereof the appeals are restored to their original numbers. The directions in para 8 of the judgement would apply *mutatis mutandis* in these appeals also.

14. Copies of the orders be sent to Chief Secretary KPK, Secretary, Home KPK, Commandant Levies Force, KPK for ensuring implementation of the judgment and submission of a report within three months to Registrar of the Federal Service Tribunal. Copy of the judgment be also sent to Secretary, M/o SAFRON and Secretary, Establishment Division.

15. No order as to costs. Parties will be informed.

Gulzar
04.12.2019

Sd/-
MEMBER
Sd/-
CHAIRMAN



REGISTRAR
FEDERAL SERVICE TRIBUNAL
ISLAMABAD

AJAZ



**IN THE COURT OF SECRETARY HOME
KHYBER PAKHTUNKHWA
(APPELLATE AUTHORITY)**

CASE TITLE:

**APPELLANT: SHAHZAD UR REHWAN, EX- ASSISTANT FEDERAL LEVIES, DIR UPPER
VERSUS
COMMANDANT LEVIES, DIR UPPER.**

FACTS AND DISCUSSION:

The applicant was appointed as Assistant in Federal Levies District Dir Upper in BPS-14 on dated 29.06.2010. The applicant was removed from service on 23.01.2018. The applicant submitted an appeal against decision of the deputy commissioner before the Competent Authority on 19.02.2018 for re-instatement into service. His appeal was rejected and he filed a case in Federal service Tribunal. The FST has remanded the appeal on 14.12.2019 to the respective competent authority for treating it as departmental appeal.

In light of Federal Service Tribunal Order, Deputy Commissioner, Commandant Dir Levies was asked to furnish comments in the instant case. The office of DC/Commandant, Dir Upper provided detailed response to the appeal substantiating the causes of his removal from service on 23.01.2018, embezzlement and remaining absent without any prior permission. Based on prolonged arguments, the commandant has prayed that the appeal does not merit consideration and may be filed keeping intact his removal order date 23.01.2018.

PROCEEDINGS:-

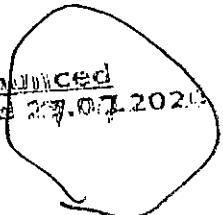
The applicant was heard on 22.02.2020 in person and all the relevant documents were scrutinized in detail. The statements of both parties i.e. the Office Dir Upper and that of applicant were thoroughly examined. The applicant prayed to accept his appeal and DC order may be set aside.

DECISION:-

In view of the facts and circumstances of the case and in absence of personal hearing, the appeal, being devoid of merit, is rejected. The appellant may be informed accordingly.

(IKRAM ULLAH)
SECRETARY HOME
KHYBER PAKHTUNKHWA

Announced
Dated 27.07.2020



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**IN THE COURT OF SECRETARY HOME
KHYBER PAKHTUNKHWA
(APPELLATE AUTHORITY)**

CASE TITLE:

Appellant Shahzad Ur Rehman Assistant Federal Levies Dir Upper
Versus
Commandant Levies, Dir Upper

INTRODUCTION

The applicant was appointed as Assistant in Federal Levies District Dir Upper in BPS-14 on dated 29.06.2010. The applicant was removed from service on 23.01.2018. The Applicant submitted an appeal against decision on the deputy Commissioner before the Competent Authority on 19.02.2018 for re instatement into service. His Appeal was rejected and he filed a case in Federal Service Tribunal. The FST has remanded the appeal on 14.12.2019 to the respective competent authority for treating it as departmental appeal.

In light of Federal Service Tribunal Order, Deputy Commissioner, Commandant Dir Levies was asked to furnish comments in the instant case the office of DC/ Commandant, Dir Upper provided detailed response to the appeal substantiating the cause of his removal from his service on embezzlement and remaining absent without any prior permission. Based on prolonged arguments the commandant has prayed that the appeal does not merit consideration and may be filed keeping intact his removal order date 23.01.2018.

Proceedings:-

The applicant was heard on 22.02.2020 in person and all the relevant documents were scrutinized in detail. The statements of both parties i.e. DC Office Dir Upper and that of applicant were thoroughly examined. The applicant prayed to accept his appeal and DC order may be set aside.

Decision:-

(Sic) of personal hearing, the appeal, being devoid of merit, is rejected. The Appellant may be informed accordingly.

sd/

Ikram Ullah
Secretary Home
Khyber Pakhtunkhwa

Announced
Dated 27.07.2020

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29-7-20

FROM : HOME-DEPTT-

FAX NO. : 0919210201

5 Aug. 2020 3:59PM P1



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIR DEPARTMENT**

No. SO (Police-II)/HD/6-212/019/Dir Upper
Dated Peshawar the 29.07.2020

To

The Deputy Commissioner,

Subject: Application Review for Personal Hearing

Dear Sir,

I am directed to refer to subject noted above and to enclose herewith a copy of order dated 29-07-2020 passed by Home Secretary on the Review Petition of Mr. Shahzad U. Rehman Ex-Low Assistant, District Dir Upper which is self explanatory for information and further necessary action.

The appellant may be informed accordingly.

Yours Faithfully,

Section Officer (Police-II) ed on
Ph No. 091-9210503 Fax No. 9210201

Encls as Above

Endst: No & date of even

Copy forwarded to:-

1. PS to Secretary Home & TA's Department.

Arif

بعد الت جناب سرورس ٹریڈ منسٹریل صوبہ سرحد پشاور

منجانب ایڈوائس

بناام تحکم

دعویٰ اصل

باعتبار سرورس ٹریڈ منسٹریل

باعتبار مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و عمل کاروائی متعلقہ ان مقام پشاور کیسٹم سٹیشن آفیسر خان سرورس نے ایڈوائس ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی عمل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر خلاف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور مرضی دعویٰ اور درخواست ہر قسم کی تعلیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری کیطرفہ یا اپیل کی برآمدگی اور مستحق بنیاد پر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مندرجہ کے عمل یا تقرری کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ نیز ساختہ شہادت قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل ۱۰٪ صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی بنیاد دورہ پر ہو یا عدت باہر ہو تو وکیل صاحب یا ہمد نہ ہوں گے کہ پیروی مذکور کریں۔ لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

الرقوم 20-08-13

M. Gadur Khan

القلم

القلم

القلم

سید محمد خان

سید محمد خان ہر وقت

ایڈوائس

ارباب سٹیشن
ایڈوائس

محمد

محمد لغمانی وکیل