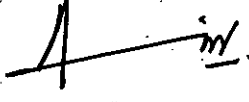


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

1409/2023

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 22/06/2023 | <p>The appeal of Mr. Irfan Alam resubmitted today by Syed Haziq Ali Shah Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p>By the order of Chairman  REGISTRAR</p> |

The appeal of Mr. Irfan Alam son of Alam Khan Assistant P&D Department Peshawar KP received today i.e on 20.06.2023 is incomplete on the following score which is returned to her attorney for the appellant for completion and resubmission within 15 days.

- 1- Appeal has not been flagged/marked with annexures marks.
- 2- Check list is not attached with the appeal.
- 3- Annexures of the appeal are unattested
- 4- Copy of impugned order dated 07.02.2023 is not attached with the appeal.
- 5- The paper used in printing of grounds of appeal is low standard.
- 6- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1820 /S.T,

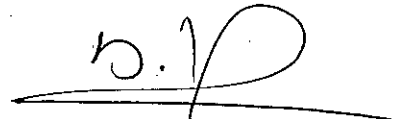
Dt. 21/6 /2023.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Haziq Ali Shah Adv.
High Court Peshawar.

Note

Objection Rana


22/6/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1409/2023

Irfan Alam

....Appellant

...VERSUS...

Government of KP through Chief Secretary & Others

.....Respondents

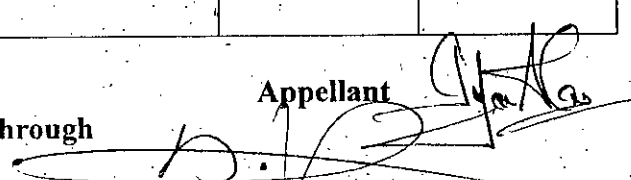
APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1973 AGAINST THE ORDER DATED 07.02.2023, WHEREBY THE APPELLANT/ IRFAN ALAM, ASSISTANT HAS BEEN AWARDED THE MAJOR PENALTY OF COMPULSORY RETIREMENT FROM SERVICE.

I N D E X

| S.NO | DESCRIPTION OF DOCUMENTS | ANNEX | PAGES |
|------|---|-------|----------|
| 1. | Service Appeal | | 1 - 3 |
| 2 | Affidavit | | 4 |
| 3 | Application for Suspension of Impugned Orders | | 5 - 6 |
| 4 | Affidavit | | 7 |
| 5 | Application for Condonation of Delay | | 8 - 9 |
| 6 | Affidavit | | 10 - 10A |
| 7 | Charge Sheet | A | 11 |
| 8 | Statement of Allegations | B | 12 |
| 9 | Inquiry Report | C | 13 - 16 |
| 10 | Show Cause Notice | D | 17 |
| 11 | Reply to the Show Cause Notice | E | 18 - 19 |
| 12 | Impugned Notification of Compulsory Retirement from Service | F | 20 |
| 13 | Copy of the Departmental Appeal | G | 21 - 23 |
| 14 | Vakalatnama | | |

Through

Appellant


Syed Haziq Ali Shah
Advocate Supreme Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 1409 / 2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6121

Dated 20/6/2023

Irfan Alam S/o Alam Khan
Assistant, P&D Department,
Peshawar, KP.

....Appellant

...VERSUS...

1. Government of KP through Chief Secretary, Civil Secretariat Peshawar
2. Secretary P & D, Civil Secretariat Peshawar
3. Chief Minister, Chief Minister Secretariat, *Peshawar*
4. Additional Secretary LGE & RDD/ Inquiry Officer, Civil Secretariat Peshawar

.....Respondents

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 07.02.2023, WHEREBY THE APPELLANT/
IRFAN ALAM, ASSISTANT HAS BEEN AWARDED THE MAJOR
PENALTY OF COMPULSORY RETIREMENT FROM SERVICE.

20/06/23
Respected Sir,

1. That Appellant besides having an unblemished service career also belong to a respectable family of Peshawar.
2. That the Appellant joined Planning & Development (P&D) Department in the year 2004 and his services were regularized in the year 2009 and ever since the Appellant appointment he has been performing his duties with honesty, zeal and devotion.
3. That the Appellant services were transferred to the CPEC Cell in February, 2019 as an Assistant.
4. That while serving as an Assistant in the CPEC Cell, Appellant was issued with a charge sheet and statement of allegations whereby disciplinary action was initiated against him.
5. That Mr. Muhammad Masood (PMS-19), Additional Secretary, Local Government Department was appointed as an Inquiry Officer to conduct an inquiry into the above mentioned allegations levelled against Appellant.

(Copies of Charge Sheet and Statement of Allegations are annexed herewith marked as A and B)

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

1409
Service Appeal No _____ / 2023

Irfan Alam
Assistant, P&D Department,
Peshawar, KP.

...Appellant

...VERSUS...

1. Government of KP through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary P & D, Civil Secretariat Peshawar.
3. Chief Minister, Chief Minister Secretariat, Peshawar
4. Additional Secretary LGE & RDD/ Inquiry Officer, Civil Secretariat Peshawar.

.....Respondents

**APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1973
AGAINST THE ORDER DATED 07.02.2023, WHEREBY THE APPELLANT/
IRFAN ALAM, ASSISTANT HAS BEEN AWARDED THE MAJOR
PENALTY OF COMPULSORY RETIREMENT FROM SERVICE.**

Respected Sir,

1. That Appellant besides having an unblemished service career also belong to a respectable family of Peshawar.
2. That the Appellant joined Planning & Development (P&D) Department in the year 2004 and his services were regularized in the year 2009 and ever since, the Appellant appointment he has been performing his duties with honesty, zeal and devotion.
3. That the Appellant services were transferred to the CPEC Cell in February, 2019 as an Assistant.
4. That while serving as an Assistant in the CPEC Cell, Appellant was issued with a charge sheet and statement of allegations whereby disciplinary action was initiated against him.
5. That Mr. Muhammad Masood (PMS-19), Additional Secretary, Local Government Department was appointed as an Inquiry Officer to conduct an inquiry into the above mentioned allegations levelled against Appellant.

(Copies of Charge Sheet and Statement of Allegations are annexed herewith marked as A and B)

2

6. That the Inquiry Officer conducted an inquiry into the allegations and gave the following findings:
- i. "Findings in respect of Charge No. 1: It has been proved on the basis of available record and details presented during the personal hearing that Mr. Irfan did not upload the fake appointment orders. Signatures on the appointment orders do not belong to him or to Mr. Abbasi. As a corollary to these findings, it is also proved that the appointment orders are fake. However, option of recourse to scientific means i.e. forensic science laboratory is available to P&DD
 - ii. Findings in respect of Charge No.2: Findings with reference to this charge are recorded under Charge No.3 below.
 - iii. Findings in respect of Charge No.3: The charge of taking bribe/ monetary gratification in lieu of appointment is not proved.
 - iv. Findings in respect of Charge No.4: The charge is proved to the extent of handing over fake appointment orders to Mr. Ismail Shah by Mr. Irfan.
 - v. Findings in respect of Charge No.5: Charge-5 stands proved to the extent that he was in contact with Mr. Ismail Shah and handed over fake orders of appointment to him."

(Copy of Inquiry Report is annexed herewith marked as C)

7. That upon the findings given in the Inquiry Report the Appellant was issued a Show Cause Notice dated 11.05.2022, whereby he was asked to show cause as to why the major penalty of Compulsory Retirement from Service should not be imposed upon the Appellant on account of inefficiency, misconduct and corruption. Appellant duly replied to the Show Cause Notice on 17.05.2022, wherein Appellant once again refuted the allegations against him and requested to be heard in person.

(Copies of Show Cause Notice and Reply to the Show Cause Notice are annexed herewith marked as D and E)

8. That the reply to the show cause notice submitted by Appellant was not considered and finally the impugned order/notification dated 07.02.2023 was issued to Appellant whereby the major penalty of Compulsory Retirement from Service was imposed upon Appellant without taking into account the findings mentioned in the Inquiry Report.

(Copies of Impugned Order/Notification dated 07.02.2023 is annexed herewith marked as F)

9. That the Appellant therefore filed Departmental Representation on 15.02.2023, however, the Departmental Representation has not been replied by the Respondent, hence the present Appeal.

(Copies of Departmental Representation is annexed herewith marked as G)

10. That the impugned order/notification dated 07.02.2023 whereby major penalty has been imposed upon Appellant is illegal unlawful against the law and facts hence is liable to be set aside on the following amongst other grounds:

G R O U N D S :


- A. Because the impugned notification/ order imposing major penalty is clearly in contradiction to the true facts and law.
- B. Because Appellant has never committed any act or omission which could be termed as inefficiency, corruption and/ or misconduct warranting the major penalty imposed upon him.
- C. Because the Appellant has an unblemished and spotless service career of 25/26, which speaks about Appellant's honesty and devotion towards his duties.
- D. Because the major penalty has been awarded to Appellant by completely disregarding and ignoring the findings of the Inquiry Officer.
- E. Because the imposition of major penalty of Compulsory Retirement from Service is harsh and against the norms of justice and most certainly against the principles of proportionality.
- F. Because the allegation that Appellant has received money from Muhammad Ismail for the appointment of his sons is based on a misunderstanding. Infact Appellant know Muhammad Ismail since long and Appellant had taken Rs. 500,000/- loan from him which Appellant have returned to him (Muhammad Ismail) and in this respect he has furnished an affidavit clarifying the whole situation.
- G. Because the allegation of issuing fake appointment letters and then circulating the same on social media has also not been proved against Appellant.
- H. Because no reasons have been provided for making departure from the findings of the Inquiry Officer.
- I. Because additional grounds may be taken by the Appellant at the time of arguments of the instant appeal.

It is, therefore, humbly prayed that on acceptance of this Appeal the impugned notification/ order dated 07.02.2023 may kindly be set aside and the Appellant may be reinstated into service with all back benefits.

Any other remedy deemed appropriate in the circumstances of the case may also be granted.


Appellant

Through


Syed Haziq Ali Shah
Advocate Supreme Court

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No _____ / 2023

Irfan Alam

....Appellant

...VERSUS...

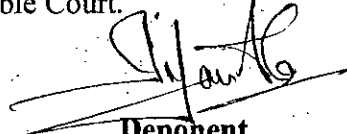
Government of KP through Chief Secretary & Others

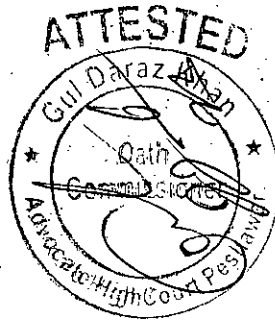
.....Respondents

**APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1973 AGAINST
THE ORDER DATED 07.02.2023, WHEREBY THE APPELLANT/ IRFAN ALAM,
ASSISTANT HAS BEEN AWARDED THE MAJOR PENALTY OF COMPULSORY
RETIREMENT FROM SERVICE.**

AFFIDAVIT

I Irfan Alam S/o Muhammad Alam R/o Jhagra, Peshawar do hereby solemnly affirm and declare on oath that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


Deponent



(S)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No _____ / 2023

Irfan Alam

....Appellant

...VERSUS...

Government of KP through Chief Secretary & Others

.....Respondents

**APPLICATION FOR SUSPENSION OF THE IMPUGNED ORDER DATED 07.02.2023
ON THE BASIS OF WHICH THE APPELLANT HAS BEEN COMPLUSARY RETIRED
FROM SERVICE MAY KINDLY BE SUSPENDED TILL THE FINAL DECISION
OF THE SERVICE APPEAL.**

Respectfully Sheweth:


1. That the above noted Service Appeal is being filed before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.
2. That the Appellant has got a good prima facie case in their favor, and is sanguine about its success.
3. That the balance of convenience also lies in favor of the Appellant.
4. That if the Impugned Order dated 07.02.2023 is not suspended, the Appellant would suffer irreparable loss.
5. That the facts and grounds of the Appeal may kindly be read as an integral part of this application.

6

It is, therefore, respectfully prayed that on acceptance of this application, the relief as prayed for in the heading of the Application may kindly be allowed in favor of the Appellant, till the final decision of the case.


Appellant

Through


Syed Haziq Ali Shah
Advocate Supreme Court

7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No _____ / 2023

Irfan Alam

....Appellant

...VERSUS...

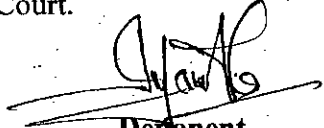
Government of KP through Chief Secretary & Others

.....Respondents

**APPLICATION FOR SUSPENSION OF THE IMPUGNED ORDER DATED 07.02.2023
ON THE BASIS OF WHICH THE APPELLANT HAS BEEN COMPLUSARY RETIRED
FROM SERVICE MAY KINDLY BE SUSPENDED TILL THE FINAL DECISION
OF THE SERVICE APPEAL.**

AFFIDAVIT

I Irfan Alam S/o Muhammad Alam R/o Jhagra, Peshawar do hereby solemnly affirm and declare on oath that the contents of the accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


Deponent



8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No _____ / 2023

Irfan Alam

....Appellant

...VERSUS...

Government of KP through Chief Secretary & Others

.....Respondents

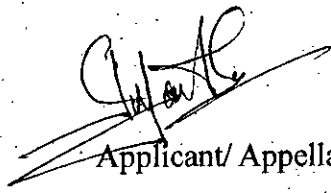
**APPLICATION FOR CONDONATION OF DELAY IF ANY IN FILING OF THE
ABOVE TITLED SERVICE APPEAL**

Respectfully Sheweth:

1. That the Applicant has filed the above noted Appeal before this Hon'ble Tribunal against the impugned order dated 07.02.2023, whereby the penalty of compulsory retirement has been imposed upon him.
2. That accompanied Appeal ought to have been filed within 120 days, however due to the illness of the Appellant he was unable to file the Appeal within the stipulated time.
3. That the inability to file the Appeal within the stipulated time is neither deliberate nor intentional, hence the delay if any may kindly be condoned.
4. That the grounds of the accompanying Service Appeal may be read as an integral part of this application.
5. That valuable rights of the Appellant/ Applicant are involved, the same would be defeated, if the delay in filing of the Appeal is not condoned.
6. That even otherwise law tilts in favour of adjudication on merit rather than on technicalities.

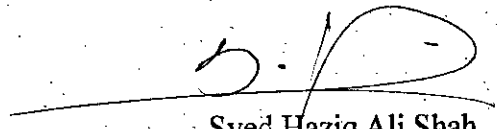
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It is therefore, most humbly prayed that on acceptance of this application, the delay, if any, in filing the above titled Service Appeal may kindly be condoned in the interest of justice.


Applicant/ Appellant

Through

Dated: 20.06.2023


Syed Haziq Ali Shah
Advocate Supreme Court

10

BEFORE THE KHYBER-PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No _____ / 2023

Irfan Alam

....Appellant

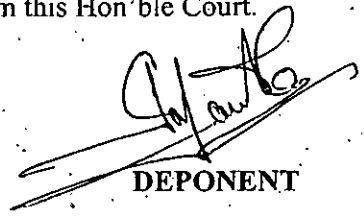
...VERSUS...

Government of KP through Chief Secretary & Others

.....Respondents

AFFIDAVIT

I, **Irfan Alam S/o Muhammad Alam R/o Jhagra Peshawar**, do hereby solemnly affirm and declare on oath that the contents of the accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

ATTESTED
Gul Daraz Khatun
Commissioner
Adviser to High Court Peshawar



10A

Dr. Afrasyab Akbar - Assistant Professor
MBBS, MD (Cardiology), Ph.D (Cardiology), FRCP (UK)
Fellow (Interventional Cardiology) - FSCAI (USA)
Consultant Cardiologist | PMC No. 9551-N
afrasyab.akbar@rmi.edu.pk | Direct Tel: +92-91-5838329
• Clinic Timing: 8:00 am - 5:00 pm (Monday - Friday)
8:00 am - 1:00 pm (Saturday)

1r/Jan Alam
57 Years

14/6/2023

Diabetic

↳ On Insulin

CAD ⊕

↳ Post CABG

- Chest Pain

150/80

Uncontrolled sugar level

Endocrinologist Review

Tab. Plavix 75g - ①

Tab. Concor 5g - ①

Tab. Roly 10g - ①

(L)

Tab. Cardit 2.6g - 1+1

Advised Bed rest for
10 days

AHB



GOVERNMENT OF KHYBER PAKHTUNKHWA
PLANNING & DEVELOPMENT DEPARTMENT

CHARGE SHEET

1. Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa as competent authority, hereby charge you, Mr. Irfan Alam (BS-16), the then Assistant, CPEC Cell, Planning & Development Department as follows:

2. That you, while posted as Assistant in CPEC Cell, P&D Department, committed the following irregularities:

- i. That out of five, four number of offers of appointments (copies enclosed) under signature of Chief, CPEC Cell were orbiting on social media i.e. WhatsApp.
- ii. That a Fact Finding inquiry was conducted and during the course of statement of record, the appointees confirmed that their offers of appointments were issued with your collaboration in lieu of taking monetary gratification/bribe by you.
- iii. That one Mr. Ismail Shah, resident of Village Musa Zai, Peshawar alleged that you took 5 lac rupees as bribe from him in-lieu of appointment of his two sons in CPEC Cell, however, you returned the money on 04.03.2021 to Mr. Ismail.
- iv. That it confirmed that you were involved in issuance of offers of appointments and taking illegal gratification in lieu of appointments.
- v. That as per statement of Mr. Ismail Shah, you were in contact with him in issuance of offers of appointments of his two sons.

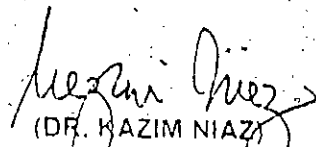
3. By reasons of the above, you appear to be guilty of in-efficiency and misconduct under Rule 3 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.

4. You are, therefore, required to submit your written defence within seven (07) days of the receipt of this Charge Sheet to the Inquiry Officer/Inquiry Committee, as the case may be.

5. Your written defence, if any, should reach the Inquiry Officer/Inquiry Committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

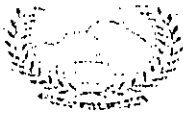
6. Intimate whether you desire to be heard in person.

7. A statement of allegations is enclosed.


(DR. KAZIM NIAZI)
Chief Secretary,
Khyber Pakhtunkhwa

Mr. Irfan Alam (BS-16),
Assistant, under report to Establishment Section,
P&D Department.

~~APPROVED~~



B/12

DISCIPLINARY ACTION

1. Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa as competent authority, am of the opinion that Mr. Abdul Aziz Abbasi (PPS BS-18) the then Chief, CPEC Cell, Planning & Development Department (now OSD in P&D Department) has rendered himself liable to be proceeded against as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011:

STATEMENT OF ALLEGATIONS.

- i. That out of five, four number of offers of appointments (copies enclosed) under his signature as Chief, CPEC Cell were orbiting on social media i.e. WhatsApp.
- ii. That a Fact Finding inquiry was conducted and during the course of statement of record, few appointees confirmed that their offers of appointment were issued in lieu of taking monetary gratification/bribe by Mr. Irfan Alam, the then Assistant of his office/CPEC Cell.
- iii. That after getting offers of appointments, they approached his office but instead of telling them that these offers of appointment were fake, he kept on making false promises to them that he will start paying their salaries soon and will appoint them on better positions.
- iv. That it confirmed that he was aware of the issuance of offers of appointments and were issued with his collaboration.
- v. That as per WhatsApp conversation record, he was in contact with Mr. Abdul Samad father of Mr. Ismail Shah, resident of Mosa Zai, Peshawar, Cell # 0314-7700476 which proves his involvement in issuance of offers of appointment.

For the purpose of inquiry against the said accused with reference to the above allegations, an Inquiry Officer/Inquiry Committee consisting of the following, is constituted under rule 10(1)(a) of the ibid rules:

- i. Mr. Muhammad Akbar (PMS-19)
- ii. _____
- iii. _____

3. The inquiry officer/inquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty (30) days of the receipt of this order, recommendations as to punishment or other appropriate actions against the accused.

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

Kazim Niaz
(DR. KAZIM NIAZ)
Chief Secretary,
Khyber Pakhtunkhwa.

MAJES



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

C/13

SHOW CAUSE NOTICE

I, **Mahmood Khan**, Chief Minister, Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve upon you, **Mr. Irfan Alam**, (BS-16), the then Assistant, CPEC Cell, P&D Department, now under report to Establishment Section, P&D Department as follow:

- i. that consequent upon the completion of inquiry conducted against you by the Inquiry Officer/Inquiry Committee for which you were given opportunity of hearing vide communication No. PA/ASE/LGE&RDD/Inq P&DD/2021, dated 07.06.2021 and 14.06.2021.
- ii. on going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers including your defence before the Inquiry Officer,-

I am satisfied that you have committed the following acts/ omissions specified in Rule-3 of the said rules:

- (a) Inefficiency in performing your official duties/ responsibilities.
- (b) Guilty of misconduct.
- (c) Guilty of corruption.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Compulsory Retirement from Service under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

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

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

5. A copy of the findings of the Inquiry Officer is enclosed.

(MAHMOOD KHAN)
Chief Minister, Khyber Pakhtunkhwa

MR. IRFAN ALAM,
(BS-16), the then Assistant, CPEC Cell,
now under report to Establishment Section, P&D Department.

Afo
ATTESTED

| | | |
|---|---|--|
| | rupees as bribe from him in lieu of appointment of his two sons in CPEC Cell, however, you returned the money on 04-03-2021 to Mr. Ismail Shah. | lies. The undersigned could not even think of such a shameful act what to speak of its performance. |
| 4 | That it confirmed that you were involved in issuance of offers of appointments and taking illegal gratification in lieu of appointments. | 5. That the allegations of Muhammad Ismail are based upon a misunderstanding, the amount of Rs.5 lac were borrowed from him in the form of a loan, whereas he misunderstood it as a bribe for facilitating in the appointment of his sons, which was later on clarified to him at the time of returning the said amount. |
| 5 | That as per statement of Mr. Ismail Shah, you were in contact with him in issuance of orders of appointments of his two sons. | 6. That I have never been involved in issuance of appointment letters in lieu of any monetary consideration as admittedly I was not the competent authority to issue the appointment letter rather the chief CPEC Cell was the competent authority for the same. 7. That I never approached one Muhammad Ismail or his son for demanding any illegal gratification and thus such like all ancillary and auxiliary allegations made against me are absolutely incorrect and thus the same have been made on the basis of a serious misunderstanding. |

(14)

8.1 Analysis of the reply of Mr. Irfan, ex Assistant (BPS-16) CPEC Cell P&DD and findings thereof

Charge No.1

During personal hearing Mr. Irfan reiterated that he has neither any information/knowledge of the fake orders nor have they been initiated by him nor uploaded from his cell phone. He also stated that signature on the fake appointment orders were not of Mr. Abbasi. Other parties to the case also could not present any proof to ascertain that the orders were signed or uploaded on WhatsApp by Mr. Irfan or Mr. Abbasi.

Finding in respect of charge No-1: It has been proved on the basis of available record and details presented during the personal hearing that Mr. Irfan did not upload the fake appointment orders. Signatures on the appointment orders do not belong to him or to Mr. Abbasi. As a corollary to these findings, it is also proved that the appointment orders are fake. However, option of recourse to scientific means i.e. forensic science laboratory is available to P&DD.

~~APPROVED~~

(15)

Charge No.2

During personal hearing he reiterated his written statement and denied the charge that he could not even think of such a shameful act what to speak of its performance. When confronted with the conclusion of FFI and statement of Mr. Ismail Shah contained in the FFI that he handed over fake appointment letters to Ismail Shah in a petrol pump at Ring Road, he nodded in positive with the clarification that the letters were not written or signed by him. When asked that how did he lay hands on those fake appointment orders, he told that Mr. Abbasi gave those letters to him. Mr. Abbasi denied the charge and asked for evidence to prove his assertion but Mr. Irfan could not put forth any proof to prove the allegation.

Findings in respect of Charge No.2: Findings with reference to this charge are recorded under Charge No.3 below.

Charge No.3

hearing

Mr. Irfan vehemently denied the charge during personal/by reiterating his written reply. Mr. Ismail Shah and his sons submitted statement on oath, (attached as Annex-XVII, XVIII, XIX in original) inter alia clarifying that in view of their long-standing cordial relationship with Mr. Irfan, Mr. Ismail gave an amount of Rs.500000/- (Rupees five lac only) to Mr. Irfan purely as a loan and not as a bribe in lieu of appointment and the complaint they lodged against Mr. Irfan was based on misunderstanding as Mr. Irfan returned the loan even without being demanded. Mr. Ismail Shah further clarified that his statement on oath is based on his own free will without any external pressure. Their statements on oath were presented and read out during the personal hearing in front of all the parties to the case in the presence of Mr. Ismail Shah and his two sons and they reaffirmed their statements on oath. Their statement on oath is different than their statement recorded in FFI to the extent that they denied, on oath, the charge of paying money in lieu of recruitment.

Finding in respect of charge No.3: The Charge of taking bribe/monetary gratification in lieu of appointment is not proved.

Charge No.4

During the personal hearing he was reminded of the discussions and conclusions recorded in the FFI about this charge and Mr. Irfan reiterated his written reply. Mr. Ismail Shah and his sons, though stated

on oath that they did not pay money in lieu of appointment but as loan, yet they did not deny receiving the fake orders of appointment. Mr. Irfan also did not deny that he had not delivered the fake appointment orders. (16)

Finding in respect of charge No.4

The charge is proved to the extent of handing over Fake appointment orders to Mr. Ismail Shah by Mr. Irfan.

Charge No.5

As stated above in analysis of charge-2&4 and reply thereof, he could not deny the fact that he handed over the fake appointment orders of two sons of Mr. Ismail Shah at Ring Road Peshawar, however he clarified that he neither wrote nor signed the appointment orders. He tried to accuse Mr. Abbasi of giving the fake appointment orders to him but simultaneously stated categorically that signatures on the fake appointment orders were not of Mr. Abbasi—thus contradicting himself. He also conceded that he had contacts with Mr. Ismail Shah since long which are based on decade old acquaintance and not on financial considerations. Mr. Ismail Shah also conceded that he has long standing relationship with Mr. Irfan and did not deny receiving the fake appointment letter from him but with the clarification that they were not in lieu of money.

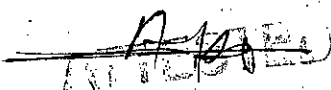
Finding in respect of charge No.5

Charge-5 stands proved to the extent that he was in contact with Mr. Ismail Shah and handed over fake orders of appointment to him.



12/07/2021

(Muhammad Masood)
Addl: Secy LGE&RDD/Inquiry Officer





GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

D/17

SHOW CAUSE NOTICE

I, Mahmood Khan, Chief Minister, Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve upon you, Mr. Irfan Alam, (BS-16), the then Assistant, CPEC Cell, P&D Department, now under report to Establishment Section, P&D Department as follow:

- i. that consequent upon the completion of inquiry conducted against you by the Inquiry Officer/Inquiry Committee for which you were given opportunity of hearing vide communication No. PA/ASE/LGE&RDD/Inq P&DD/2021, dated 07.06.2021 and 14.06.2021.
- ii. on going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers including your defence before the Inquiry Officer,-

I am satisfied that you have committed the following acts/ omissions specified in Rule-3 of the said rules:

- (a) Inefficiency in performing your official duties/ responsibilities.
- (b) Guilty of misconduct.
- (c) Guilty of corruption.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Compulsory Retirement from Service, under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

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

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

5. A copy of the findings of the Inquiry Officer is enclosed.

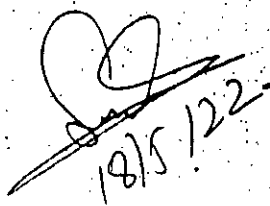
(MAHMOOD KHAN)
Chief Minister, Khyber Pakhtunkhwa

MR. IRFAN ALAM,
(BS-16), the then Assistant, CPEC Cell,
now under report to Establishment Section, P&D Department.

E | 18

To THE HONOURABLE CHIEF MINISTER
KHYBER PUKHTUNKHWA.

Through: The Secretary Planning & Development Department (P&D),
Khyber Pukhtunkhwa,
Civil Secretariat, Peshawar.


18/5/22

Subject: Reply to the Show Cause notice dated 11.05.2022.

Respected Sir,

Most respectfully it is stated that I have received a Show cause notice dated 11.05.2022 alongwith 3 pages of inquiry report, wherein an inquiry has been conducted in respect of charges leveled against me.

In order to explain my position in response to the charge sheet dated 11.05.2022, my reply is as under.

1. That initially, I was appointed in the Agriculture Department in the year 1994, and then in the PLANNING & DEVELOPMENT DEPARTMENT, (P&D) in the year 2010, I was later on inducted in the CPEC cell in february 2019, and am since then performing my duty with all devotion, dedication and high degree of commitment, and no complaint whatsoever has ever been made against me from any quarters and that I have a clean slate and unblemished record for the last 26/27 years of my service.
2. In one of the allegations it has been stated that while posted in CPEC cell I received two sealed envelopes from chief CPEC cell with the instructions to handover the same to 02 persons who were coincidentally Mr. Ismail and his sons who hail from a nearby village and personally known to me.
As per instructions from my chief the envelopes were handed over to them by me, without being aware of their content.
Later on when the inquiry was started I came to know that the two envelopes were of appointment orders.
Besides that I was accused of receiving gratification/bribe of Rs. 05 lacs, in lieu of appointments.
3. In this respect it is stated that neither I am the appointing authority nor there exists any evidence of receiving bribe/gratification from M Ismail. I have personal relations with M Ismail and had taken a personal loan of Rs0.5 million, which was returned to him and in this respect proper affidavit on stamp paper has also been submitted which is attached with the show cause supporting documents.
4. As per the inquiry report nothing was proved in charge no 2, 3 and 4 which means that I have been exonerated from the charges, whereas in respect of charge no 05, I have never

ATTACHED

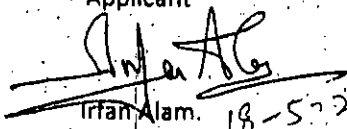
denied that I was in contact with M Ismail, (because he and his sons were regular visitors to the chief Abbas's office and a mutual acquaintance to us both.) that I handed over the sealed envelopes to M Ismail on the orders of the then chief CPEC, and I was not aware that the envelopes contained fake or any appointment orders.

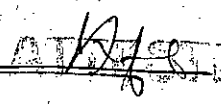
- 5. More over I would like to state that keeping a cordial and civilized contact with someone is not a misconduct.
- 6. Nothing is proved in the fact finding inquiry against me that could be considered as inefficiency, misconduct or corruption. hence I may not be held responsible.
- 7. As far as the imposition of penalty is concerned, I feel that the penalty recommended is a harsh one. As No penalty of any kind can be imposed in the circumstances of the instant proceedings.

It is therefore , most kindly requested that the show cause notice dated 11.05.2022 may very generously be withdrawn and I may be exonerated from the charges leveled against me.

I may very graciously be allowed to be heard in person.

Dated:

Applicant

 Irfan Alam. 18-5-22
 Assistant
 P&D Department
 Civil Secretariat
 KPK PESHAWAR.





GOVERNMENT OF KHYBER PAKHTUNKHWA
PLANNING & DEVELOPMENT DEPARTMENT

Dated Peshawar, February 07, 2023.

F/20

NOTIFICATION.

NO.SO(E)P&D/087/PF/1004/2020: WHEREAS, Mr. Irfam Alam (BS-16), the then Assistant, CPEC Cell, Planning & Development Department, now awaiting posting in P&D Department was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Charge Sheet & Statement of Allegations.

AND WHEREAS, Muhammad Masood (PMS BS-19), Additional Secretary, Local Government Department was appointed Inquiry Officer to conduct inquiry against the accused official.

AND WHEREAS, the Inquiry Officer after having examined the charges, evidence on record and explanation of the accused submitted the report.

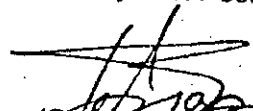
NOW, THEREFORE, the Competent Authority (Chief Minister Khyber Pakhtunkhwa), after having considered the charges, evidence on record, the explanation of the accused officer and personal hearing findings of the Inquiry Officer and exercising powers under Section-4 read with Rule-14 of Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011, has been pleased to impose major penalty of "Compulsory Retirement from Service" upon Mr. Irfan Alam (BS-16), the then Assistant, CPEC Cell, now awaiting posting in Planning and Development Department, Khyber Pakhtunkhwa with immediate effect.

Chief Secretary
Khyber Pakhtunkhwa.

Endst: NO & Date even.

Copy forwarded to the:

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
3. Accountant General, Khyber Pakhtunkhwa.
4. Chief, CPEC Cell, P&D Department.
5. PS to Chief Secretary, Khyber Pakhtunkhwa.
6. PS to Additional Chief Secretary, P&D Department.
7. PSs to Secretary/Special Secretary, P&D Department.
8. PAs to Additional Secretaries-I&II/Chief Economist, P&D Department.
9. PA to Deputy Secretary-II, P&D Department.
10. Mr. Irfan Alam, resident of Ghari Rasheeda, Jhagra, Tehsil Chamkani, District Peshawar.


(SONA KHAN) 7/21
Section Officer (Estt.)

ATTESTED



Date 10.02.2023

The Worthy Chief Minister,
Khyber Pakhtunkhwa,

Through

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

Subject: **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 07.02.2023, WHEREBY THE APPELLANT/ IRFAN ALAM, ASSISTANT HAS BEEN AWARDED THE MAJOR PENALTY OF COMPULSORY RETIREMENT FROM SERVICE.**

Respected Sir,

I very humbly submit the following for your kind and sympathetic consideration:

1. That I besides having an unblemished service career also belong to a respectable family of Peshawar.
2. That I joined Planning & Development (P&D) Department in the year 2004 and my services were regularized in the year 2009 and ever since my appointment I have been performing my duties with honesty, zeal and devotion.
3. That my services were transferred to the CPEC Cell in February, 2019 as an Assistant.
4. That while serving as an Assistant in the CPEC Cell, I was issued with a charge sheet and statement of allegations whereby disciplinary action was initiated against me.
5. That Mr. Muhammad Masood (PMS-19), Additional Secretary, Local Government Department was appointed as an Inquiry Officer to conduct an inquiry into the above mentioned allegations levelled against me.

(Copies of Charge Sheet and Statement of Allegations are annexed herewith marked as A and B)

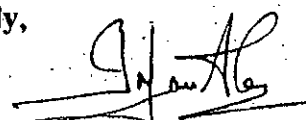
6. That the Inquiry Officer conducted an inquiry into the allegations and gave the following findings:
 - i. "Findings in respect of Charge No.1: It has been proved on the basis of available record and details presented during the personal hearing that Mr. Irfan did not upload the fake appointment orders. Signatures on the appointment orders do not belong to him or to Mr. Abbasi. As a corollary to these findings, it is also proved that

~~ANNEXED~~

- (23)
- D. That the major penalty has been awarded to me by completely disregarding and ignoring the findings of the Inquiry Officer.
- E. That the imposition of major penalty of Compulsory Retirement from Service is harsh and against the norms of justice and most certainly against the principles of proportionality.
- F. That the allegation that I have received money from Muhammad Ismail for the appointment of his sons is based on a misunderstanding. Infact I know Muhammad Ismail since long and he I had taken Rs. 500,000/- loan from him which I have returned to him and in this respect he has furnished an affidavit clarifying the whole situation.
- G. That the allegation of issuing fake appointment letters and then circulating the same on social media has also not been proved against me.
- H. That no reasons have been provided for making departure from the findings of the Inquiry Officer.

It is, therefore, humbly prayed that on acceptance of this appeal the impugned notification/ order dated 07.02.2023 may kindly be set aside and I may be reinstated into service with all back benefits.

Yours obediently,


Irfan Alam,
Assistant,
P&D Department,
Civil Secretariat,
Peshawar.

~~10/10~~
ATTESTED



ایڈویٹ: سید ہازیق علی شاہ
 بار کونسل ایسوسی ایشن نمبر: 10-6830
 رابطہ نمبر: 0300 5908460

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: سر سید حسن خان

| | |
|-------------|-----------|
| مخاطب: مدنی | دعویٰ: |
| | علت نمبر: |
| | مورخہ: |
| | جرم: |
| | تھانہ: |

باعث تحریر آگہ

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

المرقوم:

سید ہازیق علی شاہ

مقام: Peshawar کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Syed Haziq Ali Shah
(ASC)

Mr. Saad Wariz
(AHC)