


FORM OF ORDER SHEET

Court of _____

Appeal No. 1411/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/06/2023	<p>The appeal of Mr. Muhammad Shoab Khan resubmitted today by Mr. Noor Muhammad Khattak 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. Muhammad Soaib Khan Ex-Drug Inspector Mohalla Hafizan Mohib Road Par, Hoti Mardan 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

- 1- Appeal has not been flagged/marked with annexures marks.
- 2- Check list is not attached with the appeal.
- 3- Affidavit be got attested by the Oath Commissioner.
- 4- Annexures of the appeal are unattested
- 5- Annexures-A, B & F of the appeal are illegible which may be replaced by legible/better one.
- 6- Appeal be page marked according to the Index.
- 7- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1821 /S.T,

Dt. 21/6 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv.
High Court Peshawar.

R/siv,

Objection No 1, flashed.

4 2, Attached

11 3, Attested

4 4, Attested

4 5, Better copies attached

4 6, Missing

11 7, Attached

23/6/23

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 1411 /2023

MUHAMMAD SHOAIB

VS

GOVT OF KPK

INDEX

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1.	Appeal with affidavit		1-4
2.	Copy of the notification dated 06.05.2021	A	5
3.	Copies of the charge sheet and statement of allegations	B	6-9
4.	Copies of the written statement and show cause notice along with covering letter dated 15.04.2022	C&D	10-18
5.	Copy of the reply	E	19-22
6.	Copy of the impugned notification	F	23
7.	Copy of the departmental appeal/review petition	G	24-33
8.	Vakalatnama		34

APPELLANT

Through


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

-1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 1411 /2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6119

Mr. Muhammad Shoaib Khan, Ex-Drug Inspector (BPS-17),
Mohalla Hafizan, Mohib Road, Par Hoti, District Mardan.

Dated 20/6/2023

.....**APPELLANT**

VERSUS

- 1- The Chief Minister Khyber Pakhtunkhwa, through Principal Secretary, Peshawar.
- 2- The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 3- The Secretary Health Department, Khyber Pakhtunkhwa Peshawar.
- 4- The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 02.02.2023 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN IMPOSED ON THE APPELLANT AND AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL/REVIEW PETITION OF THE APPELLANT WITHIN THE STATUARY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this service appeal the impugned order dated 02.02.2023 may very kindly be set aside and the appellant may please be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit may also be granted in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant while serving the respondent department as a Drug Inspector with devotion was suspended vide notification dated 06.05.2021. Copy of the notification dated 06.05.2021 is attached as annexure **A.**
- 2- That it is pertinent to mention here that since, the issuance of suspension order the salary of the appellant was illegally stopped. That the suspension order was extended beyond the statutory period however, the respondents constituted an inquiry committee vide order dated 08.07.2021. That the respondent issued charge sheet and

statement of allegations wherein plethora of allegations were levelled against the appellant. Copies of the charge sheet and statement of allegations are attached as annexure **B.**

- 3- That the appellant submitted his written statement before the inquiry committee and clarified his stance regarding the allegations leveled against him. That surprisingly a show cause notice was issued vide letter dated 15.04.2022. Copies of the written statement and show cause notice along with covering letter dated 15.04.2022 is attached as annexure **C & D.**
- 4- That the above mentioned show cause was duly replied by the appellant on 25.04.2022 wherein clarified his stance and was sanguine of his exoneration from the alleged charges. Copy of the reply is attached as annexure **E.**
- 5- That in pursuance to the written statement and reply to the show cause the appellant was hopeful of his exoneration from the alleged charges but astonishingly vide impugned notification dated 02.02.2023 the appellant was removed from service. Copy of the impugned notification is attached as annexure..... **F.**
- 6- That appellant feeling aggrieved from the impugned notification dated 02.02.2023 preferred departmental appeal/review petition on 22.02.2023 before the appellate authority but no response has been given within the stipulated period of ninety days. Copy of the departmental appeal/review petition is attached as annexure **G.**
- 7- That by not deciding the departmental appeal of the appellant within the statutory period of ninety days, the appellant feeling aggrieved from the inaction of the respondents and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

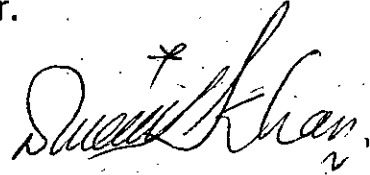
GROUND:

- A- That the impugned notification dated 02.02.2023 and the inaction of the respondents by not deciding the departmental appeal are against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such respondents violated the Article 4 and 25 of the Constitution of Islamic Republic of Pakistan.
- C- That the appellant has not committed any misconduct but despite of that the respondents issued the impugned notification dated

02.02.2023 whereby major penalty of removal from service has been imposed on the appellant.

- D- That it is pertinent to mention here that the charge sheet and statement of allegations were issued by the Chief Secretary however, the impugned notification was/is issued by the Chief Minister KP, therefore the whole proceedings are violative of E&D Rules, 2011.
- E- That apex court of Pakistan has held in a number of judgments that harsh punishment/ major penalty should not be imposed before conducting a full fledged and regular inquiry.
- F- That neither chance of personal hearing nor opportunity of cross examination has been provided to the appellant prior to the issuance of the impugned Notification, therefore the respondents violated Article 10A of the Constitution of Pakistan 1973.
- G- That the appellant seeks permission to advance any other ground and proofs at the time of hearing.

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



APPELLANT

MUHAMMAD SHOAIB KHAN

THROUGH:


NOOR MUHAMMAD KHATTAK

&


KAMRAN KHAN


UMAR FAROOQ

&


**KHANZAD GUL
ADVOCATES**

AFFIDAVIT

I Mr. Muhammad Shoab Khan, Ex-Drug Inspector (BPS-17), Mohalla Hafizan, Mohib Road, Par Hoti, District Mardan, do hereby solemnly affirm that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


Deponent



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar, the 06th May, 2021

NOTIFICATION.

SOIH-III/7-262/2021. WHEREAS Health Department constituted the Committee vide Notification of even number, dated 24th June, 2020 to conduct the comprehensive audit of various districts including District Mardan for the purpose to evaluate the performance of Drug Inspectors and to unearth the reported discrepancies/mal practices/complaints that were pointed out indicating lack of Drug Sale Licensing's data, NOCs issued to other districts, data of seized stock, pending cases for submission in the Provincial Quality Control Board and the Drug Court and data of FIRs in their respective Districts

AND WHEREAS the Audit Report surfaced corrupt practices committed during the tenure of Mr. Shoab Khan, the Drug Inspector District Mardan.

AND WHEREAS the Provincial Inspection Team, Khyber Pakhtunkhwa has also conducted an Inquiry where besides other corrupt practices, the chance of bribe has been proved.

AND WHEREAS there is likelihood of distorting the record under inquiry that may affect the inquiry proceedings

AND WHEREAS the Competent Authority has ordered for conduction of Formal Inquiry under Efficiency & Disciplinary (E&D) Rules, 2011.

NOW THEREFORE the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) has been pleased to suspend the services of Mr. Shoab Khan under Rule-6 of Khyber Pakhtunkhwa Efficiency & Disciplinary (E&D) Rules, 2011 and is directed to report to Directorate General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa with immediate effect.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Endst even No & date.

A copy is forwarded to:-

1. PSO to Chief Secretary, Khyber Pakhtunkhwa.
2. PS to Minister for Health, Khyber Pakhtunkhwa.
3. The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar
5. District Account Officer, Mardan.
6. District Account Officer, Swabi.
7. PS to Secretary Health, Khyber Pakhtunkhwa, Peshawar.
8. PS to Special Secretary Health (E&A), Khyber Pakhtunkhwa, Peshawar.
9. Deputy Director (I.T), Health Department.
10. Officer concerned.

(Naseer Ahmad)
SECTION OFFICER-III

BETTER COPY OF THE PAGE NO. 5

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar, the 06 May, 2021

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AND WHEREAS the Audit Report surfaced corrupt practices committed during the tenure of Mr. Shoaib Khan, the Drug Inspector District Mardan.

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Secretary to Govt of Khyber Pakhtunkhwa
Health Department

Endst even No & date..

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2. PS to Minister for Health, Khyber Pakhtunkhwa.
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4. The Accountant General Khyber Pakhtunkhwa, Peshawar
5. District Account Officer, Mardan
6. District Account Officer, Swabi
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8. PS to Special Secretary Health (E&A), Khyber Pakhtunkhwa, Peshawar
9. Deputy Director (I.T), Health Department
10. Officer concerned

(Naseer Ahmad)
SECTION OFFICER-III


B = 2
- 6 -

CHARGE SHEET

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority do hereby Charge you, Mr. Shoalb Khan, Drug Inspector BS-17, currently posted as Drug Inspector District Mardan as follow:

That you, while posted as Senior Drug Inspector BS-18, at District Mardan, have committed the following act of omission/ commission:-

- A. No Register/File was maintained for inspection of Medical Stores/Distributors.
- B. No record of sealing of medical stores was available.
- C. No samples were failed in his tenure showing least or no interest in searching market / area of jurisdiction.
- D. In your Progress Report eighty seven (87) medical stores were reflected sealed at district Mardan but single evidence for de-sealing of the said stores was not present.
- E. In your entire tenure only two samples of drugs were failed by Drugs Testing Lab, showing your poor performance on implementing the Drug Laws/Rules.
- F. Your attendance record of the officer was not present.
- G. No record of NOCs issued to applicants of Distt. Mardan who applied for getting Drug Licenses in other districts/provinces.
- H. Form-8 (application form) of your tenure was not properly filled. Presence of Qualified Person (QP) was not assured at the time of issuing DSL whereby in certain cases, picked randomly, the QP was unaware of his license at district Mardan.
- I. Seized medicines/court property and its record was in bad condition, not identifiable without any record maintained.
- J. The stock of medicines, seized during your inspection for its exhibition before Drug Court/POCB was dumped haphazardly without any record to indicate from which facility it was drawn and with how much quantity.
- K. No record of taking over/handing over of charge including court cases or cases under investigation were found available.
- L. Market sampling of drugs for checking its quality was negligible.
- M. His performance in the implementation of the Drug laws/rules, was poor.
- N. A subsequent report highlighting issuance of illegal/fake drug sale licenses by him besides licenses on multiple premises under the name of same qualified person in gross violation of the Drug law & Rules.
- O. A number of cases reported wherein fake licenses have been surfaced whereby the proprietors had paid huge amount of corruption either directly to the drug inspector under inquiry or through agents as per their written statements/under taking.


Section Officer in
Health Department
Khyber Pakhtunkhwa

2. By reasons of the above you appear to be guilty of "Inefficiency, Misconduct & corruption," as provided under Rule-3 of the Khyber Pakhtunkhwa Government Seryants

CHARGE SHEET

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- K. No record of taking over/handing over of charge including court cases or cases under investigation were found available.
- L. Market sampling of drugs for checking its quality was negligible.
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- N. A subsequent report highlighting issuance of illegal/fake drug sale licenses by him besides licenses on multiple premises under the name of same qualified person in gross violation of the Drug law & Rules
- O. A number of cases reported wherein fake licenses have been surfaced whereby the proprietors had paid huge amount of corruption either directly to the drug Inspector under inquiry or through agents as per their written statements/under taking.

2. By reasons of the above you appear to be guilty of Inefficiency, Misconduct & corruption as provided under Rule-3 of the Khyber Pakhtunkhwa Government Servants

(Efficiency and Discipline) Rules, 2011, and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rule ibid.

3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Inquiry Officer / Inquiry Committee as the case may be.
4. Your written defense, if any, should reach the Inquiry Officer/ Committee within the specified period, failing which, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A Statement of Allegation is enclosed.

Kazim Niaz
(Dr. Kazim Niaz)
Chief Secretary,
Khyber Pakhtunkhwa.

AW
Muzammar
Section Officer-III
Health Department
Khyber Pakhtunkhwa.

Mr. Shoab Khan,
Drug Inspector BS-17,
Office of Chief Drug Inspector,
Mardan Secretariat, District Mardan

DISCIPLINARY ACTION

I. Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as the Competent Authority, am of the opinion that Mr. Shoaib Khan Drug Inspector District Mardan, 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 Civil Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- A. No Register/File was maintained for inspection of Medical Stores/Distributors.
- B. No record of sealing of medical stores was available.
- C. No samples were failed in his tenure showing least or no interest in searching market / area of jurisdiction.
- D. In his Progress Report eighty seven (87) medical stores were reflected sealed at district Mardan but single evidence for de-sealing of the said stores was not present.
- E. In his entire tenure only two samples of drugs were failed by Drugs Testing Lab. showing your poor performance on implementing the Drug Laws/Rules.
- F. His attendance record was not present.
- G. No record of NOCs issued to applicants of Distt. Mardan who applied for getting Drug Licenses in other districts/provinces.
- H. Form-8 (application form) of your tenure was not properly filled. Presence of Qualified Person (QP) was not assured at the time of issuing DSL whereby in certain cases, picked randomly, the QP was unaware of his license at district Mardan.
- I. Seized medicines/court property and its record was in bad condition, not identifiable without any record maintained.
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- L. Market sampling of drugs for checking its quality was negligible.
- M. His performance in the implementation of the Drug laws/rules, was poor.
- N. A subsequent report highlighting issuance of illegal/fake drug sale licenses by him besides licenses on multiple premises under the name of same qualified person in gross violation of the Drug law & Rules.
- O. A number of cases reported wherein fake licenses have been surfaced whereby the proprietors had paid huge amount of corruption either directly to the drug inspector under inquiry or through agents as per their written statements/under taking.

Handwritten signature
 Section Officer-in-
 Health Department
 Khyber Pakhtunkhwa

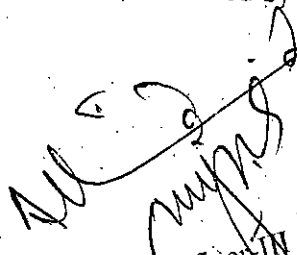
2. For the purpose of inquiry against the said accused with reference to the above allegations an Inquiry Officer/ Inquiry Committee, consisting of the following is constituted under Rule 10(1) (a) of the ibid rules.

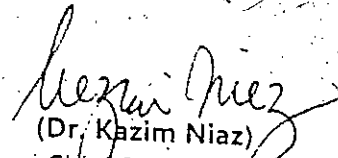
(a) Mr. Muhammad Asghar Khan
Add: Sery Relief Deptt.

(b) Mr. Zakir Khan Chief Drug Inspector
Distt: Peshawar

3. The Inquiry Officer/Inquiry Committee shall in accordance with the provision of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within 30-days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

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


Section Officer-III
Health Department
Khyber Pakhtunkhwa.


(Dr. Kazim Niaz)
Chief Secretary,
Khyber Pakhtunkhwa

'C' - 10 -

WRITTEN STATEMENT OF MUHAMMAD SHOAIB KHAN, PROVINCIAL DRUG INSPECTOR (BPS-17), CURRENTLY IN DIRECTORATE GENERAL, DRUG CONTROL AND PHARMACY SERVICES, KHYBER PAKHTUNKHWA, PESHAWAR.

1-The undersigned recruited/appointed as Drug Inspector in BPS-17 through KPPSC and post as Provincial Drug Inspector (BPS-17), Mardan on a vacant post. After posting of every Drug Inspector, the Health Department after devolution in 2010 vide 18 amendment in The Constitution of Pakistan, 1973, Focusing on Article 129 approaches The Provincial Govt. for Gazette Notification in light of Section 17 of The Drug Act, 1976 as:

17. Inspectors : The Federal Government or a Provincial Government may, by notification in the official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Federal Inspectors, or, as the case may be, Provincial Inspectors for the purposes of this Act within such local limits as it may assign to them respectively:

As mentioned above the Drug Inspectors cannot operate in the field in absence of gazette notification. The powers of Drug Inspector after gazette notification are:

- 18. Powers of, Inspectors** : (1) Subject to the provisions of section 19 and of any rules made in this behalf, an Inspector may, within the local limits for which he is appointed, and in any other area within the permission of the licensing authority,-
- (a) inspect any premises-wherein any drug is manufactured, the plant and process of manufacture, the means employed for standardising and testing the drugs and all relevant records and registers;
 - (b) inspect any premises wherein any drug is sold or is stocked or exhibited for sale or is distributed, the storage arrangements and all relevant records and registers;
 - (c) take samples of any drug which is being manufactured, or being

- 11 -

sold or is stocked or exhibited for sale or is being distributed;

(d) enter and search, with such assistance, if any, as he considers necessary, any building, vessel or place, in which he has reason to believe that an offence under this Act or any rules has been or is being committed or may continue to be committed;

(e) call any person to be present as witness in the course of search or seizure or in connection with any other matter where the presence of witnesses is necessary;

(f) seize such drug and all materials used in the manufacture thereof and any other articles, including registers, cash memos, invoices and bills, which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or any rules:

[Provided that where the contravention is such which can be remedied, the stocks shall not be seized upon undertaking in writing of the person not to sell drug without remedying the defect, under intimation to the Board concerned]

(g) require any person to appear before him at any reasonable time and place to give statement, assistance or information relating to or in connection with the investigation of an offence under this Act or the rules:

Provided that the exemptions under Sections 132 and 133 of the Code of Civil Procedure, 1908 (Act V of 1908), shall be applicable to requisitions for attendance under this Clause;

(h) lock and seal any factory, laboratory, shop, building,

store-house or godown, or a part thereof, where any drug is or is being manufactured, stored, sold or exhibited for sale in contravention of any of the provisions of this Act or the rules;

(i) forbid for a reasonable period, not exceeding [two] weeks or such further period, which shall not

be more than three months, as the Inspector may, with the approval of the Provincial Quality Control Board, the Central Licensing Board, the Registration Board, or the licensing authority, as the case may be, specify, any person in charge of any premises from removing or dispensing of any drug, article or other thing likely to be used in evidence of the commission of an offence under this Act or the rules; and

(j) exercise such other powers as may be necessary for carrying out the purposes of this Act or any rules:

Provided that the powers under causes (f) to (j) shall be exercisable only by an Inspector specifically authorized in this behalf, by an order in writing, by the Government appointing him, subject to such conditions as may be specified in such order.

(2) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), in so far as they are not inconsistent with the provisions of this Act, shall apply to searches and seizures made under this Act.

The undersigned approaches the Health Department time to time for gazette notification under Section 17 of The Drugs Act, 1976, the department issued notification enough delayed. Being Learned Enquiry committee, you will appreciate that power of Drug Inspector are conferred on me through Provincial Govt. Gazette notification, Provided that the powers under clauses (f) to (j) shall be exercisable only by an Inspector specifically authorized in this behalf, by an

order in writing, by the Government appointing him, subject to such conditions as may be specified in such order.

The undersigned performed duties of drug inspector with his level best even before notification.

The Duties of Drug Inspector are under Rule 5, KP Drugs Rules, 1982, described as:

5. Duties of Inspectors.- Subject to the instructions of the Licensing Authority, it shall be the duty of an Inspector:-

(a) to inspect not less than twice a year all establishments of drugs licensed for sale and once a year all establishments licensed for manufacture of drugs within the area assigned to him and to keep record of such inspections;

(b) to satisfy himself that the conditions of the licenses are being observed;

(c) to take and send for test or analysis if necessary, samples of any drug which he has reason to suspect is being manufactured, sold, stocked or exhibited for sale in contravention of any of the provisions of the act;

(d) to investigate any complaint in writing which may be made to him and furnish the report in respect thereof to the Licensing Authority;

(e) to institute prosecution in respect of contravention of the Act and these rules;

(f) to maintain record of all inspections made and actions taken by him in the performance of his duties, including the taking of samples and seizure of stocks, and submit report of such record as may be required by the Licensing Authority.

(g) to make such enquiries and inspections as any may be necessary to stop manufacture and sale of drugs in contravention of the Act and these rules.

Now, therefore, Para wise reply of the act of omission/commission in charge sheet as served:-

A. Subject to Rule 5 (a & f) of KP Drugs Rules, 1982, after appointment as drug inspector in Distt. Mardan, the undersigned being a new inductee in service thoroughly searched the office to get precedent for working, no such of record/ register found, the undersigned started such type of work on daily sheets and end of every month the inspections calculated and submitted as required by Rules & law. The word Register maintain is deeply regretted, however Department has designed **Daily Activity Report** and **Monthly Progress Report** sheets in soft form for reporting and centralized record. Our department repeatedly issued instructions for WhatsApp reporting.

B. The Sealing Memo sheet used during sealing - Section 18 (h), which is a part of case file and counter file is delivered to sealing premises in charge on spot, need no separate register entry/file.

C. Samples are subjected to Section 18(c) read with Rule 5 (c) Sample of any drug which he has reason to suspect is being manufactured, sold, stocked or exhibited for sale in contravention of any of the provisions of the act, declaring failed or passed is the duty of govt. Analyst.

D. Desealing of sealed premises through Drug court totally based on WhatsApp communication, need no separate register or record as every desealing order is received by WhatsApp, few copies attached for ready reference. **Annexure-I**

E. Denied as **Annual Progress Report 2020** published by the department reflects that 05 sample taken by the undersigned declared fail. Number of samples failed reflects incompetency instead of competency as it is parallel to the extent of availability of substandard, unregistered and spurious Drugs in the area of jurisdiction.

F. Please refer to secretariat Manual of Instructions for attendance. BPS-17 and above are exempted.

G. The undersigned maintain a record of the NOC, copy attached.
Annexure-II

H. Totally denied this Para as initial step of License is Form-8 which are properly filled, thoroughly checked by the undersigned during his tenure and approved subject to qualified person presence. Without field through inspections it is a vague expression without solid footings. Few copies attached for ready references. **Annexure-III**

I. Vague impression, the under signed not received a single complaint from Drug Court or PQCB that the case property is missing or not presented in a proceedings or in a trial. Denied.

J. Yes agreed with this Para up to the extent in 2011-12, Drug Inspector office shifted from DHO office to District Secretariat, the room under-reference was used by EPI team in those days and they vacated room, which is not allotted to Drug Inspector office, used by drug Inspectors of 2011-2012, as dump room of old files which is still a dump room.

K. Yes agreed as the undersigned posted against vacant post, so question of handling does not raised as fresh inductee.

L. Market sampling dealt as Samples are subjected to Section 18(c) read with Rule 5 (c) Sample of any drug which he has reason to suspect is being manufactured, sold, stocked or

exhibited for sale in contravention of any of the provisions of the act, declaring failed or passed is the duty of govt. Analyst.

M. Totally denied, as no performance explanation called from the undersigned by any competent authority. No showcause issued from PQCB, neither from Drug Court.

N. Totally denied, it is incorrect.

O. Totally denied, it is incorrect.

In the lights of above legal grounds and facts, the charge leveled against the undersigned be withdrawn please. It is pertinent to point out that the undersigned not received any legal charge sheet from the competent authority but just an unsigned Photostat of Paras, the replies of which submitted. The above Paras must be based on any office of Mardan enquiry/ inspection/Audit the undersigned unaware of such audit and not served with any audit report which is a legal right. This is the law of nature, for finding any discrepancies, first discuss with the office concerned for improvement, after follow up which not rectified then report to department and so on.

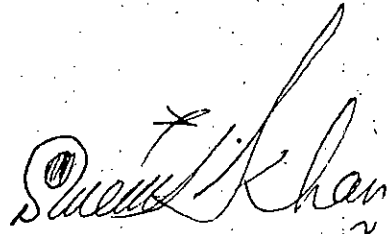
3-Written statement in defense, please consider this reply.

4-Written statement before inquiry committee on 26/07/2021, please consider this reply.

5- Undersigned intimate his intuition to be heard in person

6- No statement of allegation is enclosed, to be clarified.

It is, therefore, requested your kind office to exonerate the undersigned from baseless allegations leveled.



MUHAMMAD SHOAIB KHAN
PROVINCIAL DRUGS INSPECTOR
CURRENTLY POSTED IN DIRECTORATE GENERAL
DRUG CONTROL & PHARMACY SERVICES
KP, PESHAWAR



DIRECTORATE GENERAL DRUG CONTROL & PHARMACY SERVICES

All communication should be addressed to the Director General Drug Control & Pharmacy Services
Khyber Pakhtunkhwa

DG Ph: +92-91-9222824
Email: directoratedcps@gmail.com

No. 376-81/DGDCPS/2021
Dated the Peshawar: 15/4/2022

To,

1. Mr. Amin-UI-Haq S/O Abdul Haq Senior Drug Inspector (BS-18)
Mohallah Usman-E-Khel, Tehsil Tangi Nusratzai District Charsadda.
2. Mr. Muhammad Shoaib Khan S/O Sarzamin Khan Drug Inspector (BS-17)
Mohallah Hafizan Mohib Road Par Hoti District Mardan.

Subject: - **DISCIPLINARY ACTION AGAINST MR. AMIN UL HAQ SENIOR
DRUG INSPECTOR (BS-18) AND MR. SHOAB KHAN DRUG
INSPECTOR (BS-17) DIRECTORATE DRUG CONTROL &
PHARMACY SERVICES KHYBER PAKHTUNKHWA PESHAWAR.**

I am directed to forward herewith a copy of Govt: of Khyber Pakhtunkhwa Health Department letter No. SOH-III/7-262/2021(Amin UI Haq & Shoaib) dated 13/04/2024 alongwith show cause notice received from, which is self-explanatory, for information and with the direction to communicate this Department in the matter within three (03) days positively, for its further submission to the quarter concerned.

DEPUTY DIRECTOR (ADMN)
Drug Control & Pharmacy Services
Khyber Pakhtunkhwa Peshawar.

CC

1. PS to Secretary to Govt: of Khyber Pakhtunkhwa Health Department.
2. Deputy Secretary (Drugs) Health Department Khyber Pakhtunkhwa.
3. Additional Director (Drug) DGDC&PS KP Peshawar.
4. Section Officer-III Health Department Khyber Pakhtunkhwa.
For information.

15/4/2022

MOST IMMEDIATE

-17-

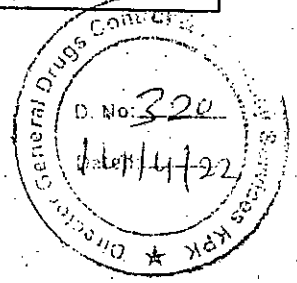


**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No. SOH-III/7-262/2021(Amin ul Haq & Shoaib)
Dated the Peshawar 13th April, 2022

To

**The Director General,
Drug Control & Pharmacy Services,
Khyber Pakhtunkhwa, Peshawar.**



SUBJECT:- DISCIPLINARY ACTION AGAINST MR. AMIN UL HAQ, SENIOR DRUG INSPECTOR (BS-18) AND MR. SHOAIB KHAN, DURG INSPECTOR (BS-17), DIRECTORATE GENERAL, DRUG CONTROL & PAHRMACY SERVICES, KHYBER PAKHTUNKHWA, PESHAWAR.

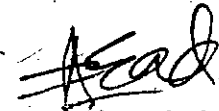
I am directed to refer to the subject noted above and to enclose herewith copies of show cause notices in respect of the following officers:-

1. Mr. Amin ul Haq, Senior Drug Inspector (BS-18), Directorate General, Drug Control & Pharmacy Services, Khyber Pakhtunkhwa.
2. Mr. Shoaib Khan, Provincial Drug Inspector (BS-17), Directorate General, Drug Control & Pharmacy Services, Khyber Pakhtunkhwa.

I am further directed to request that the same show cause notices may kindly be served to the accused officers and exact date of delivery may kindly be communicated to this department, at the earliest, please.

Encl: As above.

DDL (Estab)
15/4/2022


(Dr. Fawad Ahmad Khan)
Section Officer-III

Endst: even no & date.

Copy forwarded to:-

PS to Secretary Health, Khyber Pakhtunkhwa.


Section Officer-III

-18-

SHOW CAUSE NOTICE.

I, Mr. Mahmood Khan, Chief Minister, Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Shoaib Khan, Provincial Drug Inspector (BPS-17), Directorate of Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, as follows:-

- i. Consequent upon completion of inquiry conducted against you by the Inquiry Committee for which you were given an opportunity of hearing vide communication No. SO(Admn.) RR& SD/2-14/2019, dated 14th July, 2021 wherein the charges of inefficiency, misconduct and misuse of authority stand proved, and
- ii. On going through the findings of the Inquiry Committee, material on record and other connected papers including your defense before the Inquiry Committee:-

2. I am satisfied that you have committed the acts/omissions of inefficiency, **misconduct and misuse of authority** specified in Rule-3 of the said rules:

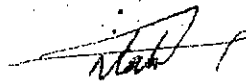
3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from Service

_____ under Rule-4 of the said rules.

4. You are, therefore, required to show cause as to why the aforesaid penalty/penalties should not be imposed upon you and also intimate whether you desire to be heard in person?

5. If no reply to this notice is received within seven (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

6. Copy of the findings of the Inquiry Committee is enclosed.

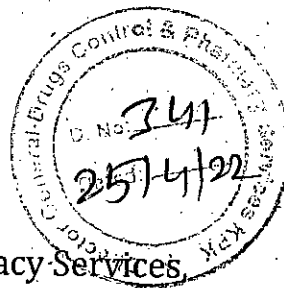


(Mahmood Khan)
Chief Minister, Khyber Pakhtunkhwa

Mr. Shoaib Khan,
Provincial Drug Inspector,
Directorate General Drug Control & Pharmacy Services.

To

'E'
-19-
The Director General,
Directorate of Drug Control & Pharmacy Services,
Warsak road Peshawar



Through Proper Channel

Subject:- **Reply to the Show Cause Notice**

Respected Sir,

Reference to your letter No. 376-81/DG DCPS/2021 dated: 15/4/2022, received on dated: 20/04/2022 (copy of envelop enclosed), that the undersigned has the honor to submit here with reply to the Show Cause Notice for favorable considerations please.

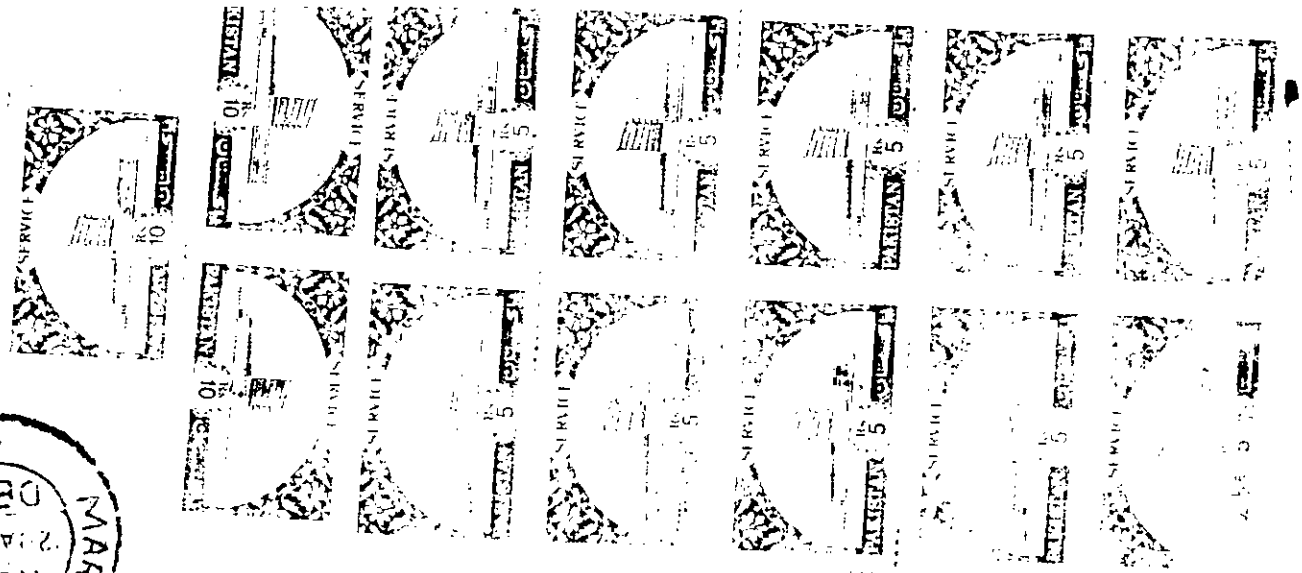
Muhammad Shoaib Khan
MUHAMMAD SHOAIB KHAN

PROVINCIAL DRUG INSPECTOR (BPS-17)
DIRECTORATE OF DRUG CONTROL &
PHARMACY SERVICES, PESHAWAR

o/c
Copy to:

- 1) PSO to Chief Minister Khyber Pakhtunkhwa
- 2) PS to Secretary to Govt: of Khyber Pakhtunkhwa health department
- 3) Deputy Secretary (Drug) health department Khyber Pakhtunkhwa.
- 4) Section officer-III health department Khyber Pakhtunkhwa

MUHAMMAD SHOAIB KHAN
PROVINCIAL DRUG INSPECTOR (BPS-17)
DIRECTORATE OF DRUG CONTROL &
PHARMACY SERVICES, PESHAWAR



REGISTERED - (OPSC)

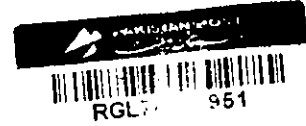
To,

Mr. Muhammad Shoaib Khan,
S/O Sarzamin Khan Drug
Inspector, Mahallah
Harizan Mohib Road,
Pan Hoti District
Mardan.

Handwritten signature/initials

-20-

ACCOUNTS OFFICER
Drug Control & Pharmacy Services
Khyber Pakhtunkhwa



To

-21-

The Chief Minister (Competent Authority)

Khyber Pakhtunkhwa, Peshawar.

Subject: Show cause Notice/ Disciplinary Action Against Mr. Shoaib Khan, Drug Inspector (BS-17), Directorate General Drug Control and Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.

Sir,

Respectfully submitted as under:

- 1) The undersigned (under proceedings), received Health Department Notification No. SO (H-III)7-282/2021 DATED 06/05/2021, suspension order. Copy annex- A.
- 2) The undersigned received a letter from Relief Rehabilitation and Settlement Department No. SO (ADM) RR&SD/2-14/2019/812 DATED 14/7/2021 directed to appear before the inquiry committee along with written statement on 26/07/2021 at 11.00 am. It is pertinent to mention here that no charge sheet has been communicated to the undersigned as per **rule # 06 of Efficiency and Disciplinary (E&D) rules, 2011**. On appearance to inquiry committee the undersigned was provided **an unsigned** charge sheet.

Copy (rule # 6 of E&D rules 2011 and unsigned charge sheet) annex-B.

- 3) The undersigned submitted written statement to inquiry committee and cross examined up to 09/08/2021. Copy of written statement Annex-C.
- 4) The undersigned waiting for his reinstatement order, as ninety days completed on 06/08/2021, under Rule 6, instead of reinstatement order from the health department, the undersigned received a photo state copy of show cause notice issued by the Honourable Chief Minister, **bearing no original ink signature**, from Health Department after the lapse of 9 months with remarks "Removal from Service" and it is once again pertinent to point out that Para 6 of

show cause notice indicated that "Copy of the finding of the Inquiry committee is enclosed", not enclosed with it letter. Copy of show cause with Health Department covering as Annex-D.

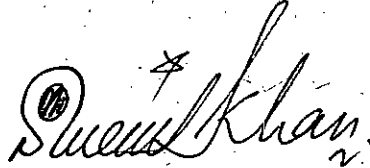
5) **The non providing of inquiry committee findings, it tantamount to struck off my defense, it's a basic legal mandate of the undersigned.**

6) **In response to Para 4 of the show cause notice, the undersigned adduce his intention to be heard in person.**

It is, therefore, requested that the undersigned is **innocent** in proceeding inquiry, may **exonerated** as the Office audit by a team, is first ever in drug control history. The audit team is legally bound to discuss every Para of observations to the office, if need rectifications, issued orders on spot for future guidelines. If audit team point out financial corruptions, may call explanation of the officer concerned for transparency of record, as administrative Department. No codal formalities be initiated by Directorate/Department. But proceed the report in hidden manner for efficiency & Disciplinary.

Sir, I once again assured your good office that the undersigned is a well reputed and gentle carrier officer, not imagine for misconduct to be proceed under E & D Rules.

Your obedient servant.



MUHAMMAD SHOAI B KHAN,

PROVINCIAL DRUG INSPECTOR (BS-17),
DIRECTORATE GENERAL DRUG CONTROL
& PHARMACY SERVICES, PESHAWAR



GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT
Dated, Peshawar the 2nd February, 2023.

'F' (549)
-23-

NOTIFICATION.

No. SOH-III/7-262/2023(Shoaib). WHEREAS, Mr. Shoaib Khan, Drug Inspector (BPS-17) at Distt: Mardan was preceded against the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of committing the acts/omissions of inefficiency, misconduct and misuse of authority.

2. AND WHEREAS, an Inquiry committee was constituted to conduct a Formal Inquiry in terms of the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

3. AND WHEREAS, upon completion of Formal Inquiry, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) issued Show Cause Notice to the accused Drug Inspector, Shoaib Khan, while imposed major penalty of "Removal from Service" tentatively and duly served vide letter No. SOH-III/7-262/2021(Amin ul Haq & Shoaib), dated 13th April, 2022.

4. AND WHEREAS, the opportunity of Personal Hearing was given to the above mentioned accused on 25-11-2022 and he was personally heard.

5. NOW THEREFORE, in exercise of the powers conferred on him under Rule-14 of the Khyber Pakhtunkhwa Civil Servants (Efficiency and Discipline) Rules, 2011 and all such powers on that behalf, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to confirm and impose a major penalty of "Removal from Service" upon the accused Shoaib Khan, Drug Inspector (BS-17) at District Mardan on account of commission/omission of inefficiency, misconduct and misuse of authority, with immediate effect.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Endst. even No and Date.



**OFFICE OF THE DIRECTORATE GENERAL DRUG CONTROL & PHARMACY
SERVICES KHYBER PAKHTUNKHWA PESHAWAR**

No. 173-76 /DGDCPS/2023

Dated: 13/02/2023

Copy forwarded to:

1. ✓ Shoaib Khan, Ex-Drug Inspector District Mardan.
2. The District Health Officer Mardan.
3. The District Accounts Officer, Mardan.
4. PS to Secretary Health Khyber Pakhtunkhwa, Peshawar.

For Information and necessary action Please.

DIRECTOR GENERAL
Drug Control & Pharmacy Service
Khyber Pakhtunkhwa Peshawar

Dated Peshawar the 2nd February 2023

NOTIFICATION.

No: SOH-111/7-262/2023(Shoaib), WHEREAS, Mr Shoaib Khan, Drug Inspector (BPS 17) at Distt Mardan was preceded against the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of committing the acts/omissions of inefficiency, misconduct and misuse of authority.

2. **AND WHEREAS** an Inquiry committee was constituted to conduct a Formal Inquiry in terms of the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011

3. **AND WHEREAS**, upon completion of Formal Inquiry the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) issued Show Cause Notice to the accused Drug inspector, Shoaib Khan, while imposed major penalty of "Removal from Service" tentatively and duly served vide letter No SOH-111/7-262/2021(Amin ul Haq & Shoaib), dated 13 April, 2022

4. **AND WHEREAS**, the opportunity of Personal Hearing was given to the above mentioned accused on 25-11-2022 and he was personally heard

NOW THEREFORE, in exercise of the powers conferred on him under Rule-14 of the Khyber Pakhtunkhwa Civil Servants (Efficiency and Discipline) Rules, 2011 and all such powers on that behalf, the Competent Authority (Chief Minister Khyber Pakhtunkhwa) is pleased to confirm and impose a major penalty of "Removal from Service upon the accused Shoaib Khan, Drug Inspector (BS-17) at District Mardan on account of commission/omission of inefficiency, misconduct and misuse of authority, with immediate effect

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Endst even No and Date

**OFFICE OF THE DIRECTORATE GENERAL DRUG CONTROL & PHARMACY
SERVICES KHYBER PAKHTUNKHWA PESHAWAR**

No 173-76/DGDCPS/2023

Dated: 13/02/2023

Copy forwarded to:

1. Shoaib Khan, Ex-Drug Inspector District Mardan.
2. The District Health Officer Mardan.
3. The District Accounts Officer, Mardan.
4. PS to Secretary Health Khyber Pakhtunkhwa, Peshawar

For Information and necessary action Please.

DIRECTOR GENERAL
Drug Control & Pharmacy Service
Khyber Pakhtunkhwa Peshawar

'9'-24-

To,

The Honorable Chief Minister,
Khyber Pakhtunkhwa Peshawar.

Office of the PSCM
Duty No. 161
Dated 22-02-2023

Through Principal Secretary to Chief Minister Khyber
Pakhtunkhwa Peshawar.

**Subject: REVIEW PETITION UNDER RULE 3 OF KHYBER
PAKHTUNKHWA CIVIL SERVANT (APPEAL) RULES, 1986
AGAINST THE IMPUGNED NOTIFICATION DATED
02.02.2023.**

R/Sir:

ON FACTS:

1- That, the Health Department constituted an audit committee vide dated 24th June 2020, regarding the conduction of comprehensive audit in various Districts about evaluation of Drug activities like Licenses Data, NOC,s Issued, case property, pending cases and status of FIRs and to submit its report with findings/recommendations within one month positively.

(Copy of the order vide dated 24-06-2020 attached as Annexure -----A).

2- That, the Director General Drug Control & Pharmacy Services vide a letter dated 13.07.2020, addressed to Drug Inspectors of District Mardan, including Mr. Amin Ul Haq, Mustafa Anwar & Shoaib Khan (Appellant), intimated the Drug Control Office Mardan regarding the availability at posting station along with all supporting staff & record.

(Copy of the letter vide dated 13-07-2020 attached as Annexure -----B).

3- That, consequent upon audit report conducted by the audit committee, 69 Drug Sale Licenses were confiscated, in which even a single fake/bogus Drug Sale License has not been shown on record having any relevancy with the appellant so far. As the appellant has not been involved in any malpractices according to material available on record, in spite of that the audit report is totally discriminatory, arbitrary and targeted, hence dragging the appellant having clean hands while excluding one of the officer Mr. Mustafa Anwar on the sweet will of the audit committee being a their blue eyed, as the same charges were also leveled against him in like manner to the appellant.

(Copy of the audit report attached as Annexure -----C).

4- That the audit report on which the inquiry committee has relied cannot be called as such under the law, because the same does not disclose any misappropriation, embezzlement or any loss to the public exchequer.

It is, further submitted that no audit para was ever framed or sent to the petitioner for reply nor the same has ever been taken to the Public Accounts Committee.

5- That, another inquiry was also conducted by the Provincial Inspection Team, Khyber Pakhtunkhwa on the complaint of Late Dr. Noor Islam filed on 25.07.2020. The PIT served a questionnaire upon the appellant, Mr. Amin Ul Haq & Tayyab Abbas, in response of which the latter has been totally exempted from the inquiry procedure & even the inquiry report of the PIT has not been communicated properly to the officers concerned to meet the ends of natural justice. In the recommendation/findings of the PIT's inquiry, nothing has been observed so far regarding the malpractices and the on basis of which the initiation of disciplinary proceeding in respect of the appellant has been recommended.

(Copy of the inquiry report of PIT attached as Annexure.....D).

6- That, the Health department just on the basis of apprehension, probability & doubts suspended the services of the undersigned vide notification dated 06th May, 2021, as stated vide Para 3 in the notification *ibid*.

(Copy of the order dated 06-05-2021 attached as Annexure.....E).

7- That, it is worth mentioning that the salary of the petitioner was stopped which is against the law.

That the petitioner time and again visited the offices of high-ups to release the salaries and withdraw the suspension order beyond the lawful period, but of no avail.

Even the suspension order was never extended which speaks of the high handedness against the petitioner.

That throughout the petitioner has been treated in utter derogation of law. The petitioner has been put under suspension beyond the statutory period. His salaries were stopped for more than two years since December 2020 and has been consistently condemned unheard against the norms of law and principles of justice.

8- That, the Health department notified Mr. Muhammad Asghar Khan Additional Secretary (BS-19) & Mr. Zahid Khan (BS-19) as an inquiry Officers vide order dated 08th July 2021, to conduct a formal inquiry and furnish report thereof within specified time of thirty days. The committee appointed for the favor of conducting an inquiry against the appellant has been constituted in violation of "Rule 10 (1)" read with "2(1)(f)", as the Chief Secretary is not the Competent enough to constitute an inquiry committee in the instant case under Rules *ibid*, hence the vey vires of the aforesaid committee is impugned and thus the officers & their committee will be referred hereinafter as Impugned Officers & Impugned Committee respectively.

(Copy of the letter dated 08-07-2021 & rules ibid attached as Annexure.....F).

- 27 -

9- That, it is pertinent to mention here that the Health Department advised the Director General Drug Control & Pharmacy Services to serve the attached charge sheet without mentioning the enclosure the statement of allegations which is to be duly signed by the Competent Authority as required under "Rule 5(2)" of the "E & D Rules 2011" hence the prescribed procedure was not adopted during the course of the proceeding and thus there is also no receipt of acknowledgment available on record till date to produce as an evidence while serving & receiving properly of the same.

10- That, the impugned officers directed the undersigned to appear in person on 26th July, 2021 at 11.00 AM in the Relief and Settlement Department vide letter dated 14th July, 2021.

(Copy of the letter dated 14-08-202 attached as Annexure.....G).

11- That, on appearance before the Impugned Committee, the appellant requested the impugned officers during the proceedings, for the provision of Charge Sheet enclosing statement of allegations. When the required documents were provided to the appellant, so it was highly astonishing that Charge Sheet & statement of allegations were duly signed by the Chief Secretary Khyber Pakhtunkhwa pretending himself as a Competent Authority in violation of "Rule 5(2)" of the "E & D Rules 2011" while it is highly regretted that in case of joint proceeding of the appellant with BS-18 Officer being a junior officer in rank, the Chief Minister is the only Competent Authority as per Proviso appended to Clause "Rule 2(f)" of the ibid "E & D Rules". Thus the Charge Sheet enclosing statement of allegations prepared & issued by the Health Department is violative of Rules ibid

-28-

(Copies of the charge sheet enclosing the statement of allegations & Proviso appended to "Rule 5(2)" as well as of Clause "Rule 2(f)" attached as Annexure.....H).

12- That, the appellant submitted written defense in reply to the Charge sheet enclosing statement of allegation on 26th July, 2021, as desired by the Impugned Officers.

(Copy of the reply attached as Annexure.....I).

13- That, upon completion of the disciplinary proceedings the Chief Minister [Competent Authority] finally issued a copy of Show Cause Notice containing the directions to the appellant for submission of reply to it within seven (07) days or not more than fifteen (15) days through the attached Department of Directorate General Drug Control & Pharmacy Services which was not properly served to the appellant by acknowledging any kind of receipt. In the Show Cause Notice at Para 6, it was held that a copy of findings of the Inquiry Committee is enclosed, while no such copy of the same was attached with the same. Furthermore, the attached department over rided the statutory period mentioned in the Notice and directed the appellant vide letter dated 15.04.2022, to submit the reply within three days positively in violation of statutory period showing their malafide intentions. The purpose of reducing the statutory period & missing of the inquiry report clearly show the personal grudges of the some elements of attached department in order to strike off the defense of the appellant and hence is also in sheer violation of natural justice.

(Copy of the letter dated 15.04.2022 enclosing only Show Cause Notice attached as Annexure.....J).

14- That, the appellant submitted reply only for rebutting of the Show Cause Notice which was communicated without enclosing the inquiry reports vide dated 25/04/2022.

(Copy of the reply rebutting only the Show Cause Notice attached as Annexure.....K).

15- That, the appellant after submitting the reply only to Show Cause Notice from his own wisdom on the basis of previous proceeding, also filed an application to the Health Department with the request to provide a copy of Inquiry report. At this time, the Health Department vide letter dated 03.08.2022, instead of through proper channel communicated the appellant to collect the Show Cause Notice enclosing the inquiry report showing the biased nature through an inordinate delay and without fulfilling the requirement of statutory requirements & natural justice.

(Copy of letter dated 03.08.2022 enclosed with Show Cause Notice & Inquiry report attached as Annexure.....L).

16- That, the undated inquiry report on the face of it is not maintainable rather is result of sham proceedings wherein the inquiry committee except for a reply to the statement of allegations has never called the petitioner either for personal hearing or for cross examination of any witness.

17- That the inquiry proceedings were conducted in a very illegal manner, where the findings were based on a letter dated 02.02.2021 by a BPS-17 Officer namely Abdur Rauf, who was appointed as Provincial Drug Inspector at Mardan against the law, because he was Pharmacist and against the judgment of the Hon'ble High Court in a case where the petitioner was one of the petitioner and Mr. Abdur Rauf was a respondent.

Ironically the said Abdur Rauf was never called for cross examination by the petitioner and thus the whole proceedings are vitiated and marred by prejudice against the petitioner.

That the inquiry committee has made no efforts to find the truth and instead has based its findings on a letter by a prejudiced officer of BPS-17 who was posted Ex-cadre against the law.

18- That, the appellant after receiving of the required documents on request, resubmitted another reply in the rebuttal of the inquiry report within desired time vide dated 16.08.2022, to the quarter concerned which has rendered the whole exercise, non-credible, futile, illegal, dubious & infructuous.

(Copy of the resubmitted reply dated 16.08.2022 attached as Annexure.....M).

19- That, at the end of the proceedings a letter vide dated 22.11.2022, was issued from the office of the Local Government Elections & Rural Development Department stating therein that, the Competent Authority is pleased to direct the appellant to appear for personal hearing on 21.11.2022. As the department is proceeding in a unilaterally way to keep the appellant in darkness and did not communicate any documents relevant to the proceeding well on time, so the same was not delivered in the same analogy. Due to the biased behavior of the attached Department, the Competent Authority once again had to issue the direction to appear before him for the favor of personal hearing on new date i.e 25.11.2022 at 14000 hours instead of the previous mentioned date as per contents of aforementioned letter.

(Copy of the letter dated 22.11.2022 attached as Annexure.....N).

20- That, after appearing before the Officer appointed on the behalf of Competent Authority & affording an opportunity of personal hearing, the appellant submit written defence regarding inquiry report.

(Copy of written defence attached as Annexure.....O).

21- The Health Department vide an impugned notification dated 02.02.2022, ordered the Removal from Service on account of commission/omission of inefficiency, misconduct and misuse of

authority simultaneously, which has been strictly prohibited by the Apex Court.

- 31 -

(Copy of the notification dated 02.02.2023 attached as Annexure.....P).

22- So keeping in view of the above, the appellant being aggrieved by the unauthorized, unlawful, unilateral, illegal, punitive, whimsical, void ab initio and Coram non judice, ex-parte, & biased proceedings/actions of the Health Department having no other alternate, adequate, speedy and efficacious remedy other than to file the instant review petition on the basis of following grounds interalia.

GROUNDS:

- A- That, the impugned Notification dated 02.02.2023 issued by the Health Department is against the law, facts, norms of natural justice, materials on the record and unconstitutional, hence not tenable and liable to be set aside.
- B- That, the impugned notification dated 02.02.2023, issued under the garb of so called charges while targeting only the appellant and excluding the others under the same charges, is totally biased, in arbitrary & malafide manner, hence not tenable and liable to be set aside to the extent of the appellant.
- C- That, the impugned notification dated 02.02.2023, issued under the garb of mala fide intention, is totally based on discrimination, favoritism and nepotism, hence not tenable in the eye of law.
- D- That, the impugned notification dated 02.02.2023, issued under the garb of violating the golden Principles of natural justice, has neither been in the interest of public nor in the exigency of service, hence not tenable and liable to be set aside.

(Copies of the cited judgment attached as Annexure.....S).

-32-

J- That, the impugned Notification dated 02.02.2023, is also in utter violation of the cited Judgment "2022 S C M R 439" of the Apex Court, by donning the cloak of Competent Authority while the Apex Court has held in its judgment as that,

"Using the term 'competent authority' but without disclosing such person's designation & name is against public policy and also against the public interest since it facilitates illegalities to be committed and protects those committing them. Merely mentioning the competent authority without disclosing the designation & name of the person who is supposed to be the competent authority is utterly meaningless. There is a need to put a stop to the use of illusive & elusive term i.e the Competent Authority without the disclosure of the Competent Authority's name & designation while issuing the notifications, orders, office memorandum, instructions, letters and other communications.

(Copy of the cited judgment attached as Annexure.....T).

K- That as per dictum laid down by the Honorable Supreme Court of Pakistan in the case cited as "PLD 2011 SC 927", the Honorable Supreme Court of Pakistan has dilated upon the principle of administration of justice as under,

"when a procedure has been provided for doing a thing in a particular manner that thing should be done in that matter and in no other way or it should not be done at all; indeed it impliedly prohibits doing of thing in any other manner; the compliance of such thing in no way could be either ignored or dispensed with. If the act complained of is without jurisdiction or is in excess of authority conferred by statute or there is abuse or misuse of power, court can interfere.

L- That, as per dictum laid down by the Honorable Supreme Court of Pakistan in the case cited as "PLD 2010 SC 483", the Honorable Supreme Court of Pakistan as follow;

"When the Supreme Court deliberately and with intention of setting the law, pronounces the question, such pronouncement is the law declared by the Supreme Court within the meaning of Article 189 of the Constitution and is binding on all Courts in Pakistan. It cannot be treated as mere obiter dictum.

M- That, the appellant has not been treated by the Health Department in accordance with law, rules and cited judgment of the Apex Court on the matter concerned and as such the respondents violated the Articles 4, 25, 189 & 190 of the Constitution of the Islamic Republic of Pakistan, 1973.

N- That, the appellant seeks permission to advance other grounds and proofs at the time of hearing while entertaining the instant Review Petition by your good office.

It is therefore, most humbly prayed that on acceptance of the instant review petition, the impugned notification dated 02.02.2023, issued in sheer violation of relevant rules & laws of the Land as well as in violation of reported judgments of Superior Courts may kindly be set aside, so as to meet the ends of the golden principles of natural justice and oblige please.



Appellant

Muhammad Shoaib Khan Ex. Provincial Drug Inspector,
Health Department Khyber Pakhtunkhwa, Peshawar
Cell No. 03149763660

- 34 -

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Appeal No /2023

M. Shoaib Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / /2023

[Signature]

CLIENT

ACCEPTED

[Signature]
**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

[Signature]
WALEED ADNAN

[Signature]
KAMRAN KHAN

[Signature]
UMAR FAROOQ MOHMAND

[Signature]
MUHAMMAD AYUB

&

[Signature]
**MAHMOOD JAN
ADVOCATES**

OFFICE:
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(0311-9314232)