

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 548/2023

Mr. Liaqat Ali.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

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Deponent

2/

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO: 548/ 2023

**Mr.Liaqat Ali (Ex-Driver) Administration Department, Civil Secretariat, Peshawar
(Appellant)**

Versus

1. **Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.**
2. **Secretary to Government of Khyber Pakhtunkhwa, Administration Department, Civil Secretariat, Peshawar.**

(Respondents)

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 1 & 2

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

- i. That Appellant has got no cause of action and locus standi.
- ii. That Appeal is not maintainable in the present form.
- iii. That Appeal is not based on facts.
- iv. That Appellant has not come to the Tribunal with clean hands.
- v. That appellant has concealed material facts from this Honorable Tribunal.
- vi. That Appellant is estopped by his own conduct to file the instant Appeal.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7285

Dated 30/8/23

RESPECTFULLY SUBMITTED:

1. The appellant was appointed as Staff Car Driver (BPS-04) vide the then Services & General Administration Department (General Wing) Order No.E&A(S&GAD)4(2)80, dated:18.02.1996 against the vacant post from the date of his arrival (**Annex-I**).
2. The appellant was removed from service vide Establishment & Administration Department Order No.E&A(AD)2(140)/06, dated:27.07.2011 under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 for the charges of willful absence from duty without prior approval of leave (**Annex-II**). In context to the representation / appeal submitted by the appellant dated:25.08.2022, it was already conveyed that the competent authority has regretted his departmental appeal / representation (vide Administration Department letter No.E&A/AD/02(140)/06, dated:06.10.2011 (**Annex-III**)). Another departmental appeal was submitted by the appellant on 12.10.2022 (**Annex-IV**) which was filed by the competent authority being time barred in light of the Provisions of Government Servants Appeal Rules, 1986 which states "A Civil Servant aggrieved by an order passed or penalty imposed by the Competent Authority relating to the terms & conditions of service may within thirty (30) days from the date of communication of order to him, prefer an appeal to the appellate authority" (**Annex-V**).
3. As explained in the preceding Para, the response of departmental appeal has already been communicated to the appellant on 06.10.2011 (**Annex-III**), however, since the 2nd appeal submitted by the appellant (on 12.10.2022) (**Annex-IV**) was time barred as a decade has been passed, the appeal was regretted and filed by the competent authority.

GROUND:

3

- A. Incorrect. Appellant has been treated under the rules. No right of appellant whatsoever, has therefore, been violated.
- B. Correct to the extent of Section 3 of Khyber Pakhtunkhwa Civil Servants Act, 1973 which quotes **“No pension to a civil servant who is otherwise entitled under sub-section (1) shall be admissible to him, if he is dismissed or removed from service for reason of discipline but Government may sanction compassionate allowance to such civil servant, not exceeding two-third of the person or gratuity which would have been admissible to him, had he been invalidated from service on the date of such dismissal or removal;” (Annex-VI)**. Since the last appeal (submitted on 12.10.2022) **(Annex-IV)** was time barred and regretted, hence, no proceedings were made.
- C. As replied above.
- D. Incorrect. All the proceedings have been made in accordance with the then rules in vogue. In fact, the whole service record / personal file of the appellant portrays that he was not a willing worker. He had repeatedly been directed to perform duty in a precise manner, however, despite the directions he failed to improvise his behavior and attitude by not taking the official duties seriously (some documents relating to departmental action against the official before the removal from service attached at **Annex-VII**).
- E. In correct. All the proceedings were made in accordance with the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000.
- F. Incorrect. A notice (dated:27.08.2010) was served to the appellant on his residential address on 27.08.2010 with the directions to resume duty within 07-days **(Annex-VIII)**. Another notice was served on 29.11.2010 **(Annex-IX)**, however, the appellant did not report for duty. A show cause notice was forwarded to the Director, Information, Khyber Pakhtunkhwa (vide letter dated:09.02.2011) for publication in the leading newspapers **(Annex-X)**. The same was published accordingly in the national Dailies “Aaj” & “Express” dated:20.02.2011 **(Annex-XI & XII)**. The appellant did not report for duty even then, the department once again issued a final show cause notice (dated:16.05.2011) was issued wherein it was clearly mentioned that if no reply was received within 15-days, it shall be presumed that he has nothing in defense & ex-parte action shall be initiated **(Annex-XIII)**. Neither did the appellant made any communication with the department nor he reported for duty, hence, a major penalty of removal from services was imposed.
- G. As explained in Para-F.
- H. Correct to the extent that no charge sheet & statement of allegation was issued, however, quite clearly it was already mentioned in the notices advertised in leading newspapers **(Annex-XI & XII)** as well as in the final show cause notice served on his residential address **(Annex-XIII)** that ex-parte action will be initiated in case the appellant did not report for duty. The requisite action is covered under Section-3 Sub Section-2 of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 **(Annex-XIV)**.
- I. Incorrect. As explained in Para-D, the appellant had extremely poor service record.
- J. Incorrect as explained earlier.

4/

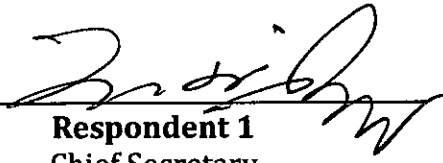
K. Correct to the extent to inquiry proceedings, explanation already provided vide **Para-H** of the grounds. Since on repeated notices and publishing of notice in the newspapers, the appellant did not report for duty then there no question arises for statement of witnesses in the presence of appellant.

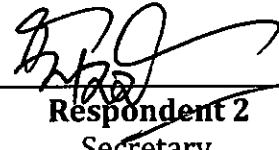
L. As replied above.

M. As explained in Para-D & F.

N. The respondents seek leave to raise additional grounds at the time of arguments.

It is therefore, humbly prayed that on acceptance of these comments the instant Appeal being devoid of merit may graciously be turned down / dismissed with cost.

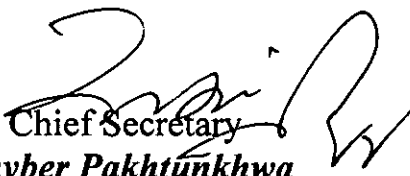

Respondent 1
Chief Secretary
Khyber Pakhtunkhwa.



Respondent 2
Secretary,
Govt. of Khyber Pakhtunkhwa
Administration Department.

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION DEPARTMENT

AUTHORITY LETTER

Mr. Sultan Shah, Superintendent Litigation Section-I, Establishment Department, Government of Khyber Pakhtunkhwa is hereby authorized to submit Parawise Comments before the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 548/2023 titled Mr. Liaqat Ali Versus Govt. of Khyber Pakhtunkhwa, on behalf of Respondents.


Chief Secretary
Khyber Pakhtunkhwa
(Respondent No. 01)


Secretary
Administration Department
(Respondent No. 02)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 548/2023

Mr. Liaqat Ali.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

AFFIDAVIT

I Sultan Shah Superintendent (Litigation) Establishment Department do hereby solemnly declare that contents of the comments are correct to the best of my knowledge and record and nothing has been concealed from this Honourable Tribunal.

Deponent

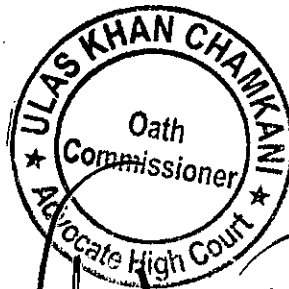
Sultan Shah
(Sultan Shah)

**Superintendent (Lit)
E & A Department
CNIC.17301-1286739-5
Mobile No. 0333-9391493**

Identified By

Advocate General
Khyber Pakhtunkhwa

ATTESTED



[Handwritten signature]
30/8/23

7

GOVERNMENT OF NWFP
SERVICES & GENERAL ADMINISTRATION DEPARTMENT
(GENERAL WING)

DATED PESH THE 18/2/1996.

ORDER.

NO. E&A(S&GAD) 4(2)80. Mr. Liaqat Ali Khan S/O Abdul Akbar Khan Mohallah Babian Khwaishki Payan Nowshera is hereby appointed as Staff Car Driver in BPS-4(Rs. 1360-58-2230) against an existing vacancy in the S&GAD from the date of arrival.

2. His appointment in the Civil Secretariat is purely on temporary basis and subject to the following conditions:-

- a) His services are liable to be terminated without assigning any reason. In case he wishes to resign from service, 15-days' advance notice will be necessary in lieu thereof 15-days' pay shall be forfeited.
- b) He will be governed by such rules and orders relating to TA, medical attendance, pay etc; as applicable to the Government Servants of the same categories as may be issued by the Government from time to time.
- c) He will produce medical fitness certificate from the Civil Surgeon, Peshawar.
- d) He should report to S&GAD within 7-days, otherwise he would be deemed to have not accepted the offer.

SECRETARY TO GOVT OF NWFP
SERVICES & GENERAL ADMINISTRATION
DEPARTMENT.

Endost 2-1996 * 1-18 even.

1. Forwarded to the:-
2. ~~Secretary~~ General NWFP Peshawar.
21. ~~PS to Minister~~ for Minority Affairs NWFP
- 3) Bill Clerk S&GAD.
- 4) CT(G) S&GAD.
- 5) P/File.
- 6) Official concerned.

(ROOH ULLAH)
SECTION OFFICER

8, 8

To

The Section Officer (General)
Govt: of NWFP, S&GAD.

SUBJECT:


ARRIVAL REPORT.

Sir,

In pursuance of Order No. E&A(S&GAD)
4(2)/80, dated 18.2.1996 I hereby submit my arrival
report for duty w.e.f. 18th February, 1996 (fore-noon).

Thanks.

Your obedient servant,


(LIAQAT ALI KHAN)
S/O ABDUL AKBAR KHAN,
Moh: Babian Khwaiski Payan
Distt: Nowshera.
DRIVER, S&GAD.





GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

Dated 27.07.2011 / 733/34

ORDER

NO.E&A(AD)2(140)/06.- WHEREAS, Mr. Liaqat Ali Khan Driver (BPS-05), Administration Department was proceeded against under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 for the charges of willful absence from duty without prior approval of leave;

2. AND WHEREAS, Notices were served upon him at his home address followed by a Show Cause Notice published in the newspapers, giving him an opportunity to explain within fifteen days his cause of absence;

3. AND WHEREAS, the Competent Authority after considering the charges, evidence on record, the reply of the accused to the Show Cause Notice served upon him and after giving him an opportunity of personal hearing, is satisfied that the charge levied against Mr. Liaqat Ali Khan, Driver has been proved.

4. NOW THEREFORE, in exercise of the powers conferred by Section 3 of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000, the Competent Authority hereby orders the imposition of major penalty of "Removal from Service" upon Mr. Liaqat Ali Khan, Driver, Administration Department with immediate effect.

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

ENDST. OF EVEN NO. & DATE

Copy forwarded to the:

- 1) Accountant General, Khyber Pakhtunkhwa.
- 2) Section Officer (Transport), Administration Department.
- 3) Section Officer (Admn) ST&IT Department.
- 4) Bill Assistant/Establishment Assistant-II, E&A Department.
- 5) Mr. Liaqat Ali Khan S/O Abdul Akbar Khan R/O Mohallah Babian, Khwaishki Payan, Tehsil & District Nowshera.
- 6) P/File.

(EHSAN ELAHI)

SECTION OFFICER (ADMN)

28-7-2011



GOVERNMENT OF
ADMINISTRATIVE

FEROZPUR DISTRICT
DEPARTMENT

10/167
Annex-III

NO: E&A(AD/ 02(140)/06
Dated Peshawar the 06-10-2011

To

Mr. Liaqat Ali s/o Abdul Akbar Khan
r/o Mohallah Babian Khwaishki Payan,
District Nowshera.

SUBJECT; DEPARTMENTAL APPEAL/REPRESENTATION FOR REINSTATEMENT IN SERVICE.

I am directed to refer to your representation/appeal dated 25-08-2011 on the subject noted above and to convey that the competent authority has regretted your departmental appeal / representation.

M. Ehsan Elahi
(EHSAN ELAHI)
SECTION OFFICER (ADMN)

(Signature)

(Signature)
10-10-2011

To

Secretary Government of Khyber Pakhtunkhwa
Administration Department.

PS Ds (Administration Deptt.) 11/168
Dairy No. 29/22 Dated 13/10/2022

Annex IV

Ps to Secy Admin
Dairy No. 3870 Date: 12-6-2022

Subject: Departmental Appeal for compassionate Allowances
under Section 3 of Civil Servant Act, 1973,
conversion of penalty of removal from service to
compulsory retirement on strength of superior court
Judgment, 2007 PLC (Civil Servant) 978 and
Tribunal Judgment dated 19.01.2022 in appeal No.
67/2018.

S.O (Admn) Administration Deptt:
Diary No. 2382
Date: 13/10/22

Respectfully Sheweth:-

- 1) That the appellant was appointed as driver in BPS-04 vide order dated 18.02.1996. since appointment appellant working with full zeal and devotion.
- 2) That the appellant was removal from service vide order dated 27.07.2011 on the basis of wilful absence.
- 3) That the appellant having fourteen years of service on his credit. Therefore, filing this Departmental Appeal for conversion of major penalty of removal from service to minor penalty of compulsory retirement on strength of superior court Judgment dated 19.01.2022 in appeal No. 67/2018 OR allowed compassionate allowances U/S 3 Civil Servant Act, 1973.

PA to Secy
Dairy No. 26/22
13/10

GROUND:

Ps to

SECY (ADMIN)

AS-T

S.O (A)
Supt (A)

- 1) That the impugned order dated 27.07.2011 may kindly be modified being harsh and major penalty may be converted to compulsory retirement.

S.O (Admin) 14/10

13/10/22
(DS Admin)

- 12
- B) That according to section 3 of Civil Servant Act, 1973 the person removal or dismissed from service shall be eligible for compassionate allowances of pensionary benefit. That the appellant has fourteen years of service on his credit therefore entitled for the same.
- C) That according to superior court Judgment cited as 2007 PLC (Civil Servant) 678, without touching other merit of the case on the basis of fourteen years' service major penalty of compulsory retirement to avoid pensioner benefits.
- D) That the absence of the appellant is not willful but due to compelling reason so, the penalty imposed upon the appellant is so, harsh without considering the fourteen years of service on his credit.
- E) That the appellant was not treated accordance with law and rules.

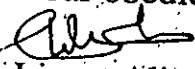
Prayer:-

On acceptance of this Departmental Appeal the major penalty of removal from service convert to compulsory retirement or compassionate allowance.

That the appellant may kindly be thankful.

Dated 12/10/2022

Your obediently .


Liaqat Ali
Ex-Driver (BPS-04)

0313-9929894

13/

**THE
NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS (APPEAL)
RULES, 1986**

3. Right of appeal

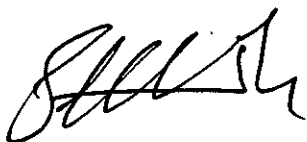
(1) A civil servant aggrieved by an order passed or penalty imposed by the competent authority relating to the terms and conditions of his service may, within thirty days from the date of communication of the order to him, prefer an appeal to the appellate authority: Provided that where the order is made by the Government, there shall be no appeal but the civil servant may submit a review petition [Provided further that the appellate or the reviewing authority, as the case may be, may condone the delay in preferring the appeal or the review petition, if it is satisfied that the delay was for the reasons beyond the control of the appellant or that the earlier appeal or review petition was not addressed to the correct authority].

Explanation.- For the purposes of the first proviso, the expression 'appeal', where the context so requires, shall mean the 'review petition' as well.

(2) Where the order of the competent authority affects more than one civil servant, every affected civil servant shall prefer the appeal separately;
(3) Where the aggrieved civil servant has died, the appeal may be filed, or if already filed by such civil servant before his death, may be pursued, by his legal heir or heirs; provided that the benefit likely to accrue on the acceptance of such appeal is admissible to such legal heir or heirs under any rules for the time being applicable to civil servants.

4. Form of memorandum

(1) Every memorandum of appeal shall—
(a) contain full name and address, official designation and place of posting of the appellant.
(b) state in brief the facts leading to the appeal.
(c) be accompanied by a certified copy of the order appealed against and copies of all other documents on which the appellant wishes to rely.



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THE ¹[KHYBER PAKHTUNKHWA] CIVIL SERVANTS ACT, 1973.

²[KHYBER PAKHTUNKHWA] ACT NO. XVIII OF 1973.

[11th November, 1973].

CONTENTS

SECTIONS

1. Preamble.

CHAPTER-I

PRELIMINARY

2. Definitions.

CHAPTER-II

TERMS AND CONDITIONS OF SERVICE OF SERVANTS

3. Terms & conditions.

4. Tenure of office of civil servants.

5. Appointment.

6. Probation.

7. Confirmation.

8. Seniority.

9. Promotion.

10. Posting and transfers.

11. Termination of services.

³[11A. Absorption of civil servants rendered surplus.]

⁴[11B. Absorption or appointment of Federal employees.]

12. Reversion to a lower post.

¹Substituted vide Khyber Pakhtunkhwa Act. IV of 2011.

²Substituted vide Khyber Pakhtunkhwa Act. IV of 2011.

³Inserted vide Khyber Pakhtunkhwa Ordinance No. VI of 2001.

⁴Inserted vide Khyber Pakhtunkhwa Act No. XXXVIII of 2015.

15
Amended - [initials]
II

Provided that in the event of death of such a civil servant as provided in this sub-section, whether before or after retirement, his family shall be entitled to receive such pension or gratuity or both, as admissible under the said rules.

(2) A person to be appointed on regular basis to a service or post in the prescribed manner, on or after the commencement of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2022 shall, for all intents and purpose, be civil servant except for the purpose of pension and gratuity. Such a civil servant shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by him towards the Contributory Provident Fund along with the contributions, made by Government to his account in the said Fund, in the prescribed manner:

Provided that in the event of death of such a civil servant as provided in this sub-section, whether before or after retirement, his family shall be entitled to receive the amount of Contributory Provident Fund, if it has already not been received by such deceased civil servant.

(3) No pension to a civil servant who is otherwise entitled under sub-section (1) shall be admissible to him, if he is dismissed or removed from service for reasons of discipline but Government may sanction compassionate allowance to such civil servant, not exceeding two-third of the pension or gratuity which would have been admissible to him, had he been invalidated from service on the date of such dismissal or removal:

Provided that a civil servant, referred to in sub-section (2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be allowed, on account of such compassionate allowance, a sum not exceeding two-third of Government contributions in his account.

(4) If the determination of the amount of pension or gratuity, admissible to a civil servant as specified in sub-section (1), is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity, as may be determined by the prescribed authority, according to the length of service of the civil servant which qualifies for pension or gratuity, and any over payment, on such provisional payment, shall be adjusted against the amount of pension or gratuity, finally determined as payable to such civil servant or his family.]

20. (1) Before the expiry of the third month of every financial year, the Accounts Officer or other officer required to maintain provident fund accounts shall furnish to every civil servant subscribing to a provident fund the account of which he is required to including the interest accruing thereon, if any and withdrawals or advances from, his provident fund during the preceding financial year.

Provident Fund.

(2) Where any subscription made by a civil servant to his provident fund has not been shown credited in the account by the Accounts Officer or other

16
11/11/2000

GOVERNMENT OF NWFP
SERVICES & GENERAL ADMINISTRATION DEPARTMENT
(GENERAL WING)

DATED PESHAWAR THE 5/6/2000.

ORDER.

NO. E&A(S&GAD)2(140)96. Mr. Liaqat Ali Khan, Staff Car Driver S&GAD is hereby suspended from service on account of wilful absence from duty w.e. from 13.6.2000.

DEPUTY SECRETARY(ADMN) S&GAD.

ENDOST NUMBER & DATE EYES.

Copy forwarded to:-

1. Accountant General NWFP Peshawar.
2. SO(Transport) S&GAD.
3. Bill Clerk S&GAD.
4. Cashier S&GAD. He is directed to stop payment of salary to the official concerned till further orders.
5. Official concerned.

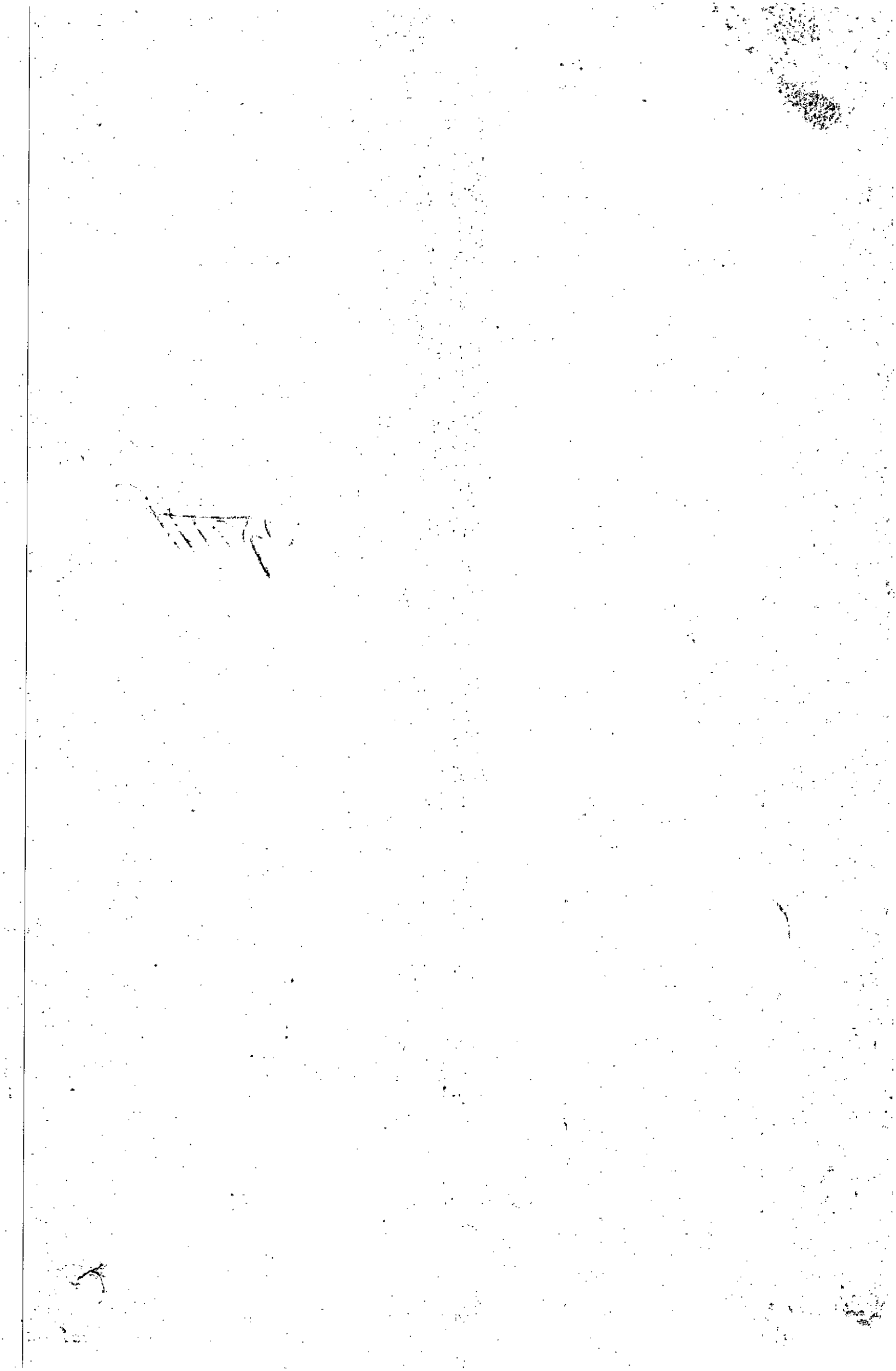
Shah Jehan

(SHAH JEHAN)
SECTION OFFICER(GENERAL) S&GAD

Muhammad

3 June

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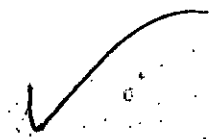


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GOVERNMENT OF NWFP
SERVICES AND GENERAL ADMINISTRATION DEPARTMENT
(TRANSPORT WING)

No. SOT (S&GAD) 3-16/2000

PESHAWAR, DATED , THE 17/7/2000



The Section Officer (General)
S&GAD

SUBJECT: DISCIPLINARY ACTION AGAINST MR. LIAQAT ALI KHAN
DRIVER S&GAS

Please refer to your Order No. E&A(S&GAD)2(14)
dated 04/5/2000 on the subject noted above.

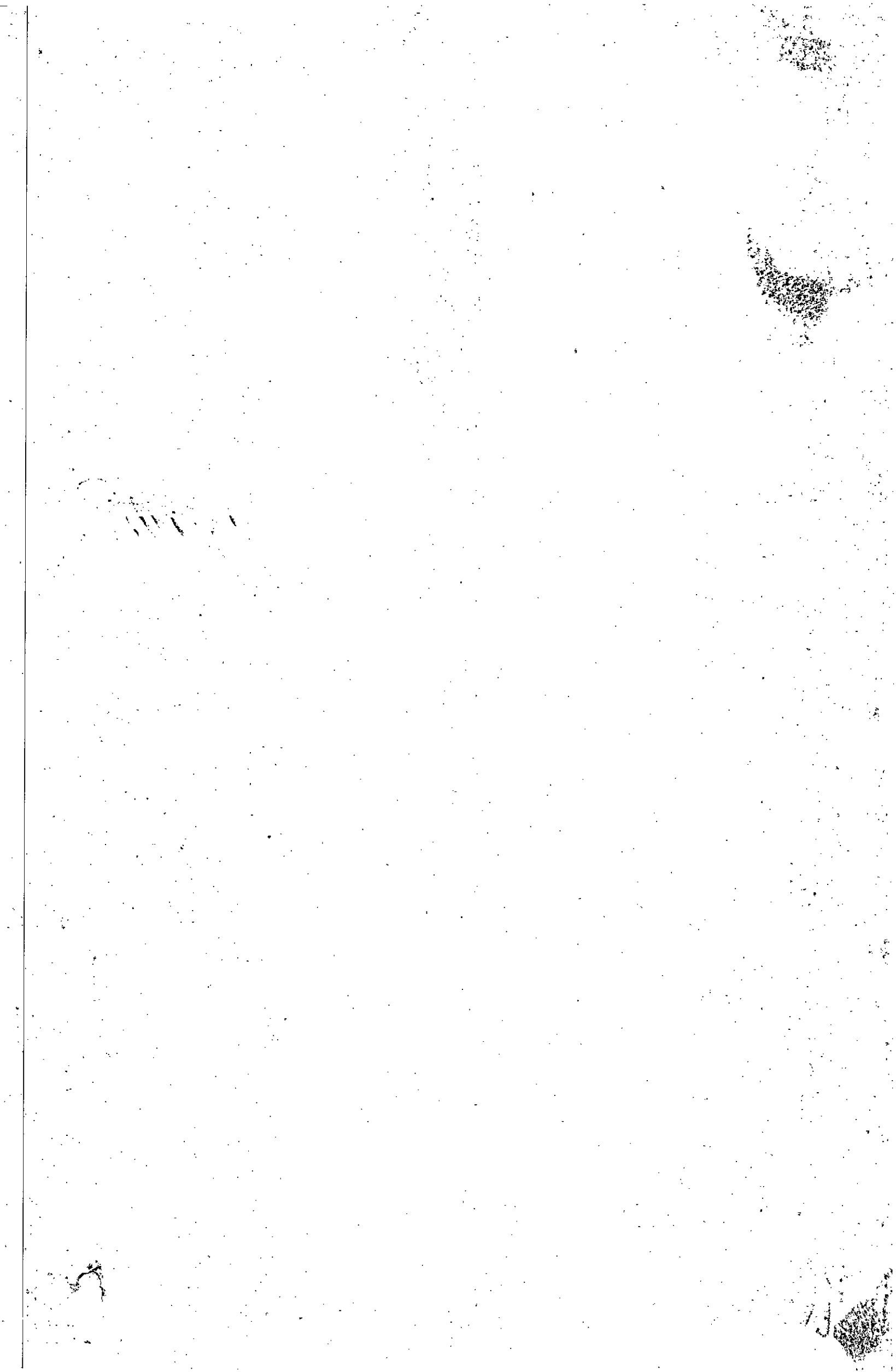
A draft copy of charge sheet alongwith statement
of allegation in respect of Mr. Liaqat Ali Khan Driver
S&GAD is sent herewith for your further necessary action.
Pls.

[Handwritten signature]

[Handwritten signature]

SECTION OFFICER (TRANSPORT)
S&GAD

[Handwritten notes and signatures]
Rh
18/7
1872



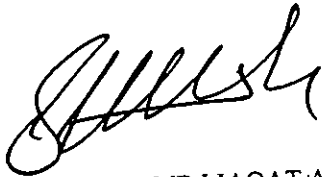
18 / 7

CHARGE-SHEET.

You, Mr. Liaqat Ali, Staff Car Driver, S&GAD are hereby charged as under:-

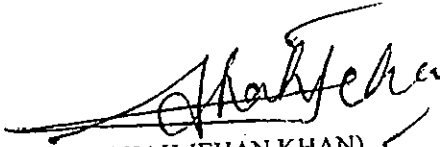
"You remained absent from your official duties w.e.f. 13-6-2000 to 5-7-2000 without prior approval/sanction from the competent authority. You are frequently availing leaves on your own sweet will and without permission/approval. You are also suspended from service on 5-6-2000 on account of your willful absence. But after suspension you were required to mend your attitude towards the performance of your official duties but you again remained absent from your duties w.e.f. 14-7-2000. Your this act tantamount to misconduct.

2. By reasons of the above, you appear to be guilty of misconduct and have rendered yourself liable to all or any of the penalties specified in Rule-3&4 of the E&D Rules, 1973.
3. You are, therefore, required to put in your written defence within fourteen (14) days of the receipt of this charge-sheet as to why disciplinary action should not be taken against you.
4. Your written defence, if any, should reach the undersigned within the specified period, failing which it shall be presumed that you have no defence to offer.
5. Please also intimate if you wish to be heard in person.
6. The statement of allegation is enclosed herewith.



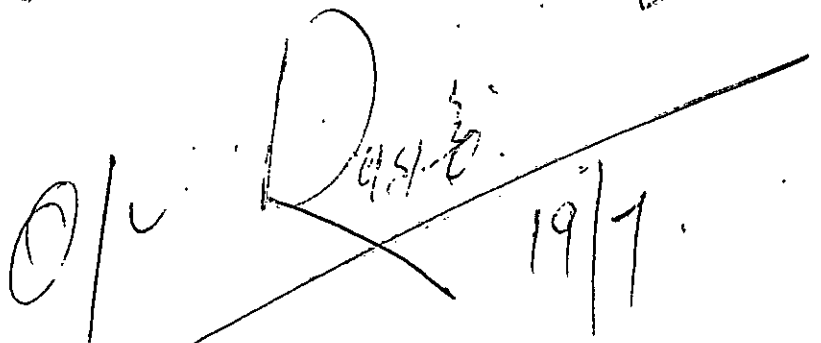
MR. LIAQAT ALI,
STAFF CAR DRIVER,
S&GAD.

U/O NO. SOG(S&GAD) P/File



(SHAH JEHAN KHAN)
SECTION OFFICER(GENERAL), S&GAD.
AUTHORIZED OFFICER.

Dated Peshawar the 18.7.2000



O/c ~~Das~~ 19/7

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GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT
STAFF TRAINING INSTITUTE

NO DD(S.T.I.E&AD1(3)2009-10
Dated Peshawar the 05-11-2009

To

The Section Officer(Admin.),
Administration Department,
Government of NWFP,
Peshawar

Subject -

DISCIPLINARY ACTION AGAINST THE DRIVER.

Memo

Kindly refer to telephone conversation of Deputy Secretary (Admin.) S.T.I. with you today on 4th November, 2009 regarding surrender of Luqat Khan, Driver Staff Training Institute, Establishment Department.

It is stated that the said driver is unwilling and irresponsible figure of S.T.I. and is at large since 28/09/2009 and has not reported for duty as yet.

In view of the above, it is therefore requested to take an immediate necessary action under E&D Rules, 1973 against the said driver in the capacity of Administrative Department and a suitable substitute thereof may kindly be posted to this Institute at an early date.

(SAID WAHAB)
SECTION OFFICER (ADMN.)
S.T.I. ESTABLISHMENT
DEPTT:

Encls: NO DD(S.T.I.E&AD1(3)2009-10/18948 Dated Peshawar the 05-11-2009

Copy to:-

- i. PS to Director, S.T.I.
- ii. PA to Deputy Director, S.T.I.
- iii. Official concerned
- iv. Office Order File

SECTION OFFICER (ADMN.)
S.T.I. ESTABLISHMENT
DEPTT:



GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

20
Annex V/1/1

No. E&A(AD)02(140)/96
Dated Peshawar the 27-08-2010

To

Mr. Liaqat Ali S/O Abdul Akbar Khan
Mohallah Babian Khwaishki Payan,,
Distt: Nowshera

SUBJECT: NOTICE

You are absent from duty since 05-07-2010 to-date without any intimation or prior approval of the competent authority as reported by the, Section Officer, Science & Technology and Information Technology, which amounts to misconduct under Removal from Service (Special Powers), Ordinance, 2000.

2. You are, therefore, directed to resume the duty and to explain the reason of your willful absence within 07-days; otherwise, stern disciplinary action will be initiated against you under the rules ibid.

Ehsan Elahi
(EHSAN ELAHI)
SECTION OFFICER (ADMN)

Endst; of Even No & date

Copy forwarded to Section Officer, Science & Technology and Information Technology, for information

Ehsan Elahi
SECTION OFFICER (ADMN)

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

NO: E&A(ΔD/02(140)96 / 2732
Dated Peshawar the 09-02-2011

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Annex - 8 15

To

The Director of Information & Public Relations
Govt; of Khyber Pakhtunkhwa, Peshawar

SUBJECT: SHOWCAUSE NOTICE.

I am directed to refer to the subject noted above and to forward herewith seven(07) copies of a Showcause Notice for publication in the two leading newspapers.

2. It is certified that necessary funds are available to meet the charges of the advertisement.

Ehsan Elahi
(EHSAN ELAHI)

Section Officer (Admn)

Encl; as Above.

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15/02/11

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[Handwritten signature]
21/2/11



GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

22/1
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Annex 1

No. E&A(AD)02(265)/96
Dated Peshawar the 16-05-2011

To

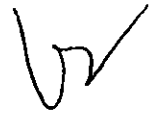
Mr. Liaqat Ali S/O Abdul Akbar Khan
Mohallah Babian Khwaishki Payan,,
Distt: Nowshera

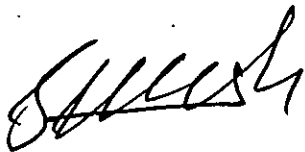
SUBJECT: FINAL SHOWCAUSE NOTICE

I am directed to refer to this department letter of even No. dated 27-08-2010 and 29-11-2010 on the subject noted above and subsequent Showcause Notice published in the Newspapers dated 20-02-2011 and to state that you are absent from duty since 05-07-2010 to till date without any intimation or prior approval of the competent authority which amounts to misconduct under Removal from Service (Special Powers), Ordinance, 2000.

2- You are, therefore, finally directed to show cause as to why any major penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

3- If no reply to this notice is received within 15 days of its delivery in the normal course of circumstances, it shall be presumed that you have nothing to say in your defence. In that case an ex-parte action shall be taken against you under the rules *ibid*.


(EHSAN ELAHI)
SECTION OFFICER (ADMN)



Reminder

Amma



GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

No. E&A(AD)02(265)/96 / 4473 -
Dated Peshawar the 29-11-2010

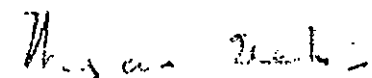
To

Mr. Liaqat Ali S/O Abdul Akbar Khan
Mohallah Babian Khwaishki Payan,,
Distt: Nowshera

SUBJECT: NOTICE

I am directed to refer to this department letter of even No. dated 27-08-2010 on the subject noted above and to state that you are absent from duty since 05-07-2010 to-date without any intimation or prior approval of the competent authority as reported by the, Section Officer, Science & Technology and Information Technology, which amounts to misconduct under Removal from Service (Special Powers), Ordinance, 2000.


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(EHSAN ELAHI)
SECTION OFFICER (ADMN)

Indst; of Even No & date

Copy forwarded to Section Officer, Science & Technology and Information Technology, for information


SECTION OFFICER (ADMN)


02
29-11-2010

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INQUIRY REPORT

Subject: DICIPLINARY PROCEEDINGS AGAINST MR. LIAQT ALI KHAN DRIVER LOCAL GOVERNMENT AND RURAL DEVELOPMENT DEPARTMENT UNDER THE PROVISION OF NWFP REMOVAL FROM SERVICE (SPECIAL POWERS) ORDINANCE 2000

In pursuance of the Section Officer (Admn), Administration Department Order No.E&A(AD)2(140)/96 dated 25-5-2006, the competent authority has appointed the Section Officer (Budget) as Inquiry Officer to initiate the disciplinary proceedings against Mr. Liaqat Ali Khan Driver (BPS-4), Local Government and Rural Development Department, Peshawar under the provision of NWFP Removal From Service (Special Powers) Ordinance 2000, as amended vide Gazette Notification No.Legis:1(4)/2000/2731 dated 23-5-2001 titled NWFP Removal From Service (Special Powers) (Amendment) Ordinance 2001, for the charges of willful absence as per charge sheet and statement of allegations issued to him on 25-5-2006 as reproduced below (Annex-I):-

STATEMENT OF ALLEGATIONS.

- i. That Mr. Liaqat Ali Khan, Driver was transferred and posted in Local Govt. & Rural Development Department on 23-2-2006, but he did not perform even single day duty in the department and remained absent from his duty on one or another pretext that caused great difficulties to high ups.
 - ii. His service record reflects that he has not been keen in discharging his official duties and was found of availing frequent leaves without any intimation or approval of the competent authority and on the same reason, he had been awarded minor penalty of "censure", but he did not mend his behavior and did not develop devotion towards duty.
2. The inquiry proceedings were started in the office of the Section Officer (Budget) on 17-6-2006. Mr. Liaqat Ali Khan Driver and Mr. Sahibzada, Assistant, Local Govt. Department, Peshawar attended the Section Officer Budget.

Charges / allegation No.1

3. The accused Driver Mr. Liaqat Ali Khan was heard in person and was given fully opportunity to explain and clarify his position. According to the inquiry proceedings (Annex-II). He was asked whether he has received statement of allegations issued by the Section Officer (Admn) on 25-5-2006. He replied in positive. He was asked that he has submitted written reply / defence against the charges leveled against him. He told that he would submit within next two days. He was asked that in pursuance of Deputy Secretary (Admn), Administration Department order dated on 14-3-2006 (Annex-III), he was posted in the Local Govt. and Rural Development Department but he did not report for duty to the said Department and remained absent without any leave application or intimation. On 25-3-2006, the Local Govt. Department issued a letter to the Section Officer (Transport), Admn Department to start disciplinary action against to Mr. Liaqat Ali Khan Staff Car Driver who did not report for duty in compliance of above posting orders (Annex-IV). Mr. Liaqat Ali Khan Driver explained that copy of the posting orders was given to him after some days and he went to the Local Govt. Department and reported his arrival to Mr. Aftab Akbar Durrani Additional Secretary, Local Govt. Department who asked him to sit outside in the P.S office. After some time He requested the above Officer to allow him to bring LPC and service documents. He did not submit written report of arrival to the Section Officer (General) or to the Addl. Secretary. Next day i.e on 30-3-2006 he met with a serious accident with the Ricksha which strongly stroke / hit him on the foot. He went to the Police Hospital and Doctor Advised him bed rest for a period of 30 days. Copy of medical certificate duly countersigned by Medical Superintendent Police and Services Hospital is placed at (Annex-V). The original M.C was also available with the accused Liaqat Ali driver. He was asked that whether he has submitted application alongwith medical certificate to the Local Govt. Department for



25/

Department for grant of leave. He told that he sent application alongwith medical certificate to the Addl. Secretary, Local Govt. Department through one of his friends. The P.S to Addl. Secretary did not accept the documents and returned with the directions that the Liaqat Ali driver may be asked to see the Addl. Secretary. Since he was feeling pain in the foot due to Ricksha accident as such he could not be able to visit the office and after expiry of 30 days leave period he again reported to the Addl. Secretary, Local Govt. Department and he advised to go back and report to the Section Officer (Transport). He submitted his written reply on 19-6-2006 placed at (Annex-VI).

4. Mr. Jehangir Pervez, Private Secretary to Addl. Secretary, Local Govt. Department who attended the inquiry proceeding on 20-6-2006 was also heard. He provided a copy of an application dated 25-3-2006 of Liaqat Ali driver requesting to the Addl. Secretary, Local Govt. Department for the grant of one day leave on 25-3-2006 as the result of his Road accident due to which he received serious injury (Annex-VII). The said application was shown to the accused Liaqat Ali driver who confirmed that the application was sent by him to the Local Govt. Department through Mr. Ilyas Khan, Senior Clerk, Transport Section. Mr. Jehangir Pervez, P.S also stated that he neither seen nor any body brought this medical certificate to him before. The written statement of Mr. Jehangir Pervez, P.S is placed at (Annex-VIII).

5. In view of the above facts, there is no relevancy in the circumstances stated by the accused driver. He has failed to submit the application alongwith medical certificate to the competent authority in the Local Govt. Department at proper time for the grant of leave on medical grounds as a result he remained absent without any authority or sanction order as such the charge / allegation at Serial No.(i) stands proved.

Charges / allegation No.II

6. I have gone through his record of service. The charges mentioned in the charge sheet at Serial No.(ii) have been supported with the written documentary proof issued to him in his personal file which stands proved.

Findings / Recommendations.

7. In view of the position discussed above, the accused official Mr. Liaqat Ali driver is guilty of misconduct within the meaning of Section-3 of NWFP Removal From Service (Special Powers) Ordinance 2000 as amended vide Gazette Notification No.Legis: 1(4)/2000/2731 dated 23-5-2001 titled NWFP Removal From Service (Special Powers) (Amendment) Ordinance 2001 and has therefore rendered himself liable to any one of the minor penalties specified in section 3 of the Ordinance ibid.

8. I therefore recommend imposing of miner penalty of withholding of annual increment for the period of three years on accused official Mr. Liaqat Ali driver, Local Govt. Department, Peshawar.

Section Officer (Budget)
Inquiry Officer
Dated 4th July, 2006



GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

No. E&A(AD)02(140)/96
Dated Peshawar the 27-08-2010

To

Mr. Liaqat Ali S/O Abdul Akbar Khan
Mohallah Babian Khwaishki Payan,,
Distt: Nowshera

SUBJECT: NOTICE

You are absent from duty since 05-07-2010 to-date without any intimation or prior approval of the competent authority as reported by the, Section Officer, Science & Technology and Information Technology, which amounts to misconduct under Removal from Service (Special Powers), Ordinance, 2000.

2. You are, therefore, directed to resume the duty and to explain the reason of your willful absence within 07-days; otherwise, stern disciplinary action will be initiated against you under the rules *ibid*.

Muhammad Elahi
(EHSAN ELAHI)
SECTION OFFICER (ADMN)

Endst; of Even No & date

Copy forwarded to Section Officer, Science & Technology and Information Technology, for information

Muhammad Elahi
SECTION OFFICER (ADMN)

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Reminder



GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

No. E&A(AD)02(265)/96 / 4473 - 74
Dated Peshawar the 29-11-2010

To

Mr. Liaqat Ali S/O Abdul Akbar Khan
Mohallah Babian Khwaishki Payan,,
Distt: Nowshera

SUBJECT: NOTICE

I am directed to refer to this department letter of even No. dated 27-08-2010 on the subject noted above and to state that you are absent from duty since 05-07-2010 to-date without any intimation or prior approval of the competent authority as reported by the, Section Officer, Science & Technology and Information Technology, which amounts to misconduct under Removal from Service (Special Powers), Ordinance, 2000.

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Ehsan Elahi
(EHSAN ELAHI)
SECTION OFFICER (ADMN)

Endst; of Even No & date

Ehsan Elahi
Copy forwarded to Section Officer, Science & Technology and Information Technology, for information

Ehsan Elahi
SECTION OFFICER (ADMN)

(02)
(E&A)
29-11-2010



GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

NO: E&A(AD/02(140)96/2732
Dated Peshawar the 09-02-2011

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Annex - 2
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To

The Director of Information & Public Relations
Govt; of Khyber Pakhtunkhwa, Peshawar

SUBJECT: SHOWCAUSE NOTICE.

I am directed to refer to the subject noted above and to forward herewith seven(07) copies of a Showcause Notice for publication in the ^{two} leading newspapers.

2. It is certified that necessary funds are available to meet the charges of the advertisement.

Ehsan Elahi
(EHSAN ELAHI)

Section Officer (Admn)

Encl; as Above.

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حکومت خیبر پختونخوا (انتظامیہ)

تعمیرات اور سہولتیں

آپ کی لیاقت ملی (ڈرامیٹر) ولد عبدالاکبر خان سکھہ خان باہیان تحصیل لڑکی پانان تحصیل لڑکی نوشہرہ سرحد 5.7.2010 سے حاملہ بیوہ کی اطلاع کے فیہ حاضر ہیں آپ کے گھر کے پتے پر 27/8/2010 E&A (AD)/02(140)96 نوٹس نمبر 27/8/2010 E&A (AD)/02(140)96 نوٹس نمبر 29/11/2010 E&AD/2(265)96/4473-74 کے پاس اپنی فیہ ماضی کی کوئی جائزہ وصول ہو جو ضروری طور پر اس بار کے سامنے پیش کریں چنانچہ آپ اپنی ذمہ داری پر حاضر ہونے سے آپ کی طرف سے کوئی جواب وصول ہوا لہذا آپ کو بذریعہ اخبار مطلع کیا جاتا ہے کہ آپ اس نوٹس کی اشاعت کے بعد (15) دنوں کے اندر اندر اپنی فیہ ماضی کی وجہ بیان کریں بصورت دیگر آپ کے خلاف ملازمت سے برخواستگی (خصوصی امتیازات) آزاد میں 2000 کے تحت یکطرفہ کارروائی عمل میں لائی جائے گی جس کے نتیجے میں آپ کو سرکاری ملازمت سے برخواستگی ہو سکتی ہے۔

احسان الہی

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INF(P)449

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حکومت خیبر پختونخوا (انتظامیہ)

نوٹس ابلاغیہ وجہ ہدایت فیہ ماضی

آپ کی لیاقت ملی (ڈرامیٹر) ولد عبدالاکبر خان سکھہ خان باہیان تحصیل لڑکی پانان تحصیل لڑکی نوشہرہ سرحد 5/7/2010 سے حاملہ بیوہ کی اطلاع کے فیہ حاضر ہیں آپ کے گھر کے پتے پر 27/8/2010 E&A (AD)/02(140)96 نوٹس نمبر 27/8/2010 E&A (AD)/02(140)96 نوٹس نمبر 29/11/2010 E&AD/2(265)96/4473-74 کے پاس اپنی فیہ ماضی کی کوئی جائزہ وصول ہو جو ضروری طور پر اس بار کے سامنے پیش کریں چنانچہ آپ اپنی ذمہ داری پر حاضر ہونے سے آپ کی طرف سے کوئی جواب وصول ہوا لہذا آپ کو بذریعہ اخبار مطلع کیا جاتا ہے کہ آپ اس نوٹس کی اشاعت کے بعد (15) دنوں کے اندر اندر اپنی فیہ ماضی کی وجہ بیان کریں بصورت دیگر آپ کے خلاف ملازمت سے برخواستگی (خصوصی امتیازات) آزاد میں 2000 کے تحت یکطرفہ کارروائی عمل میں لائی جائے گی جس کے نتیجے میں آپ کو سرکاری ملازمت سے برخواستگی ہو سکتی ہے۔

(احسان الہی) سیکشن آفیسر (انتظامیہ) محکمہ انتظامیہ صوبہ خیبر پختونخوا

www.khyberpakhtunkhwa.gov.pk INF(P)449

Also available on

استعداد ہوائی اجارہ داری

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Annex-XII-15/30

20/7/11 Dated

D. Aziz

D. Express

www.khyberpakhtunkhwa.gov.pk

حکومت خیبر پختونخوا (انضمامیہ)

نوٹس (اظہار وجود)

آپ کی لیاقت علی (ڈرامیڈر) ولد عبدالاکبر خان سکھ ولد بابا جان خوجی کی بائیاں تحصیل ولسلہ نوشہرہ سوری 57/2010 سے حامل بغیر کسی اطلاع کے غیر حاضر ہیں۔ آپ کے گھر کے پتہ پر ذریعہ نوٹس E&AD/02(140)96/27/8/2010 اور E&AD/2(265)96/4473-74 سوری 29/11/2010 ہدایت کی گئی کہ اگر آپ کی بائیاں غیر حاضر ہوئے تو آپ کی طرف سے کوئی جواب سوسول ہو اور اگر آپ کو ذریعہ نوٹس لیا جاتا ہے تو آپ اس نوٹس کی اشاعت کے پندرہ (15) دنوں کے اندر اپنے غیر حاضر ہونے کی وجوہات پر مہر و پیکر آپ کے خلاف ملازمت سے برخواستگی (خصوصی امتیازات) آؤدیتس 2000 کے تحت یکطرفہ کارروائی میں لائی جائے گی جس کے نتیجے میں آپ کو سرکاری ملازمت سے برخواستگی کی جا سکتی ہے۔

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حکومت خیبر پختونخوا (انضمامیہ)

نوٹس (اظہار وجود) بائیاں غیر حاضر ہیں

آپ کی لیاقت علی (ڈرامیڈر) ولد عبدالاکبر خان سکھ ولد بابا جان خوجی کی بائیاں تحصیل ولسلہ نوشہرہ سوری 57/2010 سے حامل بغیر کسی اطلاع کے غیر حاضر ہیں۔ آپ کے گھر کے پتہ پر ذریعہ نوٹس E&AD/02(140)96/27/8/2010 اور E&AD/2(265)96/4473-74 سوری 29/11/2010 ہدایت کی گئی کہ اگر آپ کی بائیاں غیر حاضر ہوئے تو آپ کی طرف سے کوئی جواب سوسول ہو اور اگر آپ کو ذریعہ نوٹس لیا جاتا ہے تو آپ اس نوٹس کی اشاعت کے پندرہ (15) دنوں کے اندر اپنے غیر حاضر ہونے کی وجوہات پر مہر و پیکر آپ کے خلاف ملازمت سے برخواستگی (خصوصی امتیازات) آؤدیتس 2000 کے تحت یکطرفہ کارروائی میں لائی جائے گی جس کے نتیجے میں آپ کو سرکاری ملازمت سے برخواستگی کی جا سکتی ہے۔

(احسان الہی) سیکشن آفیسر (انضمامیہ) محکمہ انضمامیہ صوبہ خیبر پختونخوا

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استعمال برائے اجارہ داری

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

(7). 131
Annex IX

No. E&A(AD)02(265)/96
Dated Peshawar the 16-05-2011

To


Mr. Liaqat Ali S/O Abdul Akbar Khan
Mohallah Babian Khwaishki Payan,,
Distt: Nowshera

SUBJECT: FINAL SHOWCAUSE NOTICE

I am directed to refer to this department letter of even No. dated 27-08-2010 and 29-11-2010 on the subject noted above and subsequent Showcause Notice published in the Newspapers dated 20-02-2011 and to state that you are absent from duty since 05-07-2010 to till date without any intimation or prior approval of the competent authority which amounts to misconduct under Removal from Service (Special Powers), Ordinance, 2000.

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3- If no reply to this notice is received within 15 days of its delivery in the normal course of circumstances, it shall be presumed that you have nothing to say in your defence. In that case an ex-parte action shall be taken against you under the rules ibid.


(EHSAN ELAHI)
SECTION OFFICER (ADMN)



which shall be effective from the date of his conviction by a court of law; or

- (b) charges other than corruption or moral turpitude it may, in the light of the facts and circumstances of the case, decide as to whether it is a fit case for taking departmental action under this Ordinance, and if it so decides it may, subject to the provisions of sub-section (2) of section 3, impose any penalty provided by this Ordinance as it may deem fit.

4. Suspension.--- A person against whom action is proposed to be taken under sub-section (1) of section 3 may be placed under suspension with immediate effect if, in the opinion of the competent authority, suspension is necessary or expedient:

Provided that the competent authority may, in an appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave, as may be admissible to him, from such date as may be specified by the competent authority.

75. Power to appoint an Inquiry Officer or Inquiry Committee.---(1) Subject to the provisions of sub-section (2), the competent authority shall, before passing an order under section 3, appoint an Inquiry Officer or Inquiry Committee to scrutinize the conduct of a person in Government service or a person in corporation service who is alleged to have committed any of the acts or omissions specified in section 3. The Inquiry Officer or, as the case may be, the Inquiry Committee, shall-

- (a) communicate to the accused the charges and statement of allegations specified in the order of inquiry passed by the competent authority;
- (b) require the accused within seven days from the day the charge is communicated to him to put in a written defence;
- (c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him; and
- (d) hear the case from day to day and no adjournment shall be given except for special reasons to be recorded in writing and intimated to the competent authority.

(2) Where the Inquiry Officer or, as the case may be, the Inquiry Committee, is satisfied that the accused is hampering, or attempting to hamper, the progress of the Inquiry, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as he or it deems proper in the interest of justice.

(3) The Inquiry Officer or, as the case may be, the inquiry Committee, shall submit his or its findings and recommendations to the competent authority within twenty-five days of the initiation of inquiry.

⁷ Section 5 Substituted. by N.-W.F.P. Ord. No. V of 2001.

(4) The Competent authority may dispense with the inquiry under sub-section (1) if it is in possession of sufficient documentary evidence against the accused, or for reasons to be recorded in writing, it is satisfied that there is no need of holding an inquiry.

(5) Where a person who has entered into plea bargaining under any law for the time being in force, and has returned the assets or gains acquired through corruption or corrupt practices voluntarily, the inquiry shall not be ordered:

Provided that show cause notice shall be issued on the basis of such plea bargaining to such person informing of the action proposed to be taken against him and the grounds of such action requiring him to submit reply within fifteen days of the receipt of the notice. On receipt of the reply, the competent authority may pass such orders as it may deem fit.

6. Powers of the [Inquiry Officer or] Inquiry Committee.---The Inquiry Officer or, as the case may be, the Inquiry Committee shall have powers-

- (a) to summon and enforce attendance of any person and examine him on oath;
- (b) to require the discovery and production of any document;
- (c) to receive evidence on affidavits; and
- (d) to record evidence.

7. Procedure to be followed by the Inquiry Officer or Inquiry Committee.---The Inquiry Officer or, as the case may be, the Inquiry Committee shall, subject to any rules made under this Ordinance, have power to regulate its own procedure including the fixing of place and time of its sitting and deciding whether to sit in public or in private, and, in the case of a committee constituted for a person in corporate service, to act notwithstanding the temporary absence of any of its members.

8. Order to be passed upon a finding.---Every finding recorded by an Inquiry officer or, as the case may be the Inquiry Committee under section 5 shall, alongwith the recommendation provided for in that section, be submitted to the competent authority and the competent authority may pass such orders thereon as it may deem proper in accordance with the provisions of this Ordinance.

9. Representation.---(1) A person on whom a penalty is imposed under section 3, may, within fifteen days from the date of communication of the order, prefer a representation to-

- (a) the Chief Minister or an Officer or authority designated by him, if the order has been passed by an officer or authority authorized by the Chief Minister;
- (b) the Governor or an officer or authority designated by him in any other case; provided that where the order has been made by the Governor, such person may, within the aforesaid period, submit a ⁹[review petition] to the Governor; and

⁸ Section 9 substituted by N.-W.F.P. Act No. 11 of 2004,

⁹ The word "representation" substituted by the word [review petition] vide NWFP Removal from Service (Special Powers) (Amendment) Act 2005 (NWFP Act No III of 2005) dt 29-1-2005

(c) the Governor, where an order as competent authority has been passed by the Chief Minister.

(2) The Governor, the Chief Minister or an officer or authority, as may be designated for the purpose by the Governor or the Chief Minister, as the case may be, may, on consideration of the representation or, as the case may be, the ¹⁰[review petition] and any other relevant material, confirm, set aside, vary or modify the order in respect of which such representation or ¹¹[review petition] is made.

10. Appeals.--- Notwithstanding anything contained in any other law for the time being in force, any person aggrieved by any final order under section 9 may, within thirty days of the order, prefer an appeal to the Service Tribunals established under the North-West Frontier Province Service Tribunals Act, 1974 (N.-W.F.P. Act No. I of 1974):

¹²Provided that where a representation ¹³[*****] has been preferred under section 9, but no decision has been received by, or communicated to, the applicant or, as the case may be, the petitioner, within a period of sixty days of its submission to the prescribed authority, he may prefer an appeal to the Service Tribunal, established under section 3 of the North-West Frontier Province Service Tribunals Act, 1974 (N.-W.F.P. Act No. I of 1974), within thirty days of the expiry of the aforesaid period.

11. Ordinance to override other laws.---The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in the North-West Frontier Province Civil Servant Act, 1973 (N.-W.F.P. Act No. XVIII of 1973), and the rules made thereunder, and any other laws for the time being in force.

12. Proceeding under this Ordinance.---All proceedings initiated on the commencement of this Ordinance in respect of matters and persons in service provided for in this Ordinance shall be governed by the provisions of this Ordinance and rules made thereunder:

¹⁴Provided that the Provincial Government may, by notification in the official gazette, exempt any class or classes of employees of a corporation, a corporate body, authority, statutory body or other organization or institution set up, established, owned, managed or controlled by it, or a body or organization in which it has a controlling share or interest, from the provisions of this Ordinance and such class or classes of employees shall, notwithstanding anything contained in this Ordinance, be proceeded against and dealt with under the laws and rules applicable to such employees before the commencement of this Ordinance.

13. Pending proceedings to continue.---For the removal of doubts, it is hereby provided that all proceedings pending immediately before the commencement of this Ordinance against any person, whether in Government service or service of a corporation, under the North-West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act No. XVIII of 1973), and rules made thereunder, or any other law or rules, shall continue under the said laws and rules in the manner provided thereunder.



¹⁰ The word "representation" substituted by the word [review petition] vide NWFP Act No III of 2005

¹¹ The word "presentation" substituted by the word [review petition] vide NWFP Act No III of 2005

¹² Proviso added by NWFP ordinance No XXV of 2002

¹³ The word "or review petition" omitted vide NWFP ordinance No XLV of 2002

¹⁴ Proviso to section 12 added by ordinance No. XXXIII of 2001

14. Pensionary benefits, etc.---Notwithstanding anything contained in this Ordinance, the payment of pension or other benefits to a person retired or reduced to lower post or pay scale under this Ordinance shall, if admissible, be regulated in accordance with the law for the time being in force relating thereto.

¹⁵14 A. Indemnity.--- No suit, prosecution or other legal proceedings shall lie against the competent authority or an officer or authority authorized by it for anything which is in good faith done or intended to be done under this Ordinance or the rules, instructions or directions made or issued thereunder.

14 B. Jurisdiction barred.--- Save as otherwise provided, no order made or proceedings taken under this Ordinance, or the rules made thereunder by the competent authority or an officer or authority authorised by it shall be called in question in any court and no injunction shall be granted by any court in respect of any decision made or proceedings taken in pursuance of any power conferred by, or under, this Ordinance, or the rules made thereunder.

15. Power to make rules.---Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

16. Removal of difficulties.---If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Governor may make such Order, not inconsistent with the provisions of this Ordinance, as may appear to him to be necessary for the purpose of removing the difficulty.

Peshawar, Dated the
11th August 2000.

LT.Gen(RTD) MUHAMMAD SHAFIQ,
Governor of the North-west Frontier Province.

SALIM KHAN,
Secretary to Government of
North-West Frontier Province, Law Department.



¹⁵ Section 14A & 14B added by NWFP ordinance No VIII of 2002

IMMEDIATE / COURT MATTER

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

No. SO(A)/A.D/2(410)/1996/Liaqat -Ali/Driver

Dated: 17-08-2023

To

PS/Secy (E) E&AD
11015
17/8/23

PS/Secy E&AD KF

Diary No. 6484

FTS No.

Date: 17-8-23

The Section Officer (Litigation-I),
(Judicial Wing), Establishment Department.

Subject:

SERVICE APPEAL NO.548/2023-LIAQAT ALI (EX-DRIVER) VS
GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH
CHIEF SECRETARY, KHYBER PAKHTUNKHWA & OTHERS

I am directed to refer to your letter No.SO(Lit-I)E&AD/3-3405/2023 dated:03.08.2023 on the subject noted above and to enclose herewith the Joint Parawise Comments along with Annexure—(duly flagged), for favor of further necessary action at your end, please.

Encls: as above

[Signature]
17/08/2023
SECTION OFFICER (ADMIN)

ENDST OF EVEN NO.& DATE

Copy forwarded to:-

- 1) P.S to the Secretary, Administration Department.
- 2) P.S to the Secretary, Establishment Department.
- 3) P.A to Additional Secretary-I, Administration Department.
- 4) P.A to Additional Secretary (Judicial), Establishment Department.
- 5) P.A to Deputy Secretary (Admn), Administration Department.
- 6) P.A to Deputy Secretary (Judicial), Establishment Department.

[Signature]
17/08/2023
SECTION OFFICER (ADMIN)

[Signature] SSE
DSJ
17/8

[Signature] Indrij
17/08
ASJ/DSJ
SPS 17/8