

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	18.02.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.1309/2014</p> <p style="text-align: center;">(Habib-ur-Rahman Sandeela -vs- Chief Minister, Khyber Pakhtunkhwa, Chief Minister's Secretariat Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER:</u></p> <p>Appellant with counsel (Mr. Khushdil Khan, Advocate) and Mr. Saghir Musharaf, AD alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the impugned order dated 21st July 2014 thereby imposed major penalty of "Removal from service" upon the appellant with immediate effect against which he filed departmental appeal before the respondent No.1 on 04.08.2014 but the same was not disposed off by the appellate authority (respondent No.1) within statutory period. He prayed that on acceptance of this appeal the impugned order dated 21.07.2014 thereby imposed major penalty of removal from service upon the appellant may graciously be set aside and appellant may kindly be reinstated into service with all back benefits.</p> <p>3. Brief facts giving rise to the instant appeal are that the</p>

	<p style="text-align: center;">D.F.I.</p>	<p>appellant was appointed as Photographer (BPS-11) on 17.11.1982 than promoted as Liaison Officer (BPS-16) Later on, when this post was abolished than he was adjusted against the post of Assistant Director Population Welfare Officer (BPS-16). I the year 2010 he was promoted as Assistant Director/ Deputy District Population Welfare Officer (BPS-17). That respondent No. 2 at the instance of respondent No. 3 initiated disciplinary proceedings against the appellant on flimsy, baseless and concocted allegations/charges and also placed him under suspension by order dated 21.02.2013 then issued him charge sheet with statement of allegations on 26.02.2013 thereto he submitted reply on 06.03.2013. The enquiry was carried out by Mr. Islam Zaib the then Additional Secretary P&D FATA and at the conclusion of enquiry, the enquiry officer minor penalty. That at the conclusion of 2nd enquiry conducted by Mr. Ahmad Khan Orakzai, enquiry officer who recommended major penalty in terms of demotion to lower grade. In pursuance of which the respondent No. 2 issued show cause notice to the appellant vide letter dated 21.10.2013 alongwith copy of findings and recommendations of the enquiry officer. The appellant submitted a detailed reply of the show cause notice of 5.11.2013. That respondent No. 3 issued a notification dated 21.07.2014 whereby imposed major penalty of removal from service upon appellant with immediate effect against which he filed departmental appeal before the respondent No. 1 on 5.8.2014 which was responded, hence the present service appeal.</p> <p>4. The learned counsel for the appellant argued that the appellant proceeded against for the charges of illegal appointments and charge sheet comprising of eleven charges was served upon him. Mr. Islam</p>
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	A.F.I.	<p>Zaib, Additional Secretary FATA was appointed as Enquiry Officer who conducted enquiry, compiled his enquiry report, recommended penalty of minor punishment against the appellant to the Competent Authority. He further argued that the Competent Authority without recording any reasons or justification ordered 2nd enquiry for the same charges and Mr. Ahmad Khan Orakzai Deputy Secretary, Home Department, was appointed as Enquiry Officer who conducted the enquiry and submitted his report wherein he recommended imposition of major penalty of reduction to lower grade to the Competent Authority. He further argued that the Competent Authority without recording any cogent reason/justification issued a show cause notice wherein he proposed imposition of major penalty of removal from service on the appellant. He contended that this action on the part of the Competent Authority was in clear departure from Rule-14 of the E&D Rules-2011. He further contended that under the law/rules Competent Authority had no power to conduct 2nd enquiry if the charge or charges were proved in the 1st enquiry and therefore ordering of the 2nd enquiry against the appellant was based on malafide which was not sustainable under the law and added that the authority had misused his powers and in this regard relied upon 2004 SCMR 316, 2005 SCMR 1617 and 2006 PLC (C.S) 456. He further argued that the Competent Authority totally ignored the recommendation of 1st enquiry and 2nd enquiry as well and hence acted in an arbitrary manner. Moreover no reasons or justification in support of his disagreement with enquiry officer was recorded by the Competent Authority. Similarly departmental appeal of the appellant was not decided as required under the rules. He in this regard relied upon 2011 PLC (C.S) 501, 1996 SCMR 248, 2004 PLC (C.S) 725,</p>
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2000 PLC (C.S) 346 and Sec-2 (a) of the General Clauses Act, 1897.

He prayed that the impugned orders being defective in law may be set aside and the appellant may be reinstated into service with all back benefits.

5. The learned Addl: AG resisted the appeal and argued that all codal formalities under the law were fulfilled in conducting the enquiry against the appellant. He further argued that Competent Authority in its discretion could order *de-novo* enquiry if he was not satisfied with the findings of the enquiry officer or committee and he was not bound to record reasons for conducting the 2nd enquiry. He relied on 1999 SCMR 2341. He prayed that the appeal being devoid of any merits may be dismissed.

6. Arguments of learned counsels for the parties heard and record perused with their assistance.

7. From personal of the record it transpired, that the 1st enquiry officer recommended imposition of minor punishment while 2nd enquiry officer recommended major punishment of reduction to lower scale against the appellant. In contrary to the above, major penalty of removal from service was imposed on the appellant where against he approached the appellate authority but unfortunately the departmental appeal of the appellant was not decided as required under the law/rules. From perusal of the case record it transpired that Competent Authority did not record reasons or justifications for not agreeing with the recommendations of the enquiry officer nor was any notice for enhancement of the penalty served on the appellant. It is further

Q.F. 1.

observed that adequate opportunity of defense was not provided to the appellant and hence ends of justice could not be met. Furthermore, in view of the conflicting reports of the enquiry officers and denial of opportunity of defense to the appellant major penalty of removal from service seemed to be a harsher punishment keeping in view the long service of the appellant. In the circumstances, we feel convinced to interfere in the case by setting aside the impugned order and by reinstating the appellant in service. The Competent Authority is at liberty to conduct *de-novo* enquiry against the official strictly in accordance with law and rules providing him full opportunity of defense and fair trial which shall be completed within a period of sixty days after receipt of this judgment. The intervening period will be decided subject to outcome of the *de-novo* enquiry. The appeal is disposed off in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(PIR BAKHSH SHAH)
MEMBER



(ABDUL LATIF)
MEMBER

ANNOUNCED
18.02.2016

08.01.2016

Counsel for the appellant submitted an application for early hearing reason mentioned therein. Application allowed. To come up for arguments on 04.02.2016 instead of 8.04.2016. Parties may be informed accordingly.


Member

04.02.2016

Appellant with counsel (Mr. Khushdil Khan, Advocate) and Mr. Muhammad Adeel Butt, Addl. A.G with Saghir Musharaf, AD for the respondents present. Arguments heard. To come up for order on

18.2.16.



MEMBER


MEMBER

18.2.16

07.05.2015

None present for appellant. Mr. Taus Khan, Supdt. for respondent No. 4 alongwith Addl: A.G for all respondents present. Written reply not submitted. Requested for further time to submit written reply. To come up for written reply on 25.6.2015 before S.B.



MEMBER

25.06.2015

None present for appellant. Mr. Taus Khan, Supdt. alongwith Addl: A.G for all respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 30.9.2015 before S.B.



Chairman

30.09.2015

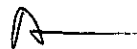
Appellant in person and Mr. Sagheer Mushaffar, ADO alongwith Addl: A.G for respondents present. Para-wise comments by respondents No. 2, 3 and 4 submitted. The Learned Addl: A.G relies on the same on behalf of respondent No. 1. The appeal is assigned to D.B for rejoinder and final hearing for 21.12.2015.



Chairman

21.12.2015

Clerk to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted. To come up for arguments on 8.4.2016



Member



Member

3. 16.01.2015

Counsel for the appellant present and heard. Contends that the appellant was a District population Officer and was removed from service vide impugned order dated 21.7.2014 against which departmental appeal dated 5.8.2014 was preferred which remained un-responded.

That after first inquiry, minor penalty was recommended against the appellant which was not approved by the authority and a second charge sheet on the same allegation was issued against the appellant and, after the second inquiry, the appellant was recommended for demotion to lower grade which report of the inquiry officer was also neglected by the authority and, without any cogent reasons, the appellant was removed from service vide the impugned order referred to above. That neither the inquiry was conducted in the prescribed manners nor the punishment was awarded keeping in view the mandates of law. That the appeal is preferred within the prescribed time limitation.

Appellant Deposited
Security & Process Fee
Rs. 350/- Bank
Receipt is Attached with File.



Points urged need consideration. Admit. Subject to deposit of security and process fee, notice be issued to respondents, for 7.5.2015.


Chairman.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1309/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07.11.2014	<p>The appeal of Mr. Habib-ur-Rehman presented today by Mr. Khushdil Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up there on <u>16-01-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1309 / 2014

Habib-ur-Rahman Sandeela..... Appellant

Versus

The Hon'ble Chief Minister,
of KP & others Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-8
2.	Copy of notification whereby appellant was placed under suspension	21.02.2013	A	0-9
3.	Copy of letter whereby Charge sheet and statement of allegations was served upon appellant.	22.02.2013	B	10-14
4.	Copy of Reply of appellant to charge sheet/statement of allegations.	06.03.2013	C	15-20
5.	Copy of Inquiry Report conducted by Mr. Islam Zaib the then Adl. Secretary P&D FATA.		D	21-23
6.	Copy of letter whereby second charge with statement of allegations containing of same charges was communicated to appellant.	12.07.2013	E	24-28
7.	Copy of reply to charge sheet/statement of allegations submitted by appellant	18.07.2013	F	29-35
8.	Copy of letter whereby show cause notice was issued to appellant	21.10.2013	G	36-38
9.	Copy of Enquiry report conducted by Ahmed Khan Orakzai, Dy. Secretary Home & Tribal Affairs Department.		H	39-47
10.	Copy of reply to show cause notice submitted by appellant	05.11.2013	I	48-59
11.	Copy of impugned order whereby appellant was removed from service with immediate effect	21.07.2014	J	0-60
12.	Copy of departmental appeal with registry receipts.	05.08.2014	K	61-66
13.	Wakalat Nama			

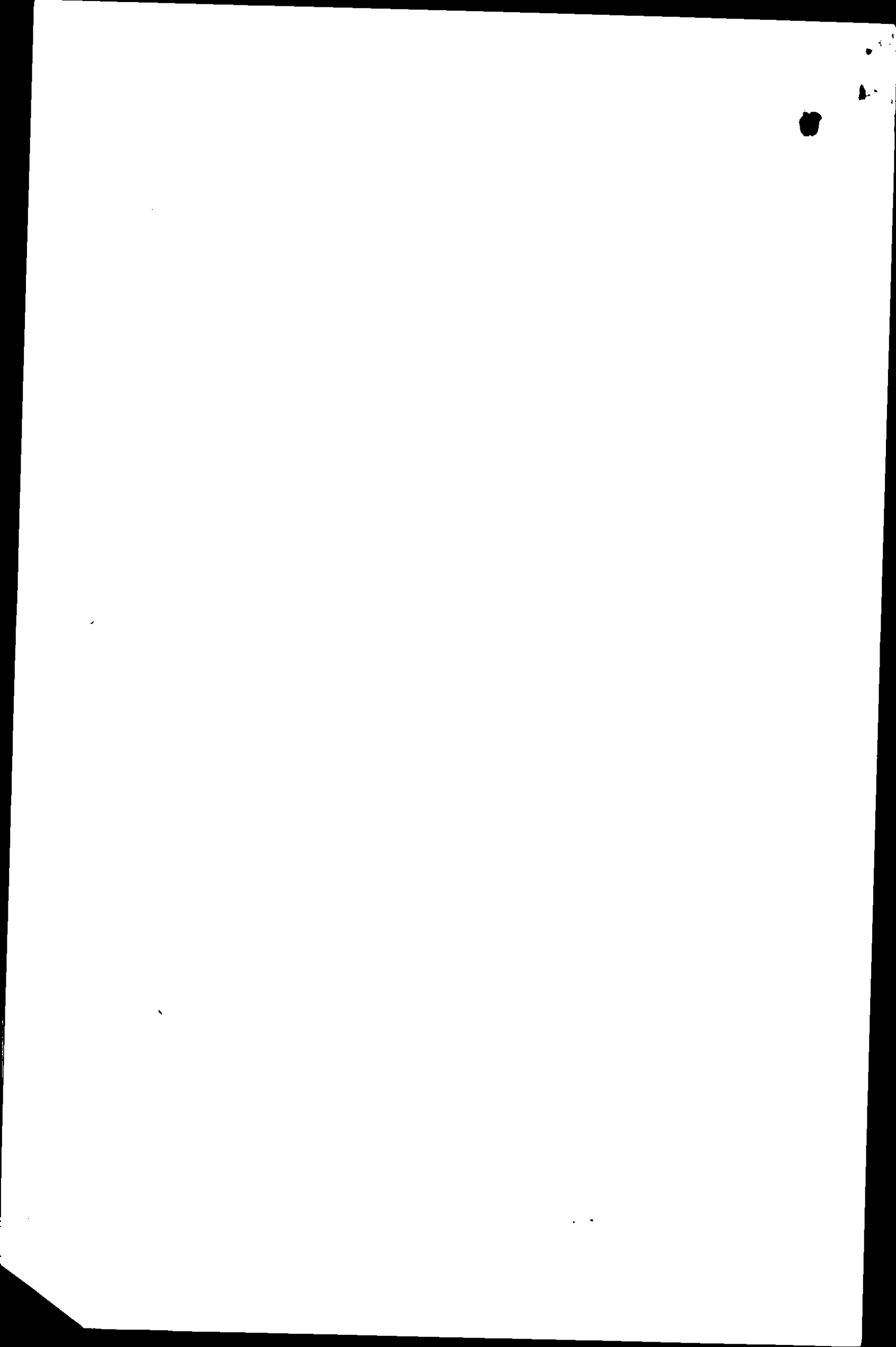
Handwritten signature

Appellant

Through

Khushdil Khan
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 091-2213445

Dated: 06 / 10/2014



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1309 /2014

Habib-ur-Rahman Sandeela,
Ex-Dy. District Population
Welfare Officer, Peshawar.....Appellant

~~1309~~
1350
7-11-2014

Versus

1. The Hon'ble Chief Minister,
Khyber Pakhtunkhwa,
Chief Minister's Secretariat, Peshawar.
2. The Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
3. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Population Welfare Department,
Peshawar.
4. The Director General,
Population Welfare Department,
First Floor FC Trust Building,
Sunehri Masjid Road, Peshawar Cantt.....Respondents.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 21ST JULY 2014 THEREBY IMPOSED MAJOR PENALTY OF "REMOVAL FROM SERVICE" UPON THE APPELLANT WITH IMMEDIATE EFFECT AGAINST WHICH HE FILED DEPARTMENT APPEAL BEFORE THE RESPONDENT NO.1 ON 04.08.2014 UNDER REGISTERED POST BUT THE SAME WAS NOT DISPOSED OFF BY THE APPELLATE AUTHORITY (RESPONDENT NO.1) WITHIN STATUTORY PERIOD OF NINETY DAYS.

7/11/14
Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant initially joined the services of Population Welfare Department (Respondent Department) as **Photographer (BPS-11)** on 17.11.1982 then promoted as **Liaison Officer (BPS-16)**. Later on, when this post was abolished then he was adjusted against the post of **Assistant Director Population Welfare Officer (BPS-16)**. In the year 2010, he was

promoted as **Assistant Director/Deputy District Population Welfare Officer (BPS-17)**. As such he served the department for more than three decades having brilliant service record. At the time of passing of impugned order he was working at Mardan.

2. That all of sudden, the Respondent No.2 at the instance of Respondent No.3 initiated disciplinary proceedings against the appellant on flimsy, baseless and concocted allegations/charges and also placed him under suspension by an order dated 21.02.2013 then issued him charge sheet with statement of allegations on 26.02.2013 thereto he submitted reply on 06.03.2013. The inquiry was carried out by **Mr. Islam Zaib** the then **Adl. Secretary P&D FATA** and at the conclusion of inquiry, the inquiry officer recommended **minor penalty**. Copies of notification dated 21.02.2013 as **Annex: A**, Letter dated 22.02.2013 with charge sheet and statement of allegations **Annex: B**, Reply to charge sheet/statement of allegations **Annex: C** and Inquiry Report as **Annex: D**.
3. That instead of implementing the recommendations of the inquiry officer, the Respondent No.2 without cogent reasons and legal justifications served upon appellant another identical charge sheet with statement of allegations on 12.07.2013 containing the same and similar allegations/charges. Mr. Ahmad Khan the then Deputy Secretary, Home Department was appointed as inquiry officer to which the appellant submitted reply on 18.07.2013. Copies of covering letter dated 12.07.2013 with charge sheet and statement of allegations as **Annex: E** and Reply of appellant dated 18.07.2013 as **Annex: F**.
4. That at the conclusion of second inquiry conducted Mr. Ahmad Khan Aurakzai, Inquiry Officer who recommended major penalty in terms of "**demotion to lower grade**". In pursuance of which the Respondent No.2 issued show cause notice to appellant under covering letter dated 21.10.2013 alongwith copy of findings and recommendations of the inquiry officer. The appellant submitted a detailed reply of the show cause notice on 05.11.2013. Copies of covering letter dated 21.10.2013 with the copy of show cause notice as **Annex: G**, inquiry report **Annex: H** and reply to show cause notice dated 05.11.2013 as **Annex: I**.

5. That Respondent No.3 issued a notification dated 21.07.2014 thereby imposed major penalty of "**removal from service**" upon appellant with immediate effect against which he filed **departmental appeal** before the **Respondent No.1** under registered post on 05.08.2014 but the same was not disposed off within statutory period of ninety days. Copy of the impugned order dated 21.07.2014 **Annex: J** and Department Appeal with registry receipts dated 05.08.2014 as **Annex: K**.

Hence the present appeal is submitted on the following grounds:-

Grounds:

- A. That appellant was not treated in accordance with law and rules on subject and the Respondent No.2 acted in arbitrary manner and passed the impugned order of his **removal from service** which is unlawful, without lawful authority malafide and having no legal effect liable to be set aside.
- B. That all the alleged allegations are frivolous, false and concocted without any substance which were not proved against the appellant during the proceedings of both the enquiries thus not warranted and the impugned order based on these unproved allegations is not sustainable in the eyes of law and rules on subject.
- C. That in earlier regular inquiry conducted by **Mr. Islam Zaib, Additional Secretary FATA** who furnished his findings after thorough scrutiny of the record of the case and concluded his recommendations in terms of **minor penalty**. Therefore, the competent authority was under legal obligation to consider his recommendation and pass an appropriate order in accordance with rules but he ignored such recommendation without cogent reasons and acted in arbitrary manner by appointing another Inquiry Officer and issued identical charge sheet with statement of allegations containing of same and similar allegations which has no legal sanctity, of no legal effect and not operative against the rights of appellant.
- D. That the competent authority has acted in violation of mandatory provisions of sub rule 6 of rule 14 of the Rules, 2011 and without passing any order of de novo inquiry, he appointed another Inquiry Officer which

is illegal and not sustainable and liable to be set aside. The relevant provisions of sub rule 6 is reproduced for perusal of this Hon'ble Tribunal:

*“Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may **order a de novo inquiry** through different inquiry officer or inquiry committee”.*

- E. That the subsequent inquiry has not been conducted in accordance with rules on subject and thus the findings and recommendations have no legal sanctity and not sustainable under the rules, liable to be set aside for the below reasons.
- i. As mentioned in para iv of the inquiry report the statement of Mr. Shams-ur-Rahman, DPWO, Buner was recorded but the same was recorded at the back of appellant and no opportunity of cross examination was provided to him thus such statement has no weight in the eyes of law which could not use against the appellant.
 - ii. That the findings of Inquiry Officer regarding allegation No.1 pertaining to non provision of record to Inquiry Officer by appellant is erroneous and not supported by documentary or oral evidence. Neither the statement of Mr. Abdul Waheed, FWA(M) record keeper was recorded by the Inquiry Officer nor any document has been produced by the departmental representative to show that the requisite record was in the possession of the appellant who deliberately evaded to entrust the requisite documents to the Inquiry Officer. Neither any iota of evidence in written has been brought on record to show that any Inquiry Officer has requisitioned the requisite record from appellant and the same was not provided by him. Therefore, the

allegation/charge No. 1 has not proved against appellant and the Inquiry Officer wrongly established the same without any proof which is not sustainable.

- iii. That the allegation No.2 pertaining to factual controversy which could not resolve without evidence and thus the Inquiry Officer has failed to collect any documentary or oral evidence and thus his finding is based on presumptions which is not warranted.
- iv. That regarding allegation No.3, the Inquiry Officer has neither recorded the statement of female concerned nor brought solid evidence against the appellant that he had kept the appointment order of female concerned malafidely. Thus the same is not sustainable being unproved.
- v. That as per finding of the Inquiry Officer the allegation No.4 has not been proved.
- vi. As evident from the Inquiry Report and the facts of the case, the allegation No.5 has also not been proved therefore the Inquiry Officer has wrongly recorded that this allegation is also established which has no legal sanctity.
- vii. The findings regarding the allegation No.6 are not based on cogent evidence (documentary/oral) and in such circumstances the finding is not sustainable.
- viii. As per the para 7 of the Inquiry Report the allegation No.7 has not been proved against the appellant.
- ix. The allegation No.8 has not proved against the appellant as evident from para 8 of the Inquiry Report.
- x. This allegation No.9 has not proved against the appellant as per para 9 of the Inquiry Report.
- xi. That no specific findings have been furnished by the Inquiry Officer regarding allegation No.10 meaning thereby that this

charge is without any substance and not proved against the appellant.

xii. The allegation No.11 has also not been proved against the appellant.

F. That the Inquiry Officer has not conducted proper regular inquiry in the case of appellant because the alleged allegations as leveled against appellant are pertaining to factual controversies which could not resolve without producing proper evidence (documentary/oral) in support of each allegation which has not done in this case and the findings and recommendations are only based on presumptions which is not sustainable and thus the impugned order based on such illegal Inquiry Report has no legal sanctity and liable to be set aside.

G. That the copies of the documents as shown annexures in the Inquiry Report have not been provided to appellant enabling him to defend his case properly and as such he was condemn unheard and the proceedings conducted at his back is not sustainable being violative of the principle of natural justice.

H. That no cogent or convincing incriminating evidence existed to establish the allegations leveled against the appellant. Mere framing the charge sheet, holding of inquiry and issuance of final show cause notice to him would not mean that allegations against him stood proved. Therefore, the findings and recommendations of the second Inquiry Officer are of no legal effect and without lawful authority liable to be set aside.

I. That appellant was not found guilty in the first inquiry that is the reason that the Inquiry Officer recommended **minor penalty**. Therefore, the second inquiry has no legal justification amounting to an act of victimization and based on malafide which is not sustainable. In addition, the findings recorded in second inquiry are based on mere conjectures and surmises and not a single piece of evidence has been relied upon while recording the purported findings thus the findings and the recommendations of the second Inquiry Officer has no legal sanctity and the impugned order based on such findings is of no legal effect and

inoperative against his rights being without lawful authority and tainted with malafide intention.

J. That (i) at the first regular inquiry, the Inquiry Officer recommended minor penalty against the appellant but Respondent No.2 did not give due weight to it and the same was ignored by him and without valid recorded reasons Respondent No.2 appointed another Inquiry Officer in violation of the rules on subject.

(ii) at the conclusion of second inquiry, the Inquiry Officer proposed and recommended penalty as "**demotion to lower grade**" which aspect of the matter was also not taken into consideration by the Respondent No.2 and acted in arbitrary manner and awarded penalty of **removal from service** without legal justification. The impugned punishment is harsh, excessive and is not in proportion to the nature of alleged misconduct which is not sustainable and liable to be set aside which also shows the malafide on the part of Respondent No.2 and his vested interest in damaging the service career of appellant.

K. That Respondent No.2 has acted in arbitrary manner and unlawfully awarded major penalty of **removal from service** to appellant contrary to the recommendations of the Inquiry Officer which is unjustified and not commensurate in the circumstances of the case and thus not tenable and liable to be set aside.

L. That the impugned order has not been passed by competent authority i.e. Respondent No.2 but the same was passed and issued under the signature of Respondent No.3 and thus the impugned order is incompetent and of no legal effect not sustainable liable to be set aside.

M. That Respondent No.1 has not considered the departmental appeal of appellant and the same kept dormant without any action therefore this act of Respondent No.1 is illegal, without lawful authority and against the principle of natural justice which is unfair and unjust.

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned order dated 21.07.2014 thereby imposed major penalty of **removal from service** upon the appellant may graciously be set aside and appellant may kindly be reinstated into service with all back benefits.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through


Appellant

Khushdil Khan,
Advocate,
Supreme Court of Pakistan

Dated: 06 / 10/ 2014

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Annex A
P. 9

GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT
STREET NO. 7/B HOUSE NO. 125/111 DEFENCE OFFICER COLONY
KHYBER ROAD PESHAWAR CANTT I:

Dated Peshawar the 21st February, 2013

NOTIFICATION

SOE (PWD) 1-81/2011/PF: - Consequent upon the initiation of disciplinary proceedings, the services of Mr. Habib-ur-Rehman, Deputy District Population Welfare Officer (Non-Tech) (BS-17), DPW Office, Mardan, are hereby placed under suspension, under rule-6 of E&D Rules 2011 and with the approval of competent authority, with immediate effect, till further orders.

SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT

Endst: No. SOE (PWD) 1-81/2011/PF/14178-86 Dated Peshawar the 21st Feb: 2013

Copy forwarded for information and necessary action to the:-

1. Director General, Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
2. Mr. Isam Zeb, Additional Secretary (P&D), FATA Secretariat. He has been appointed as Inquiry Officer by the competent authority to conduct inquiry against the officer placed under suspension.
3. District Population Welfare Officer, Mardan.
4. District Accounts Officer, Mardan.
5. Officer concerned.
6. PS to Secretary, Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
7. Personal file of the officer.
8. Master file.

SECTION OFFICER (ESTABLISHMENT)
21.2.13

ATTACHED

78 48
GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT
STREET NO. 7/B HOUSE NO. 125/111 DEFENCE OFFICER COLONY
KHYBER ROAD PESHAWAR CANTT.

Annex-B P-10

NO. SOE (PWD) 1-81/2011/PE/14/96-99
Dated Peshawar the 22nd February, 2013

To

Mr. Islam Zeb,
Additional Secretary (P&D),
FATA Secretariat, Peshawar.

Subject: - CHARGE SHEET AND STATEMENT OF ALLEGATIONS -
DISCIPLINARY PROCEEDINGS AGAINST MR. HABIB-UR-
REHMAN, DY. DISTRICT POPULATION WELFARE
OFFICER, MARDAN

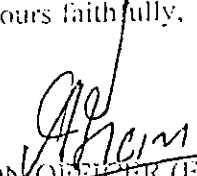
Dear Sir,

I am directed to refer to the subject noted above and to state that the Competent Authority i.e., the Chief Secretary, Khyber Pakhtunkhwa has been pleased to approve initiation of disciplinary proceedings against Mr. Habib-ur-Rehman (BS-17), posted as Deputy District Population Welfare Officer, Mardan.

Consequently, the competent authority has further been pleased to appoint you as Inquiry Officer to scrutinize the conduct of aforesaid accused officer vis-à-vis the attached statement of allegations / Charges Sheet and desired that the Inquiry Officer should take further necessary action and submit findings / recommendations / report within 25 days in accordance with the provision of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

Yours faithfully,

Encls: As above.


SECTION OFFICER (ES/TF)
22.2.13

Copy forwarded for information to the:-

1. Director General Population Welfare, Khyber Pakhtunkhwa, Peshawar, with the request to nominate Mr. Muhammad Aleem, Deputy Director (Admn) as Departmental Representative who is well conversant with the case, to assist the Inquiry Officer during the inquiry proceedings.
2. Mr. Habib-ur-Rehman, DDPWO (BS-17), Mardan with the directions to appear before the Inquiry Officer for the purpose of the inquiry proceedings as and when required.
3. PS to Secretary, Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (ES/TF)
Phone # 091-921299

REGISTERED

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CHARGE SHEET

I, Ghulam Dastagir Akhtar, Chief Secretary, Khyber Pakhtunkhwa as competent authority, hereby charge you, Mr. Habib-ur-Rehman (BPS-17 Deputy District Population Welfare Officer (Non-Tech), DPW Office, Mardan as follows:

That you, while posted as District Population Welfare Officer, Buner committed the following irregularities:

- (i) You have taken all the recruitment record (year 2012) of DPW Office, Buner illegally for mala fide intension. You were called time and again by the inquiry officers for provision of requisite record but you failed to do so.
- (ii) You have issued 26 offer of appointments from BPS-1 to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, Chowkidar BPS-1, Mali/Sweeper BPS-1 & Aya/Helper BPS-1 without making merit list and minutes of the Departmental Selection Committee meeting which was not signed by the members as per available record.
- (iii) You have issued offer of appointment as Family Welfare Assistant (Female) BPS-5 to Miss. Nasia, on 18.05.2012 while other appointee in the same recruitment process were issued offer of appointment on 28.02.2012 which shows mala fide intentions.
- (iv) You have issued offer of appointment as Family Welfare Assistant (Female) BPS-5 as a project employee on 28.02.201 to Mrs. Neelam Saeed and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (v) You have appointed Mr. Farid Ullah as Driver (BPS-4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Mali/Sweeper in violation of rules. Under NWFP APT Rules, 1989, Rule 10 Sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment Exchange does not exist. The appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers".
- (vi) You have appointed Mrs. Waliat W/O Bakht Amin, Family Welfare Assistant (Female), BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Male) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helper (BPS-1) during recruitment made in 2012 in spite of the fact that their names were not included in the interviewees list as evident from the list of the members of Departmental Selection Committee.
- (vii) You have registered Sajjad Ali S/O Farid Khan, Shah Faisal, Iftikhar Alam, Sajjad Ali S/O Subzali Khan, Sardar Bahadar S/O Barakat Shah, Said-ur-Rehman S/O Amir Ghawas Khan, Bakht Chaman Khan S/O Musharraf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for Registration.

ATTACHED

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- (viii) You with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWA (Female) and marked her absent from duty and dismissed her from Service to vacate the seat for your favourable candidate.
- (ix) You created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressal of their grievances.
- (x) You have tampered receipts of Charcoal, during the financial year 2010-11.
- (xi) You have shown disbursed five (05) months salary and allowances in respect of Mrs. Shagufta Khanam, FWW on fake signatures as DDO during the financial year 2010-2011.

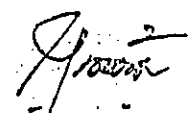
2. By reason of the above, you appear to be guilty of mis-conduct under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/inquiry committee.

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

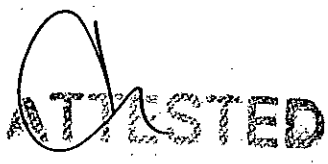
5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.



CHIEF SECRETARY
Competent Authority

Mr. Habib-ur-Rehman
The then District Population Welfare Officer, Buner
Now posted as Dy. District Population Welfare
Officer (Non-Tech), Mardan




~~SS~~ 49 P. 13

DISCIPLINARY ACTION

I, Ghulam Dastagir Akhtar, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, am of the opinion that Mr. Habab-ur-Rehman (BPS-17), the then DPW Officer, Bunner now posted as Deputy District Population Welfare Officer (Non-Tech), 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, Government Servants (Effective and Discipline) Rules, 2011:

STATEMENT OF ALLEGATIONS

- (i) He has taken all the recruitment record (year 2012) of DPW Office, Bunner illegally for malafide intension. He was called time and again by the inquiry officers for provision of requisite record but he failed to do so.
- (ii) He has issued 26 offer of appointments from BPS-1 to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, Chowkidar BPS-1, Mali/Sweeper BPS-1 & Aya/Helper BPS-1 without making merit list and minutes of the Departmental Selection Committee meeting which was not signed by the members as per available record.
- (iii) He has issued offer of appointment as Family Welfare Assistant (Female) to Miss. Nasia after an interval of about two and half months i.e. on 18.05.2012 and offer of appointment issued earlier on 28.02.2012 in the same recruitment process which shows malafide intentions.
- (iv) He has issued offer of appointment to Mrs. Neelam Saeed, as Family Welfare Assistant (Female) as a project employee on 28.02.2012 and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (v) He has appointed Mr. Farid Ullah as Driver (BPS-4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Mali/Sweeper in violation of rules. Under NWFP APT Rules, 1989, Rule 10 Sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment Exchange does not exist, the appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers".
- (vi) He has appointed Mrs. Waliat W/O Bakht Amin, Family Welfare Assistant (Female), BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Male) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helper (BPS-1) during recruitment made in 2012, inspite of the fact that their names were not included in interviewees list as evident from the list of the members of Departmental Selection Committee.


ATTACHED

- (vii) He has registered Sajjad Ali S/O Farid Khan, Shah Faisal, Iftikhar Alam, Sajjad Ali S/O Subzali Khan, Sardar Bahadar S/O Barakat Shah, Said-ur-Rehman S/O Amir Ghawas Khan, Bakht Chaman Khan S/O Musharraf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for registration.
- (viii) He with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWA (Female) BPS-5 and marked her absent from duty and dismissed her from service to vacate the seat for favourable candidate
- (ix) He created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressal of their grievances.
- (x) He has tampered receipt of Charcoal during the financial year 2010-11.
- (xi) He has shown disbursed five (05) months salary and allowances in respect of Mrs. Shagufta Khanam, FWW on fake signatures as DDO during the financial year 2010-11.

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 rules 10(1) (a) of the ibid rules.

- a. Mr. Islam Zeb AS FATA SECH.
- b. _____

3. The inquiry officer / inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty 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 / inquiry committee.

[Signature]

CHIEF SECRETARY,
Govt: of Khyber Pakhtunkhwa
Competent authority

ATTESTED

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Annex: C, P. 15

F.No.1(1)/2013-Inquiry Committee
Dated Peshawar the 06/31/2013

To,

The Islam Zeb Sahib,
(Inquiry Officer),
Additional Secretary (P&D),
FATA Secretariat, Peshawar.

Subject: **CHARGE SHEET AND STATEMENT OF ALLEGATIONS
DISCIPLINARY PROCEEDING AGAINST MR. HABIB-UR-
REHMAN, DY. DISTRICT POPULATION WELFARE OFFICER,
MARDAN.**

Respect Sir,

Please refer to letter No.FS/P&D/DS(A)/2013 dated 26/02/2013 on
the subject cited above, and to enclose herewith para wise reply to the charge
sheet issued to me with the signature of hon'ble Chief Secretary Govt. of Khyber
Pakhtunkhwa is submitted for further necessary action please.

Yours obediently

HL

(HABIB-UR-REHMAN SANDEELA) 06/3/2013

EX-DPWO BUNER

Under suspension Deputy District Population
Welfare Officer Mardan

Cell No. 0345-9211919

A
ATTESTED

Received
(Signature)

06-03-13

To,

Mr. Islam Zeb,
Inquiry Officer,
Additional Secretary (P&D),
FATA Secretariat, Peshawar.

~~BSA~~

P. 16

Subject: **REPLY TO THE CHARGE SHEET.**

Respected Sir,

(i) It is submitted that all the office record including recruitment in question is handled by Mr. Abdul Wahid FWA(M) who is also working as record keeper, store keeper, Accounts Assistant and Steno in the office of District Population welfare Officer Bunner. Despite my repeated directions he did not provide me the record for the reasons that his brother was not recommended for selection by the selection committee because of his low merit, the matter was discussed with the present DPWO Bunner along with Charge sheet and requested him for providing the requisite record. He was kind enough to arrange the record on written request dated 27-02-2013 which is attached. **(Annex-A)**


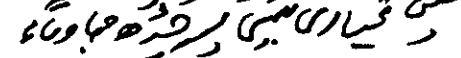
(ii) Proper proceeding for appointment for 26 individual against different posts / position was finalized by the selection committee signed by the undersigned while the other could not able to sign it because of personal interference of the following elected representatives / Minister who pressurized the committee to select their candidates as per detail below:-

1. Said Rahim MPA.(he gave a list of 4 candidates for appointment of which only one candidate fulfilling the selection criteria and was accommodated namely Miss: Riffat bibi d/o Said Muhammad Shah for the post of FWA(F). It is further added that During the interview Mr. Syed Rahim MPA Chairman DDAC of District Buner came to my office with the gunmen in the presence of Departmental Selection Committee member 1st used swear words and then threaten me to appoint all his recommendee otherwise you well see the consequence.
2. Mr. Sardar Hussain babak MPA (Minister for Elementary & Secondary Education of KPK) has sent a letter through Minister for Population welfare KPK for appointment of his six candidates out of which 5 candidates were selected fulfilling the selection criteria namely:-
 1. Mr. Nisar Muhammad s/o Haji Muhammad (FWA(M)
 2. Mr. Qamar Zaman s/o Hazrat Jalal (Chowkidar.)
 3. Mst: Shakila w/o Auranzeb (Aya).
 4. Sardar Bahadar s/o Barakat Shah (Male Mobilizer)
 5. Sajjad Ali s/o Sabz Ali Khan (Male Mobilizer)
3. He also used abusive languages against me and my family on my cell which is reproduce as under.

1. میں تمہاری بہن کے ساتھ جھگڑا کرتا ہوں
2. میں تمہاری بہن کے ساتھ جھگڑا کرتا ہوں
3. میں تمہاری بہن کے ساتھ جھگڑا کرتا ہوں

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4. Similar Qaiser Wali Khan MPA (he gave a list of 7 candidates for appointment of which only 3 candidates fulfilling the selection criteria and was accommodated namely:-

- i. 
 ii. 

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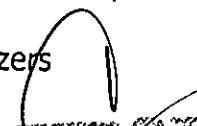
1. Iftikhar Alam s/o Noor Dad (Male Mobilizers).
2. Bakht-i-Multaj s/o Gul Taj Khan (Chowkidar)
3. Shah Zeb s/o Shamroz Khan (Mali Sweeper).

He has also used abusive languages against me and my family on my cell which is reproduce as under.

It is further added that Mr. Qaiser Wali MPA telephonically informed that he will see me if I failed to appoint his recommendee. It may also be added that nephew of Qaiser Wali MPA namely Mr. Shuja has threatened me in UBL Buner Branch that Shamsul Ghani FWA(M) will continue his studies on regular basis at Abdul Wali Khan University Campus Buner and will also get pay from your office but you will neither open your lips nor stop his pay and will also not take any action against him, in this connection the undersigned asked him this is not proper place to discuss the official matter you may came to my office suddenly he got up and beated me in the presence of public as well as the bank staff. After that the undersigned has requested to the DPO Buner (**Annex-B**) to lodged FIR against Mr. Shuja nephew of MPA Mr. Qaiser Wali Khan, in this regard DCO Buner has also taken action and wrote the letter to the DPO Bunner at (**Annex-C**) for necessary action. This complex situation was created due to non appointment of all his recommendee. Since all the three MPAs and one MNA were of ANP and the Department was under the Minister of PPPP, therefore I was between the **devil and the deep seac** and it was not possible to make all people happy. Therefore law and order situation was likely to be created and there was danger of blood shed, therefore keeping in view all the pressures, I informed the hon'ble Minister for Population Welfare Mr. Saleem Khan of the situation who informed the Secretary Population Welfare KPK. He has ordered me on telephone to issue all such appointment orders of the recommendee of MPAs, MNA including Minister for Education and recommendee of the president of PPPP District Buner. I informed the Secretary Population Welfare that the Merit list and the Minutes of DSC meeting were ready but not yet signed by the remaining committee members. He has ordered me to issue the appointment orders to handle the situation and control the law and order situation, otherwise he will damage me, and asked me he will get the minutes and the merit list signed by the respective committee members. I repeatedly requested the Minister for Population Welfare for signature of committee member as was promised but no one helped me, in this critical situation the survival of government servant cannot be possible, letter of President PPPP of District Buner is **enclosed** and after that I was suspended and disciplinary action is initiated against me.

5. The president PPP District Bunner has also sent a list of his recommendee (he gave a list of 9 candidates for appointment against various posts who all were fulfilling the selection criteria and as such accommodated namely:-

1. Bakht-i-Chaman Khan s/o Musharraf Khan Male mobilizers
2. Wazir Zada s/o Shah zada (Male Mobilizers)
3. Faridullah s/o Ghulam Sarwar (Driver)
4. Gul Hasia w/o Sherinzada (Aya)
5. Asmat d/o Daulat Khan (FWA(F))
6. Salizer s/o Sabzer (Chowkidar)
7. Jansher s/o Amir Jaber (Chowkidar)
8. Rahat Bibi d/o Gulzamir Khan (Aya)
9. Saeedur Rahman s/o Amir Ghawas Khan (Male Mobilizers)


ATTESTED

6. Istiqbal Khan MNA has sent two recommendee for appointment as FWA(M) & Male Mobilizers wherein only one candidate was fulfilled the selection criteria and accommodated namely Shah Faisal s/o Muhammad Zaman Khan Male Mobilizers.

All recommendee letter place at **(Annex-E)**

All though all the candidates were fulfilling the criteria were selected on merit but the following candidates had no approached but having high academic score and perform during the test/Interview without recommendation of any body and were purely selected on merit.

1. Syed Ishraq S/O Syed Kamash FWA (M)
2. Farman Ali S/O Amir Akbar FWA (M)
3. Nasia Bibi D/O Aman Khan FWA (F)
4. Neelam Saeed W/O Ihtisham Gul FWA (F)
5. Mrs. Waliat W/O Bakht Amin FWA (F)
6. Umma Aiman D/O Sarman Khan Aya FWA (F)
7. Sajjad Ali S/O Fareed Khan Male Mobilizer

- (iii) Miss Nasia was purely at the Top of the Merit list and was not recommendee of any elected representative, while the elected stake holder insisted for appointment of all their recommendee other then Miss. Nasia which was not justice and merit was to be followed. Therefore I kept one of the vacancy un filled for her and not disclosed that vacancy to the elected representative. Therefore, her appointment order was issued late in May, 2012 on merit basis and it was real justice. There was no malafide intention in this case and had no relative/known people in Buner and all the decision were taken on merit.

- (iv) Position given is correct, how ever the background of the case is that Mrs. Neelam Syed was at second Position of the merit list, due to typing mistake she was issued offer of appointment against the project post, later on the same day the mistakes was identify and another offer of appointment issued to her on temporary/regular basis. The offer issued against project post was although torn out as cancelled but some one in the office might have made photo copy and placed in the office record which creates the stated confusion. Actually she is appointed and posted against the post of FWA (F) being on 2nd position in the merit list.

- (v) Yes Sir, Mr. Shah Zeb sweeper/Mali is recommendee of Mr. Qaiser Wali Khan MPA and Mr. Farid Ullah driver is recommendee of PPPP, if the inquiry officer feels that those appointments are in violation of rules, the same can be recommended by the inquiry officer for cancellation/with drawl of appointments order. Yes Sir Mr. Farid Ullah Driver and Mr. Shah Zeb Sweeper/Mali were appointed through registration with employment exchange Swat which is near by/adjoin to district Buner as employment exchange was not available in District Buner. This case is similarly to that when a chowkidar namely Mr. Mushtaq Hussain S/O Yahya Gul was registered with employment exchange Peshawar vide registration No. 2351/NT/10 dated 08/12/2010, vide offer of appointment No.1(4)/2009-10/Admn dated 24/12/2010 at (Annex-E), but appointed in district Charsadda on the recommendation of the Worthy Secretary Population Welfare Mr. Ahmad Hanif Orakzai, who vacated one post of chowkidar at DPWO Office charsadda by transferring Mohammad Javid Chowkidar to Peshawar vide office order No.1(4)/2010-Admn dated 07/12/2010. The appointee at District Charsadda is still drawing his pay from Charsadda.

(vi)

1. Syed Ishraq was 1st divisioner and has sufficient experience relevant with NGO's his application was registered in the Dairy at serial No. 174 on 2/1/2012 while expiry date was 5/1/2012 **(Annex-F)** his application was therefore considered as per standing procedure. Merit list at **(Annex-G)**

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2. Mrs. Waliyet was appointed as FWA(F) BPS-5 because she applied for the both post, FWA(F) and Dai/Aya (Annex-H). she was found suitable for the post of FWA(F) her placement in at S.No.3 being 1st Divisioner and well experienced.
3. Miss. Umi Aiman applied for the both post of FWA(F) and helper/Dai but she was failed in the written test of FWA(F) and found suitable against the post of helper /Dai BPS-1 (Written test paper at Annex-I).
- (vii) Male Mobilizer are basically contingent staff with fix honoraria of Rs. 7000/- Per month and do not fall within the definition of Govt: servant therefore Director General Population Welfare KPK under latter No. 2(14) /2010-Admin-MM / Volume-III Dated 08/10/2011 (Annex-J). Circulated amongst all DPWO's to adopt the following recruitment process for the registration in case of male Mobilizer has been completed accordingly more ever these posts of Male Mobilizer were to be advertised locally at U/C, which I advertised copy of the letter at (Annex-K) the proper interview was conducted and merit list and minutes at **(Annex-L)**. Individual wise detailed is as under.
- i. Identification of Union Councils.
 - ii. Advertisement through local publicity hand bill in the identified Union Councils and through TMO Office.
 - iii. Scrutiny of application.
 - iv. Interview and selection should be completed positively.
1. Mr. Iftikhar Alam S/O Noor Dad Khan
 2. Mr. Sajjad Ali S/O Sabzali Khan
 3. Mr. Sajjad Ali S/O Farid Khan
 4. Mr. Bakht Chaman Khan S/O Musharaf Khan
 5. Mr. Shah Faisal S/O Muhammad Zaman Khan
 6. Mr. Sardar Bahader S/O Barakat Shah
 7. Mr. Wazir Zada S/O Shah Zada
 8. Saeed Ur Rehman S/O Amir Ghawas Khan
- (viii) Miss Noor Nishta FWA(F) was absent from duty as reported by I/C of Family Welfare Centre Bampokha and chowkidar **(Annex-M)**, I personally visited the FWC Bampokha and found her absent from duty. The undersigned has instructed time and again her to attend her duties in the monthly meeting but she failed to attend her duty, as result show cause notice was issued to her and accordingly she was removed from service, on 31/05/2011 how ever she was re-instated by the Director General vide letter No.4(6)/2011/Admn dated: 16-10-2012 with the condition that her absence period with effect from 2/12/2011 to 31/12/2012 at **(Annex-N)** be treaded as with out pay. This verified that the action taken by the under signed as DPWO Buner was correct one without any ulterior motive.
- (ix) Can not be agreed as no notice in this respect has been received by the undersigned from the High Court.
- (x) The actual position is that the Husband of Shagufta Khanam FWW was living with her in FWC Totalaye. She was time and again instructed not to allow stay of her Husband in the FWC during office hrs as due to presence of her husband the Family Planning client's privacy was not maintained but she failed to do so. She was transferred from Totalaye, **(Annex-O)**.
- (xi) During the year 2010-11 proper charcoal was issued on proper receipt the same were verified by the Deputy District Population Welfare Officer Bunner **(at Annex-P)** thus the blame of tempering was not correct.

ATTACHED

(xii) As per standing practice, salary of all staff of the office is cleared through a cheque. After its encashment, salary to individual staff member are given by the office accountant / cashier. Therefore DPWO has no roll in disbursement of salary to the employees of the office hence question of monthly salary and allowance of Miss. Shagufta Khanam on fake signature as DDO during the financial year 2010 is not correct. More ever I assumed the charge of the post of DPWO Buner on 25/04/2011 showing that only two months and 5-days were remaining in the Financial year 2010-11 so in two month how could I disbursed five months salary in fact I signed only the cheque of the salary of all the employees whose salary were through DDO and same were paid by the Account Assistant/Cashier to the employees concerned, and who also got/recorded signature of the payees on the acquaintance roll which is available. It is also pertinent to mention as per verbal statement of Mr. Abdul Wahid working as Accountant Assistant/Cashier that on the two month salary her husband has signed and got her salary for the month of April, 2011 and May 2011, the payment was made by him at DPW Office Bunner the copy of acquaintance roll at (Annex-Q).

2 In view of the above facts, Since I have performed my duty in very critical situation at District Bunner and obeyed the orders of my senior officers and not guilty of misconduct. The order of the senior was obeyed also on the ground that in district Hangu I was kidnapped by the Taliban on Feb 18th, 2009 and no one helped to escape me or help/look after my family during kidnapping period of 40 days ultimately my family sold my house and paid the ransom money to the Taliban after releasing from Taliban I was transferred to another hard area district kohistan and I spent one year in the hard area, so at Bunner the order of the senior was obeyed in the interest of peace stability and equality and no personal interest was involved, all was in the public interest.

3 I am therefore submitting this reply to the charge sheet with in stipulated period of seven days as required under provision made in the charge sheet.

4 My written defense is submitted to inquiry officer within specified period.

5 Yes I want to be heard in person I may kindly be granted to chance of personal hearing enabling me to explain my innocence before the competent authority please.

6 Out of 26 different position, 08 Nos are male mobilizer which are published locally as per standing practice and filled up in consultation with the elected representative, 07 position are filled up on purely merit while 11 position were filled up on the recommendation of the elected representative fulfilling the selection criteria.

- Sardar Hussain Babak MPA 05 posts
- Qaiser Wali Khan, MPA 03 posts
- Syed Rahim Khan, MPA 01 post
- Istiqbal Khan, MNA 01 post
- Bakhrat Khan, President PP 09 posts

7 In light of the aforementioned defense/explanation, it is humbly requested that I may kindly be exonerated from the charges, enabling me to look after my children with peace and honour please.

I have no interest in retaining or cancellation of the appointments as these posts are project based which will be expired on any time.

Much regards.

ATTESTED

(Handwritten Signature)
 (HABIB-UR-REMAN SANDEELA)
 EX-DPWO BUNER
 Under Suspension Deputy District
 Population Welfare Officer Mardan
 06/3/2013

INQUIRY REPORT

Annex: D
P. 21

Subject: CHARGE SHEET AND STATEMENT OF ALLEGATIONS DISCIPLINARY PROCEEDINGS AGAINST MR. HABIB-UR-REHMAN, DY. DISTRICT POPULATION WELFARE OFFICER, MARDAN.

I. BACKGROUND:

1. The Population Welfare Department vide letter No. SOE (PWD) 1-81/2011/PF/14196-99 dated: 22-02-2013 (Annex-1), intimated that the Competent Authority i.e. Chief Secretary, KPK approved initiation of disciplinary proceedings against Mr. Habib-Ur-Rehman (B-17), Dy. District Population Welfare Officer, Mardan on account of complaints against appointments of 26 different posts during his tenure in Buner.
2. In the said letter the undersigned (Islam Zeb, Additional Secretary, P&D FATA) was also appointed as inquiry officer to scrutinize the conduct of the aforesaid officer vis-à-vis the attached statement of allegations/ Charges Sheet and desired that the inquiry officer should take further necessary action and submit findings/ recommendations/ report.

II. PROCEEDINGS:

3. In compliance with the above order, Mr. Habib-Ur-Rehman, Dy. District Population Welfare Officer, Mardan was asked through a letter on 26-02-2013 (Annex-II) to submit Para wise / allegation wise responses, duly supported with documentary evidences as well as the overall record of the appointments mentioned in the subject case within a week time to enable the inquiry officer to fix a date for hearing.
4. In response Mr. Habib-Ur-Rehman, Dy. District Population Welfare Officer, Mardan submitted parawise written replies to the allegations on 06-03-2013(Annex-III). After going through his replies and supported material attached to the replies, he was given the opportunity of personal hearing on 12-03-2013. During his personal hearing, the replies to the allegations were discussed in detail and inquired additional information to the allegations, as deem appropriate.
5. Relevant documents including advertisement, diary register of receipt of applications, call letters, written test paper of candidates, correspondence of the respective elected representatives with regard to recommending different candidates for various posts, the absence/ termination in case of Miss Noor Nishta FWA (F) District Buner and her

ATTESTED

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re-instatement order dated 15-05-2012 (by Director General, Population Welfare), letter dated 15-05-2012 by Mr. Habib-Ur-Rehman to DPO Buner to give him protection, letter dated 17-05-2012 from DCO Buner to DPO Buner in connection of giving protection to Mr. Habib-Ur-Rehman, etc. were also provided.

III. FINDINGS

6. The "Departmental Selection Committee" for appointments against the said 26 posts was consisting of the Following:

- a. Mr. Habib-Ur-Rehman Dy. District Population Welfare Officer, Buner. - Chairman
- b. Mr. Naseem Ullah, Assistant Director (M&E) Population Welfare Department Peshawar. - Member-I
- c. Mr. Fahad Sarwar Dy. District Population Officer, (C&T), DPW Office, Buner. - Member-II

7. The merit list was signed only by Mr. Habib-Ur-Rehman, Dy. District Population Welfare Officer, Mardan, as ex-DDPWO, Buner/Chairman of the Departmental Selection Committee while the other two members as mentioned above, did not sign any single merit list.

8. Appointment orders were issued by Mr. Habib-Ur-Rehman, ex- Dy. District Population Welfare Officer, Buner, on the basis of the merit list which was signed only by him as chairman of the committee without signatures of the other two members of the committee.

9. The recommendations of elected representative for appointment cannot become grounds for non-completion of the procedural formalities.

10. The objectives behind issuing appointment orders on the basis of the merit list which was not signed by the other members (02 Nos) of Departmental Selection Committee could not be clearly revealed.

11. According to the verbal statement of Mr. Habib-Ur-Rehman, Dy. District Population Welfare Officer, Mardan, during his personal hearing, he categorically stated that no contact has been made with him by any quarter for providing the record. Now, as asked for, the same is provided along with replies to the allegations, given in the inquiry.

ATTESTED

12. As stated by the accused officer, he remained under constant political pressure throughout the overall process of recruitments.

13. According to the written reply and personal hearing, details of 26 appointments against different posts, which were objected, are given below:

- 01. Candidates appointed on merit - 07
- 02. Candidates appointed as per recommendations by the elected representatives - 11
- 03. Appointments made on fixed salaries posts appointed through local advertisements / Employment Exchange Registration in consultation with elected representatives. - 08

Total - 26

IV. RECOMMENDATIONS:

14. The merit list on the basis of which the appointment orders were issued was not signed by the other 02 members of the Committee. Therefore, all the appointment orders issued on the basis of this merit list are irregular. Hence, all these appointment orders be cancelled and re-advertised.

15. Mr. Habib-Ur-Réhman, Dy. District Population Welfare Officer, Mardan, should be given minor penalty (payment of re-advertisement) for non completion of procedural formalities, with the instruction to ensure to avoid such situation in future.

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT
STREET NO.7/B HOUSE NO.125/111 DEFENCE OFFICER COLONY
KHYBER ROAD PESHAWAR CANTT:

Annex: E
P-24
403-08

NO.SOE (PWD) 1-81/2011/PF/
Dated Peshawar the, 12th July, 2013.

To


Mr. Habib-ur-Rehman,
DDPWO (Non-Tech),
District Population Welfare Office,
Mardan.

Subject: - **CHARGE SHEET AND STATEMENT OF ALLEGATIONS -
DISCIPLINARY PROCEEDING AGAINST MR. HABIB-UR-
REHMAN, DY. DISTRICT POPULATION WELFARE
OFFICER, MARDAN**

The undersigned is directed to refer to this Department's Endst: of even number dated 02nd July, 2013 on the subject and to enclose herewith a copy of charge sheet and statement of allegations with the request that reply to the allegations contained in the enclosed charge sheet / statement of allegations may be submitted to the Inquiry Officer within seven (07) days.

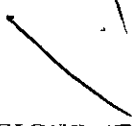
It is further requested that receipt of this letter may be acknowledged through DPWO, Mardan.

Encls: As above.


SECTION OFFICER (ESTABLISHMENT)

Copy to the: -

1. Mr. Ahmad Khan, Deputy Secretary / Inquiry Officer, Govt. of KPK, Home Department, Peshawar.
2. District Population Welfare Officer, Mardan.
3. PS to Secretary, Population Welfare Department, Peshawar.


SECTION OFFICER (ESTABLISHMENT)


ATTACHED

CHARGE SHEET

I, Atta Ullah Khan, Chief Secretary, Khyber Pakhtunkhwa as competent authority, hereby charge you, Mr. Habib-ur-Rehman (BPS-17 Deputy District Population Welfare Officer (Non-Tech), DPW Office, Mardan as follows:

That you, while posted as District Population Welfare Officer, Buner committed the following irregularities:

- (i) You have taken all the recruitment record (year 2012) of DPW Office, Bunner illegally for malafide intension. You were called time and again by the inquiry officers for provision of requisite record but you failed to do so.
- (ii) You have issued 26 offer of appointments from BPS-1 to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, Chowkidar BPS-1, Mali/Sweeper BPS-1 & Aya/Helper BPS-1 without making merit list and minutes of the Departmental Selection Committee meeting which was not signed by the members as per available record.
- (iii) You have issued offer of appointment as Family Welfare Assistant (Female) BPS-5 to Miss. Nasia, on 18.05.2012 while other appointee in the same recruitment process were issued offer of appointment on 28.02.2012 which shows malafide intentions.
- (iv) You have issued offer of appointment as Family Welfare Assistant (Female) BPS-5 as a project employee on 28.02.201 to Mrs. Neelam Saeed and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (v) You have appointed Mr. Farid Ullah as Driver (BPS-4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Mali/Sweeper in violation of rules. Under NWFP APT Rules, 1989, Rule 10 Sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment Exchange does not exist. The appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers".
- (vi) You have appointed Mrs. Waliat W/O Bakht Amin, Family Welfare Assistant (Female), BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Male) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helper (BPS-1) during recruitment made in 2012 inspite of the fact that their names were not included in the interviewees list as evident from the list of the members of Departmental Selection Committee.
- (vii) You have registered Sajjad Ali S/O Farid Khan, Shah Faisal, Iftikhar Alam, Sajjad Ali S/O Subzali Khan, Sardar Bahadar S/O Barakat Shah, Said-ur-Rehman S/O Amir Ghawas Khan, Bakht Chaman Khan S/O Musharraf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for Registration.

ATTESTED

- (viii) You with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWÁ (Female) and marked her absent from duty and dismissed her from Service to vacate the seat for your favourable candidate.
- (ix) You created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressal of their grievances.
- (x) You have tampered receipts of Charcoal, during the financial year 2010-11.
- (xi) You have shown disbursed five (05) months salary and allowances in respect of Mrs. Shagufta Khanam, FWW on fake signatures as DDO during the financial year 2010-2011.

2. By reason of the above, you appear to be guilty of mis-conduct 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 rules ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/inquiry committee.

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

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

6. A statement of allegations is enclosed.



CHIEF SECRETARY
Competent Authority

Mr. Habib-ur-Rehman
The then District Population Welfare Officer, Buner
Now posted as Dy. District Population Welfare
Officer (Non-Tech), Mardan



DISCIPLINARY ACTION

I, Atta Ullah Khan, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, am of the opinion that Mr. Habab-ur-Rehman (BPS-17), the then DPW Officer, Bunner now posted as Deputy District Population Welfare Officer (Non-Tech), 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, Government Servants (Effective and Discipline) Rules, 2011:

STATEMENT OF ALLEGATIONS

- (i) He has taken all the recruitment record (year 2012) of DPW Office, Bunner illegally for malafide intention. He was called time and again by the inquiry officers for provision of requisite record but he failed to do so.
- (ii) He has issued 26 offers of appointments from BPS-1 to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, Chowkidar BPS-1, Mali/Sweeper BPS-1 & Aya/Helper BPS-1 without making merit list and minutes of the Departmental Selection Committee meeting which was not signed by the members as per available record.
- (iii) He has issued offer of appointment as Family Welfare Assistant (Female) to Miss. Nasia after an interval of about two and half months i.e. on 18.05.2012 and offer of appointment issued earlier on 28.02.2012 in the same recruitment process which shows malafide intentions.
- (iv) He has issued offer of appointment to Mrs. Neelam Saeed, as Family Welfare Assistant (Female) as a project employee on 28.02.2012 and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (v) He has appointed Mr. Farid Ullah as Driver (BPS-4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Mali/Sweeper in violation of rules. Under NWFP APT Rules, 1989, Rule 10 Sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment Exchange does not exist, the appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers".
- (vi) He has appointed Mrs. Waliat W/O Bakht Amin, Family Welfare Assistant (Female), BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Male) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helper (BPS-1) during recruitment made in 2012, inspite of the fact that their names were not included in interviewees list as evident from the list of the members of Departmental Selection Committee.

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- (vii) He has registered Sajjad Ali S/O Farid Khan, Shah Faisal, Iftikhar Alam, Sajjad Ali S/O Subzali Khan, Sardar Bahadar S/O Barakat Shah, Said-ur-Rehman S/O Amir Ghawas Khan, Bakht Chaman Khan S/O Musharraf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for registration.
- (viii) He with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWA (Female) BPS-5 and marked her absent from duty and dismissed her from service to vacate the seat for favourable candidate
- (ix) He created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressal of their grievances.
- (x) He has tampered receipt of Charcoal during the financial year 2010-11.
- (xi) He has shown / disbursed five (05) months salary and allowances in respect of Mrs. Shagufta Khanam, FWW on fake signatures as DDO during the financial year 2010-11.

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 rules 10(1) (a) of the ibid rules.

- a. Mr. Ahmad Khan D.S. Home
- b. _____

3. The inquiry officer / inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty 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 / inquiry committee.


CHIEF SECRETARY,
Govt: of Khyber Pakhtunkhwa
Competent authority

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Annex-III

Annex-F 1.29

Mr. Ahmad Khan Sahib,
Inquiry Officer,
Deputy Secretary Home,
Home Department Khyber Pakhtunkhwa.

Subject: CHARGE SHEET AND STATEMENT OF ALLEGATIONS
DISCIPLINARY PROCEEDING AGAINST MR. HABIB-UR-
REHMAN, DY. DISTRICT POPULATION WELFARE OFFICER,
MARDAN.

Respect Sir,


Please refer to letter No.SOE(PWD)1-81/2011/PF/703-05 dated
12th July 2013 received on 16/07/2013 on the subject cited above, and to
enclose herewith para wise reply to the charge sheet issued to me with the
signature of hon'ble Chief Secretary Govt. of Khyber Pakhtunkhwa is submitted
for further necessary action please.

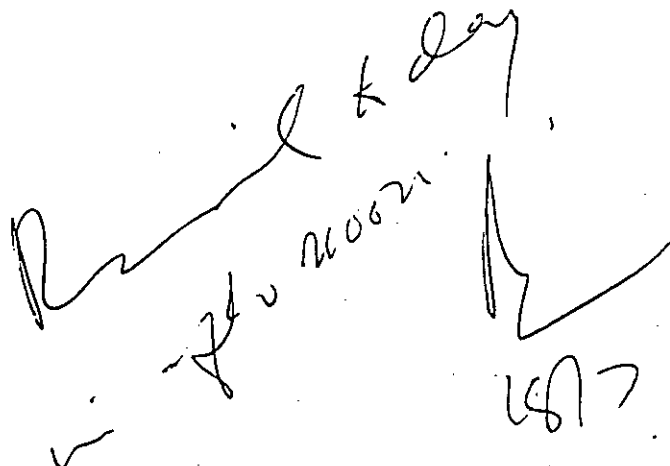
Yours obediently


(HABIB-UR-REHMAN SANDEELA)

EX-DPWO BUNER

Under suspension Deputy District Population
Welfare Officer Mardan


ATTESTED


Handwritten signature and notes, including the number 1817.

2A

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To,

Mr. Ahmad Khan Sahib,
Inquiry Officer,
Deputy Secretary Home,
Home Department,
Khyber Pakhtunkhwa.

Subject: REPLY TO THE CHARGE SHEET.

Respected Sir,

(i) It is submitted that all the office record including recruitment in question is handled by Mr. Abdul Wahid FWA(M) who is also working as record keeper, store keeper, Accounts Assistant and Steno in the office of District Population welfare Officer Bunner. Despite my repeated directions he did not provide me the record for the reasons that his brother was not recommended for selection by the selection committee because of his low merit, the matter was discussed with the present DPWO Bunner along with Charge sheet and requested him for providing the requisite record. He was kind enough to arrange the record on written request dated 27-02-2013 which is attached. (Annex-A)

(ii) Proper proceeding for appointment for 26 individual against different posts / position was finalized by the selection committee signed by the undersigned while the other could not able to sign it because of personal interference of the following elected representatives / Minister who pressurized the committee to select their candidates as per detail below:-

1. Said Rahim MPA.(he gave a list of 4 candidates for appointment of which only one candidate fulfilling the selection criteria and was accommodated namely Miss: Riffat bibi d/o Said Muhammad Shah for the post of FWA(F). It is further added that During the interview Mr. Syed Rahim MPA Chairman DDAC of District Buner came to my office with the gunmen in the presence of Departmental Selection Committee member 1st used swear words and then threaten me to appoint all his recommendee otherwise you well see the consequence.

2. Mr. Sardar Hussain babak MPA (Minister for Elementary & Secondary Education of KPK) has sent a letter through Minister for Population welfare KPK for appointment of his six candidates out of which 5 candidates were selected fulfilling the selection criteria namely:-

1. Mr. Nisar Muhammad s/o Haji Muhammad (FWA(M)
2. Mr. Qamar Zaman s/o Hazrat Jalal (Chowkidar.)
3. Mst: Shakila w/o Auranzeb (Aya).
4. Sardar Bahadar s/o Barakat Shah (Male Mobilizer)
5. Sajjad Ali s/o Sabz Ali Khan (Male Mobilizer)

3. He also used abusive languages against me and my family on my cell which is reproduce as under.


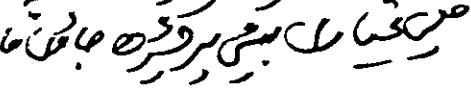
1. میں تمہاری بہن پر تشدد جانے لگا
2. میں تمہاری بیوی پر تشدد کرنے لگا
3. میں تمہاری بیٹی پر تشدد کرنے لگا

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4. Similar Qaiser Wali Khan MPA (he gave a list of 7 candidates for appointment of which only 3 candidates fulfilling the selection criteria and was accommodated namely:-

1. Iftikhar Alam s/o Noor Dad (Male Mobilizers).
2. Bakht-i-Multaj s/o Gul Taj Khan (Chowkidar
3. Shah Zeb s/o Shamroz Khan (Mali Sweeper).

He has also used abusive languages against me and my family on my cell which is reproduce as under.

- i. 
- ii. 

It is further added that Mr. Qaiser Wali MPA telephonically informed that he will see me if I failed to appoint his recommendee. It may also be added that nephew of Qaiser Wali MPA namely Mr. Shuja has threatened me in UBL Buner Branch that Shamsul Ghani FWA(M) will continue his studies on regular basis at Abdul Wali Khan University Campus Buner and will also get pay from your office but you will neither open your lips nor stop his pay and will also not take any action against him, in this connection the undersigned asked him this is not proper place to discuss the official matter you may come to my office suddenly he got up and beated me in the presence of public as well as the bank staff. After that the undersigned has requested to the DPO Buner (**Annex-B**) to lodged FIR against Mr. Shuja nephew of MPA Mr. Qaiser Wali Khan, in this regard DCO Buner has also taken action and wrote the letter to the DPO Buner at (**Annex-C**) for necessary action. This complex situation was created due to non appointment of all his recommendee. Since all the three MPAs and one MNA were of ANP and the Department was under the Minister of PPPP, therefore I was between the **devil and the deep sea** and it was not possible to make all people happy. Therefore law and order situation was likely to be created and there was danger of blood shed, therefore keeping in view all the pressures, I informed the hon'ble Minister for Population Welfare Mr. Saleem Khan of the situation who informed the Secretary Population Welfare KPK. He has ordered me on telephone to issue all such appointment orders of the recommendee of MPAs, MNA including Minister for Education and recommendee of the president of PPPP District Buner. I informed the Secretary Population Welfare that the Merit list and the Minutes of DSC meeting were ready but not yet signed by the remaining committee members. He has ordered me to issue the appointment orders to handle the situation and control the law and order situation, otherwise he will damage me, and asked me he will get the minutes and the merit list signed by the respective committee members. I repeatedly requested the Minister for Population Welfare for signature of committee member as was promised but no one helped me, in this critical situation the survival of government servant cannot be possible, letter of President PPPP of District Buner is **enclosed** and after that I was suspended and disciplinary action is initiated against me.

I repeatedly requested the Minister for Population Welfare for signature of committee member as was promised but no one helped me, in this critical situation the survival of government servant cannot be possible, letter of President PPPP of District Buner is **enclosed** and after that I was suspended and disciplinary action is initiated against me.

5. The president PPP District Buner has also sent a list of his recommendee (he gave a list of 9 candidates for appointment against

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various posts who all were fulfilling the selection criteria and as such accommodated namely:-

1. Bakht-i-Chaman Khan s/o Musharraf Khan Male mobilizers
2. Wazir Zada s/o Shah zada (Male Mobilizers)
3. Faridullah s/o Ghulam Sarwar (Driver)
4. Gul Hasia w/o Sherinzada (Aya)
5. Asmat d/o Daulat Khan (FWA(F))
6. Salizer s/o Sabzer (Chowkidar)
7. Jansher s/o Amir Jaber (Chowkidar)
8. Rahat Bibi d/o Gulzamin Khan (Aya)
9. Saeedur Rahman s/o Amir Ghawas Khan (Male Mobilizers)

6. Istiqbal Khan MNA has sent two recommendee for appointment as FWA(M) & Male Mobilizers wherein only one candidate was fulfilled the selection criteria and accommodated namely Shah Faisal s/o Muhammad Zaman Khan Male Mobilizers.

All recommendee letter place at **(Annex-D)**

All though all the candidates were fulfilling the criteria were selected on merit but the following candidates had no approached but having high academic score and perform during the test/Interview without recommendation of any body and were purely selected on merit.

1. Syed Ishraq S/O Syed Kamash FWA (M)
2. Farman Ali S/O Amir Akbar FWA (M)
3. Nasia Bibi D/O Aman Khan FWA (F)
4. Neelam Saeed W/O Ihtisham Gul FWA (F)
5. Mrs. Waliat W/O Bakht Amin FWA (F)
6. Umma Aiman D/O Sarman Khan Aya FWA (F)
7. Sajjad Ali S/O Fareed Khan Male Mobilizer

- (iii) Miss Nasia was purely at the Top of the Merit list and was not recommendee of any elected representative, while the elected stake holder insisted for appointment of all their recommendee other than Miss. Nasia which was not justice and merit was to be followed. Therefore I kept one of the vacancy unfilled for her and not disclosed that vacancy to the elected representative. Therefore, her appointment order was issued late in May, 2012 on merit basis and it was real justice. There was no malafide intention in this case and had no relative/known people in Bunner and all the decision were taken on merit.

- (iv) Position given is correct, however the background of the case is that Mrs. Neelam Syed was at second position of the merit list, due to typing mistake she was issued offer of appointment against the project post, later on the same day the mistake was identified and another offer of appointment issued to her on temporary/regular basis. The offer issued against project post was although torn out as cancelled but some one in the office might have made photo copy and placed in the office record which creates the stated confusion. Actually she is appointed and posted against the post of FWA (F) being on 2nd position in the merit list.

- (v) Yes Sir, Mr. Shah Zeb sweeper/Mali is recommendee of Mr. Qaiser Wali Khan MPA and Mr. Farid Ullah driver is recommendee of PPPP, if the inquiry officer feels that those appointments are in violation of rules, the same can be recommended by the inquiry officer for cancellation/with drawl of appointments order. Yes Sir Mr. Farid Ullah

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Driver and Mr. Shah Zeb Sweeper/Mali were appointed through registration with employment exchange Swat which is near by/adjoin to district Buner as employment exchange was not available in District Buner. This case is similarly to that when a chowkidar namely Mr. Mushtaq Hussain S/O Yahya Gul was registered with employment exchange Peshawar vide registration No. 2351/NT/10 dated 08/12/2010, vide offer of appointment No.1(4)/2009-10/Admn dated 24/12/2010 at (Annex-E), but appointed in district Charsadda on the recommendation of the Worthy Secretary Population Welfare Mr. Ahmad Hanif Orakzai, who vacated one post of chowkidar at DPWO Office charsadda by transferring Mohammad Javid Chowkidar to Peshawar vide office order No.1(4)/2010-Admn dated 07/12/2010. The appointee at District Charsadda is still drawing his pay from Charsadda.(Annex-E)

(vi)


1. Syed Ishraq was 1st divisioner and has sufficient experience relevant with NGO's his application was registered in the Dairy at serial No. 174 on 2/1/2012 while expiry date was 5/1/2012 (Annex-F) his application was therefore considered as per standing procedure. Merit list at (Annex-G)
2. Mrs. Waliyet was appointed as FWA(F) BPS-5 because she applied for the both post, FWA(F) and Dai/Aya (Annex-H). she was found suitable for the post of FWA(F) her placement in at S.No.3 being 1st Divisioner and well experienced.
3. Miss. Umi Aiman applied for the both post of FWA(F) and helper/Dai but she was failed in the written test of FWA(F) and found suitable against the post of helper /Dai BPS-1 (Written test paper at Annex-I).

(vii)

Male Mobilizer are basically contingent staff with fix honoraria of Rs. 7000/- Per month and do not fall within the definition of Govt: servant therefore Director General Population Welfare KPK under latter No. 2(14) /2010-Admin-MM / Volume-III Dated 08/10/2011 (Annex-J). Circulated amongst all DPWO's to adopt the following recruitment process for the registration in case of male Mobilizer has been completed accordingly more ever these posts of Male Mobilizer were to be advertised locally at U/C, which I advertised copy of the letter at (Annex-K) the proper interview was conducted and merit list and minutes at (Annex-L). Individual wise detailed is as under.

- i. Identification of Union Councils.
- ii. Advertisement through local publicity hand bill in the identified Union Councils and through TMO Office.
- iii. Scrutiny of application.
- iv. Interview and selection should be completed positively

1. Mr. Iftikhar Alam S/O Noor Dad Khan
2. Mr. Sajjad Ali S/O Sabzali Khan
3. Mr. Sajjad Ali S/O Farid Khan
4. Mr. Bakht Chaman Khan S/O Musharaf Khan
5. Mr. Shah Faisal S/O Muhammad Zaman Khan



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- 6. Mr. Sardar Bahader S/O Barakat Shah
- 7. Mr. Wazir Zada S/O Shah Zada
- 8. Saeed Ur Rehman S/O Amir Ghawas Khan

- (viii) Miss Noor Nishta FWA(F) was absent from duty as reported by I/C of Family Welfare Centre Bampokha and chowkidar (**Annex-M**), I personally visited the FWC Bampokha and found her absent from duty. The undersigned has instructed time and again her to attend her duties in the monthly meeting but she failed to attend her duty, as result show cause notice was issued to her and accordingly she was removed from service, on 31/05/2011 how ever she was re-instated by the Director General vide letter No.4(6)/2011/Admn dated: 16-10-2012 with the condition that her absence period with effect from 2/12/2011 to 31/12/2012 at (**Annex-N**) be treaded as with out pay. This verifieds that the action taken by the under signed as DPWO Buner was correct one without any ulterior motive.
- (ix) Can not be agreed as no notice in this respect has been received by the undersigned from the High Court.
- (x) The actual position is that the Husband of Shagufta Khanam FWW was living with her in FWC Totalaye. She was time and again instructed not to allow stay of her Husband in the FWC during office hrs as due to presence of her husband the Family Planning client's privacy was not maintained but she failed to do so. She was transferred from Totalaye, (**Annex-O**).
- (xi) During the year 2010-11 proper charcoal was issued on proper receipt the same were verified by the Deputy District Population Welfare Officer Bunner (**at Annex-P**) thus the blame of tempering was not correct.

As per standing practice, salary of all staff of the office is cleared through a cheque. After its encashment, salary to individual staff member are given by the office accountant / cashier. Therefore DPWO has no roll in disbursement of salary to the employees of the office hence question of monthly salary and allowance of Miss. Shagufta Khanam on fake signature as DDo during the financial year 2010 is not correct. More ever I assumed the charge of the post of DPWO Buner on 25/04/2011 showing that only two months and 5-days were remaining in the Financial year 2010-11 so in two month how could I disbursed five months salary in fact I signed only the cheque of the salary of all the employees whose salary were through DDO and same were paid by the Account Assistant/Cashier to the employees concerned, and who also got/recorded signature of the payees on the acquaintance roll which is available. It is also pertinent to mention as per verbal statement of Mr. Abdul Wahid working as Accountant Assistant/Cashier that on the two month salary her husband has signed and got her salary for the month of April, 2011 and May 2011, the payment was made by him at DPW Office Bunner the copy of acquaintance roll at (**Annex:-Q**).

- (xii)
 - 2 In view of the above facts, Since I have performed my duty in very critical situation at District Bunner and obeyed the orders of my senior officers and not guilty of misconduct. The order of the senior was obeyed also on the ground that in district Hangu I was kidnapped by the Taliban on Feb 18th, 2009 and no one helped to escape me or help/look after my family during kidnapping period of

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40 days ultimately my family sold my house and paid the ransom money to the Taliban after releasing from Taliban I was transferred to another hard area district kohistan and I spent one year in the hard area, so at Bunner the order of the senior was obeyed in the interest of peace stability and equality and no personal interest was involved, all was in the public interest.

- 3 I am therefore submitting this reply to the charge sheet with in stipulated period of seven days as required under provision made in the charge sheet.
- 4 My written defense is submitted to inquiry officer within specified period.
- 5 **Yes I want to be heard in person I may kindly be granted to chance of personal hearing enabling me to explain my innocence before the competent authority please.**


6. Out of 26 different position, 08 Nos are male mobilizer which are published locally as per standing practice and filled up in consultation with the elected representative, The remaining were filled purely on merit out of which 07 position has no approach and 11 were recommendees of elected representative fulfilling the selection criteria. Detail of recommendees is as under:-


1. Sardar Hussain Babak MPA 05 posts
2. Qaiser Wali Khan, MPA 03 posts
3. Syed Rahim Khan, MPA 01 post
4. Istiqbal Khan, MNA 01 post
5. Bakhrat Khan, President PP 09 posts

7. In light of the aforementioned defense/explanation, it is humbly requested that I may kindly be exonerated from the charges, enabling me to look after my children with peace and honour please.

I have no interest in retaining or cancellation of the appointments as these posts are project based which will be expired on any time.

Much regards.


(HABIB-UR-REMAN SANDEELA) 18/07/2013
EX-DPWO BUNER
Under Suspension Deputy
District
Population Welfare Officer
Mardan


ATTESTED

Government of Khyber Pakhtunkhwa
Directorate General Population Welfare

Post Box No. 235
1st & 2nd Floor, FC Trust Building, Sunehri Masjid Road, Peshawar Cantt
Phone No. +92-091-921153-38 (Exchange)

F.No.4 (6)/2012/Admn/7251-53
Dated Peshawar the 21/10/2013

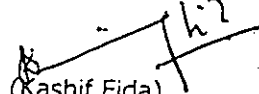
To

Mr. Habib-ur-Rehman Sandeela (BPS-17),
District Population Welfare Officer, Buner
now posted as DDPW Officer (NT) Mardan.

Subject: - SHOW CAUSE NOTICE

I am directed to enclose herewith Show Cause Notice duly signed by the Competent Authority alongwith findings and recommendations of the inquiry report submitted by Mr. Ahmad Khan Orakzai, Inquiry Officer / Deputy Secretary (L&O), Home & Tribal Affairs Department, Govt. of Khyber Pakhtunkhwa for further necessary action.


Proper receipt in this respect be submitted please.


(Kashif Fida)
Assistant Director (Admn)

Copy forwarded to the:-

1. Section Officer (Estt), Govt. of Khyber Pakhtunkhwa, PWD w/r to his letter No. SOE(PWD)1-81/2011/P.F/2071-72 dated 08-10-2013.
2. PS to Director General, Population Welfare Deptt., KPK, Peshawar.
3. District Population Welfare Officer Mardan.


Assistant Director (Admn)


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SHOW CAUSE NOTICE.

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I, Muhammad Shehzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve you Mr. Habib-ur-Rehman Sandeela, BPS-17 District Population Welfare Officer, Buner now posted as Deputy District Population Welfare Officer (Non Tech), Mardan as follows:-

- I.
- (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer / inquiry committee for which you were given opportunity of hearing vide communication No. SOE(PWD)1-81/2011/PP/703 dated 12-07-2013; and
 - (ii) on going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defence before the inquiry officer.

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

- (i) You have taken all the recruitment record (year 2012) of DPW Office, Buner illegally for malafide intension. You were called time and again by the inquiry officers for provision of requisite record but you failed to do so.
- (ii) You have issued 26 offer of appointments from BPS-1 to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, Chowkidar BPS-1, Mali/Sweeper BPS-1 & Aya/Helper BPS-1) without making merit list and minutes of the Departmental Selection Committee meeting which was not signed by the members as per available record.
- (iii) You have issued offer of appointment, as Family Welfare Assistant (Female) BPS-5 to Miss. Nasia, on 18.05.2012 while other appointee in the same recruitment process were issued offer of appointment on 28.02.2012 which shows malafide intentions.
- (iv) You have issued offer of appointment as Family Welfare Assistant (Female) BPS-5 as a project employee on 28.02.201 to Mrs. Neelam Saeed and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (v) You have appointed Mr. Farid Ullah as Driver (BPS-4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Mali/Sweeper in violation of rules. Under NWFP APT Rules, 1989, Rule 10 Sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment Exchange does not exist. The appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers".

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- (vi) You have appointed Mrs. Waliat W/O Bakht Amin, Family Welfare Assistant (Female), BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Male) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helper (BPS-1) during recruitment made in 2012 inspite of the fact that their names were not included in the interviewees list as evident from the list of the members of Departmental Selection Committee.
- (vii) You have registered Sajjad Ali S/O Farid Khan, Shah Faisal, Istikhar Alam, Sajjad Ali S/O Subzali Khan, Sardar Bahadar S/O Barakat Shah, Said-ur-Rehman S/O Amir Ghawas Khan, Bakht Chaman Khan S/O Musharraf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for Registration.
- (viii) You with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWA (Female) and marked her absent from duty and dismissed her from Service to vacate the seat for your favourable candidate.
- (ix) You created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressal of their grievances.
- (x) You have tampered receipts of Charcoal, during the financial year 2010-11.
- (xi) You have shown disbursed five (05) months salary and allowances in respect of Mrs. Shagusta Khanam, FWW on fake signatures as DDO during the financial year 2010-2011.

2. As a result thereof, I, as Competent Authority, have tentative decided to impose upon you the penalty of "Removal from service" under Section-4 of the said Rules.

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

4. If no reply to this notice is received within 07 or not more than 15 days of its delivery, it shall be presumed that you have no defense to put in and in that case an exparte action shall be taken against you.

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

ATTESTED

[Signature]
 CHIEF SECRETARY
 KHYBER PAKHTUNKHWA

Annex-H P-39

1

ENQUIRY REPORT

Subject: - **DISCIPLINARY PROCEEDINGS AGAINST**
MR. HABIB-UR-REHMAN, DY: DISTRICT
POPULATION WELFARE OFFICER, MARDAN

The subject enquiry has been assigned to the undersigned to scrutinize the conduct of the above mentioned accused officer and to submit Enquiry Report thereof with Findings/ Recommendations in accordance to Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

II- On 22/07/2013, accused officer Habib-Ur-Rehman Ex-DPWO Buner, has submitted reply (in his defense) to the charge sheet and statement of allegations already been served upon him by the Population Welfare Department vide letter No. SO E (PWD) 1-81/2011/PF/703 dated 12/07/2013. The department was also asked to depute a well conversant officer as Departmental Representative to produce the relevant record on 24/07/2013. Simultaneously the accused Officer was asked to be available for further proceedings in the assigned Enquiry.

III- On 24/07/2013 accused officer himself and Mr. Muhammad Wali, Deputy Director (Departmental Representative) has come up with the relevant record. Accused officer was assured of providing him ample opportunities to defend himself by all possible means.

IV- In order to achieve the task in a more transparent manner (the present District Population Welfare Officer Buner (successor of the accused officer) and the concerned Family Welfare Assistant (Male) Mr. Abdul Wahid of the said office also been summoned. Bothe the officer/official came up with the relevant record. Statement of the present DPWO Buner Mr. Shamu-ur-ehman with regard to the allegations and reply/response of the accused officer obtained vide Annex-I.

(1) **ALLEGATION/CHARGE NO. (i)**

On 24/07/2013 the accused officer was asked to present his view point with regard to the said allegation, which is pertaining (to the retention/ non-production to the earlier Enquiry Officer) to the official record with regard to the alleged illegal appointments of 26 candidates. In his written reply the accused officer states that:-

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"Office record including recruitment in question is handled by Mr. Abdul Wahid FWA (M) who is also working as record keeper, Store keeper, Accounts Assistant and Steno in the office of District Population Welfare Officer Buner and despite of repeated directions he did not provide me the record for the reasons that his brother was not recommended for selection by the Selection Committee because of his low merit"

- (a) On the other side, the ground realities altogether different from the reply of the accused officer. The accused officer himself has provided the said record to his successor on 04/04/2013 (the present PWDO Buner Mr. Shams-Ur-Rehman vide acknowledged letter F.NO. 1(2)/Admn/2012-13 dated 05/04/2013 Annex-II). Thus the charge stands established against the accused officer.
- (b) Furthermore, as per Part-"A" of the earlier Enquiry Report (which was based on the complaint of Miss Alia Bibi R/O Buner) vide Annex-III besides other things testify the fact that actually the said record was in the custody of the accused officer, but he for time and again has tried his level best to evolve self made complications just to throw the responsibilities on the shoulders of others on one or other pretext.
- (c) Further more during cross examination, Mr. Abdul Wahid FWA (M), whom was allegedly blamed for keeping the said record un-lawfully as per reply of the accused officer to his show cause, the former flatly denied the allegation and even clarified the position by stating that though he was the sole Accountant, Head Clerk, Cashier and Stenographer has even denied the typing of all the alleged illegal/un-law-full 26 offer of appointments by him or in his office, which also strengthen the allegation leveled upon the accused officer. The accused officer without any hesitation admitted and endorsed the statement of the said multifold status holder Mr. Abdul Wahid the FWA (M) of the said office. The accused officer in the said very cross examination has admitted that those offers of appointments were typed by another stenographer who visited the said Distt: office along with deputed officer (being member of the said very Departmental Selection Committee).
- (d) On this when was asked that when the visiting officer (Member of that very DSC) was kind enough to direct his accompanied Stenographer to render his services, which depicts the congenial atmosphere at the time of selection of the candidates, then why and on what grounds the said member of (DSC) along with other member has avoided to put their signature on that very minutes of the DSC (being the second charge/ allegation against him).

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(e) The accused officer without any hesitation just repeats the concocted story of Political pressure upon him by the local political figures by repeating the illogical and beyond any reasons as he stated in his reply to show cause. The accused officer having no plausible explanation while asked that why he alone bow down to such so called political pressure while his 02 other Co-Members of the said DSC not only denied/re-butted that very political pressure (if existed in reality), they not only avoided to sign that very dubious proceedings of the (so called DSC). The accused officer found no single word to put in his defense except to beat about bush.

(2) ALLEGATION/CHARGE NO. (ii)

The second charge also stands established and the accused has been found guilty of committing grave mis-conduct on his part by issuance of 26 offer of appointments which not only un-law-full, in wake of it issuance in his individual capacity instead of combine DSC proceedings but also stands un-law-full/illegal as all appointments were made against the project posts but the existing project policy and Committee thereof were totally surpassed by the accused officer. Thus issuance of 26 offer of appointments without the consent/recommendations of the Co-Members of that very Departmental Selection Committee by all members stands un-lawful / ab-initio on one hand and on the other it is a sheer misconduct on the part of accused officer above and beyond any reason, (who dame care for any discipline) proven himself above the law of the land.

(3) ALLEGATION/CHARGE NO. (iii)

With regard to the issuance of Offer of Appointment to one female candidate after an interval of two and half month than the issuance of other offer of appointments in the same very so-called Departmental Selection Committee proceedings (being dealt single handedly) the accused officer stats that due to the reason that she was topper/first division holder but due to political pressure he was unable to issue the offer of appointment to her along side of the other offer of appointments.

(a) The explanation of the accused officer seems nothing but a lame excuse which cannot be considered by any reason. Because the official management at all levels expect/demands transparency and any such like hidden reason stands as vested interest of an individual especially in case of appointment with particular reference of female, thus the allegation also stands established and mis-conduct on the part of accused officer strengthen to the highest mark which neither could be denied nor could provide any sort of leniency to beneficial for the accused officer.

4/10/2012

(4) ALLEGATION/CHARGE NO. (iv)

Fourth allegation (against the accused officer) is pertaining to the issuance of two separate offer of appointments (on the same very day) to the same female candidate. On temporary basis against project post as well other on against regular post. Again the accused officer remains deficient to justify his omission. When asked by the undersigned that if any mistake/error occurred in the issuance of any official order, according to the procedure the concerned authority has to issue a cancellation order by clarifying the mistake/error.

On this the accused officer admitted the omission and simply stated that the earlier offer of appointment issued against the project post was torn out and new offer of appointment were accordingly issued to the said candidate. As the candidate draws her emoluments against a regular post, the accused officer could not be blamed for the allegation/charge which having no sound reason. Thus allegation/charge not been established against him.

(5) ALLEGATION/CHARGE NO. (v)

Fifth allegation is pertaining to over-looking of existing policy for appointments of Class-IV in such districts where Employment Exchange not existed. Though there was no Employment Exchange at District Buner but the reply and quoted precedent by accused officer also having its weight-age. Thus it will be in the fitness of things and to fulfill the norms of natural justice, because all human being are equal in the eyes of law. Though the deviation from the policy by the accused officer on one or the other pretext cannot be justified, and that is why that the allegation/charge stands established by so many reasons. However the logic put forth by the accused officer in his reply also seems to be considered, this will also be commented upon under the sub-Heading of "OTHER RECOMMENDATIONS".

(6) ALLEGATION/CHARGE NO. (vi)

Sixth allegation speaks about the appointments of such candidates whom names were not included in the interviews list. In his defense the accused officer instead to put some meaning-full explanation has just put forth the original Diary Register instead of denying the list of DSC (in which the names of the candidates were not in-listed). The Diary Register shows the names of the appointed candidate upto the extent of submission of their applications. As earlier stated that in the said

ATTESTED

appointments the required project policy has been ignored due to which all such appointments became illegal hence the question of appointing of such candidate whom names were not included in the interviews lists does not arise. The charge stands established.

(7) ALLEGATION/CHARGE NO. (vii)

Seventh charge/allegation is pertaining to the registration of Male Mobilizers without adopting the codal procedures, but the accused officer submitted the proof of advertisement through pump lets/other means for the purpose which shows that the charge/allegation is baseless and that the accused officer has fulfilled the desire responsibilities, hence this charge/allegation against the him is without sound footing and he could not be blamed for any violation of procedures in this particular allegation. The allegation could not proved against the accused officer.

(8) ALLEGATION/CHARGE NO. (viii)

This allegation is pertaining to the illegal dismissal of one FWA (F) by the accused officer on the basis of her absence from duty. According to the available record and verbal confirmation of the successor District Family Welfare Officer Buner Mr. Shams Ur Rehman beside verbal statement of the said FWA (F), already been re-instated into service, hence the allegation/charge seems in-fructuous and needs not to be probed further.

(9) ALLEGATION/CHARGE NO. (ix)

The allegation speaks about the complaint seeking relief of the court by major bunch of employee of the District Buner against the poor behavior of the accuse officer while he was posted there. The accused officer in his reply to show cause has submitted that he has got no notice from any court and the departmental representative also could not provide sufficient material of worth consideration except the following:-

- (a) Peshawar High Court in a Writ Petition No.2487-P/2012 as per **part -D** of the earlier Enquiry Report vide **Annex-IV**. But Peshawar High Court Directions testify the matter that the very Writ Petition under discussion was pertaining to the Terms and Conditions of Services and very frankly disposed of the said on the basis of jurisdiction, however on the request of the Counsel of the petitioners, the learned court just for the sake of satisfaction of the Counsel asked the department to decide the pending presentation of the petitioners either way within a specific time.

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(b) Thus this very allegation to add into the account of the accused officer seems un-justified and without any sound footing, hence the accused officer could not be blamed for that. The allegation not proved.

(10) ALLEGATION/CHARGE NO. (x)

The allegation pertaining to tempering of Charcoal distributed amongst various Centre under the District Population Welfare Officer Buner by the accused officer, during his posting there. This is a grave allegation and needs through separate full-fledged investigation on the basis of ascertaining the total funds provided by the Finance Department to the Population Welfare Department.

Its further distribution amongst the District Population Welfare Offices/other entities of the said department. The rate fixed by the concerned Divisional Commissioners with the list of authorized dealers. The admissibility of Charcoal with yard stick fixed by the Govt.: The procurement made by the concerned District Officers and its stock registers, onward distribution amongst the Govt: servants according to their entitlement. As huge funding involved in and its mis-appropriation could not be ruled out, hence it is suggested that the issue by dig-out through separate Enquiry on the sole subject of "Mis-appropriation of Charcoal funds" that the hidden facts could be un-earthed and those found guilty be brought to book accordingly.

(11) ALLEGATION/CHARGE NO. (xi)

The allegation pertaining to the mis-appropriation of 05 months pay of one Mst. Shagufta Khanam FWW but during the course of enquiry it was revealed by the Departmental Representative that actual 02 month pay was mis-appropriated by the accused officer. In order to find the actual position the present (successor of the accused officer) District Population Welfare Officer Mr. Shams-Ur-Rehman testifies that salary for that very period already paid to the incumbent thus the allegation/charge seems in-fructuous in nature.

(a) Though one thing reached to its conclusion by obtaining written statement of that very Female FWW that she has received her (that very) salaries vide Annex-V, thus the allegation seems in-fructuous in nature yet certain things which yet needed to be elaborated within the Financial Disciplines frame work will discussed under the sub-heading "OTHER RECOMMENDATIONS"

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(12)

FINDINGSAllegations/Charges Proved/Established

On the basis of the enquiry proceedings the following allegations/charges found established by all means without any doubt. As each allegation/charge is so grave in nature that despite of all sympathetic considerations, yet the conscience of a reasonable person will not tolerate to show any kind of leniency in case of the accused officer of the instant enquiry. His committing of mis-conduct is above board and it is high time to curb the evil in the bud:-

- (i) He has taken all the recruitment record (year 2012) of DPW Office, Buner illegally for malafide intention. He was called time and again by the inquiry officers for provision of requisite record but he failed to do so.
- (ii) He has issued 26 offers of appointments from BPS-I to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, chowkidar BPS-I, Mali/Sweeper BPS-I & Aya/Helper BPS-I) without making merit list and minutes of the Departmental Selection committee meeting which was not signed by the members as per available record.
- (iii) He has issued offer of appointment as Family Welfare Assistant (Female) to Miss. Nasia after an interval of about two and half months, i.e. on 18.05.2012 and offer of appointment issued earlier on 28.02.2012 in the same recruitment process which shows malafide intentions.
- (iv) He has appointed Mr. Farid Ullah as Driver (BPS-4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Malik/Sweeper in violation of Rules. Under NWFP APT Rules, 1989, Rule 10 sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment of Exchange does not exist, the appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers."
- (v) He has appointed Mrs. Waliat W/O Bakht amin, Family Welfare Assistant (Female), BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Maale) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helfare (BPS-I) during sreruitment made in 2012, inspite of the fact that their names were not included in interviewees list as evident from the list of the members of Departmental Selection Committee.

(13) Out of 11 allegations/charges 03 found not proved while 02 x allegations/charges termed as In-fructuous on the reasons noted below. Thus the sole charge under heading 'Tempering receipts of Charcoal' has been recommended for separate full-fledged enquiry as embezzlement of public money involved, that should be dig out separately:-

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(14)

Allegations/Charges Not Proved

- (i) He has registered Sajjad Ali S/O Farid Khan, Shah Faisal, Iftikhar Alam, Sajjad Ali S/o Subzali Khan, Sardar Bahadur S/o Barakat shah, Said-Ur-Rehman S/O Amir Ghawaz Khan, Bakht Chaman Khan S/O Musharráf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for registeraton
- (ii) He has issued offer of appointment to Mrs. Neelam Saeed, as Family Welfare Assistant (Female) as project employee on 28.02.2012 and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (iii) He created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressed of their grievances.

(15)

Allegations/Charges Termed as in-fructuous

The allegations/charges termed as in-fructuous on the basis of having least effect either to the incumbents or to the Public exchequer which are as under:-

- (i) He with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWA (Female) BPS-5 and marked her absent from duty and dismissed her from service to vacate the seat for favorable candidate.
- (ii) He has shown/disbursed five (05) months salary and allowances in respect of Mrs. Shagufta Khanam, FWW on fake signatures as DDO during the financial year 2010-11.

(16)

Allegation Recommended for separate Enquiry

- (i) He has tempered receipt of Charcoal during the Financial year 2010-11

(17)

RECOMMENDATION

In view of the above proven mis-conduct on the part of the said accused officer Mr. Habib-Ur-Rehman Sandeela EX-DPWO Buner is hereby recommended for "demotion to lower grade".

ATTACHED

(Ahmad Khan Orakzai)
Enquiry Officer/Dy: Secretary (L&O)
Home & Tribal Affairs Deptt:

(18) OTHER RECOMMENDATIONS

Following are the recommendations which have been evolved on the basis of information came into the notice of the undersigned during the course of enquiry. The said are submitted for special perusal of the competent authority so that the department may discharge/deliver upto the expected extent in accordance to the assigned mandate:-

- (a) Internal Audit (Being mandatory feature) GFR Para-13 needs to be re-vitalized/reactivate on war footing basis.
- (b) All Financial Disciplines as well Standing Orders of the Finance Department should be followed strictly not only on HQs but its implementation should be ensured at the end of lower formation
- (c) Mechanism for result oriented surprise visits of the supervisory staff of Administrative department Deptt: should be evolved and it should be done on regular basis with a reasonable interval.
- (d) Temporary attachment/detail-mint being the illegal practices (of the officials especially of the field officials for the purpose of management/administration should be ceased forthwith in accordance to the FD standing orders. With single stroke of pin, throughout the province all such officials should be asked to resume their original position. This should be done without any pick and choose.
- (e) Finance Standing Order with regard to disbursement of pay to the Provincial Got: Servant through bank/cheques should be implemented in toto. The DDOs who yet not implanted said should be preceded against
- (f) In case of Project position/work, there is Project Policy but the Administrative department in itself ignored the said policy for the unknown reasons, thus appointments made against the project posts in the entire province are null and void because the established criteria not been adopted, corrective measures should be adopted forthwith.
- (g) In case of appointments of Class-IV i.e from BPS-1 to BPS-4 the dual standard adopted by the Administrative department should be curbed with, rather it will give birth unnecessary and unwanted litigation process for the deptt: e.g. as has been done in case of District: charsadda and Buner.

ATTESTED

(Ahmad Khan Orakzai)
Enquiry Officer/Dy: Secretary (L&O)
Home & Tribal Affairs Deptt

To:

Annex-1 = P-48

The Chief Secretary,
Khyber Pakhtunkhwa, Peshawar.

Subject: REPLY TO THE SHOW CAUSE NOTICE

Sir,

P-14-16

It is with reference to the Show Cause Notice (Annex-I) served upon me on 21/10/2013 in connection with the Enquiry conducted by Mr. Ahmad Khan Orakzai (Annex-II) ^{P-16-18} in case of 11 different charges leveled against me to which I replied in detail on 18/7/2013 (Annex-III) ^{P-20-25}?

2. My reply to all charges contained in the charge sheet was self contained, elaborate and based on facts and figures. However, from the instant show cause notice it appears that contrary to the expressions in para 1 (i) & (ii) of the Show Cause Notice, no heed has been given to the replies given by me to each and every charge. Rather, it also reveals that even the framers of the show cause notice have not bothered to read the Enquiry Report in letter and spirit and merely copied all the charges in the charge sheet without analysis of the Report of the Enquiry Officer wherein inter-alia, the Inquiry Officer has expressed in para-12 of his report that only 5 charges have been proved whereas in para-13 of the report, the Enquiry Officer has stated that 3 charges mentioned in para-14 of the report have not been proved and 2 charges enumerated in para-15 thereof have been declared as infructuous (Annex-IV) ^{P-26}?

3. About the charge relating to the tampering of record in charcoal case during 2010-11, the Enquiry Officer has not given any statement that the charge has been proved but recommended (right or wrong) that a separate enquiry be conducted in this case although I had submitted (copies of the receipts of charcoal during 2010-11 which show not a slightest indications of being tampered) (Annex-V) ^{P-27-33} Moreover, an enquiry had already been conducted in that case by an enquiry committee according to which I had been exonerated of this charge (Annex-VI) ^{P-34-35} So inclusion thereof in the instant Show Cause Notice again has no locus standii. Besides, the written statements given by the concerned employees to the Enquiry Officer (Annex-VII) and the receipts of charcoal to the tune of 711 KG each are the same. This charge required to be straight away dropped by the

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Enquiry Officer but he did not bother to peruse these two simplest facts and recommended a separate enquiry but the framers of the show cause notice included it as a charge again which prove that nobody has bothered to see the facts with open eyes and vigilant mind. As such this charge is not only baseless and intentionally included in the show cause notice but also against the spirit of Article-13 of the constitution of Pakistan, 1973 whereunder no person can be proceeded against twice for the same offence/charge (Annex-VIII). P-45

4. But astonishingly the framers of the show cause notice have included all the 3 not proved, the 2 infructuous and one charcoal charge which has also not been proved. As such, legally and principlly speaking, the show cause notice was required to contain only 5 charges instead of 11. This anomalous situation proves that I have been entangled in a fabricated case to victimize me for my only omission that I am not willingly to comply with the illegal orders and wishes of the political and Executive Administration of the Areas of my posting.

5. This fact will prove from the ground realities that first enquiry conducted against me on the same charges through Mr. Islam Zeb, Additional Secretary (FATA), The Enquiry Officer according to his report, no charge could be proved against me and he therefore recommended my exoneration but that enquiry was not considered and agreed to and another enquiry was conducted against me depriving me of furnishing of a copy thereof. Even, complete copy of the instant report has not been provided to me wherefrom I could grasp the logical proofs indicated by the Enquiry Officer regarding 3 charges which have not been proved and two charges which become infructuous. Only page 7 & 8 have been furnished with the show cause notice? P-59-61

6. As for the charges No.(i) to (v) in para-12 of the Enquiry Report, I had already given self contained replies which are once again re-iterated as under:-

Charge No.i in the charge sheet read with charge No.(i) in para-12 of the Enquiry Report at page-7 thereof?

- (i) All the office record including recruitment in question has been handled by Mr. Abdul Wahid FWA (M) who is also working as record keeper, store keeper, Accounts Assistant and Steno in the office of District Population welfare Officer Buner. Despite my repeated directions, he did not provide me the record for the reasons that his

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brother was not recommended for selection by the selection committee due to his low merit. The matter was discussed with the present DPWO Buner along with Charge Sheet and requested him for providing the requisite record. He was kind enough to arrange the record on my written request dated 27/02/2013. The said record had been provided to the present Enquiry Officer as Annex-A to reply of the charge sheet at SNo. 1 so, the Enquiry Officer has wrongly declared this charge as proved. It required to be dropped.

- (ii) Proper proceedings for appointment for 26 individuals against different posts / positions were finalized by the selection committee signed by the undersigned while the other could not able to sign it because of personal interference of the following elected representatives / Minister who pressurized the committee to select their candidates as per detail below:-

(a) Said Rahim MPA. (he gave a list of 4 candidates for appointment of which only one candidate fulfilling the selection criteria and was accommodated namely Miss: Riffat Bibi D/O Said Muhammad Shah for the post of FWA (F). it is further added that during the interview Mr. Syed Rahim MPA, Chairman DDAC of District Buner came to my office with the gunman in the presence of Departmental Selection Committee member 1st and used severe words and then threatened me to appoint all his recommedees otherwise you will see the consequences.

(b) Mr. Sardar Hussain Babak MPA (ex-Minister for Elementary & Secondary Education of KPK) has sent a letter through Minister for Population Welfare KPK for appointment of his six candidates out of which 5 candidates were selected fulfilling the selection criteria namely:-

- (1) Mr. Nisar Muhammad S/O Haji Muhammad (FWA(M).
2. Mr. Qamar Zaman S/O Hazrat Jalal (Chowkidar)
3. Mst Shakila W/O Aurazeb (Aya).

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4. Sardar Bahadar S/O Barakat Shah (Male Mobilizer)

5. Sajjad Ali S/O Sabz Ali Khan (Male Mobilizer).

(c) He also used abusive language against me and my family on my cell which is reproduced as under:-

(1) میں تمہاری بہن کو گستاخ کر رہا ہوں گا

(2) میں تمہاری بیوی کو گستاخ کر رہا ہوں گا

(3) میں تمہاری بیٹی کو گستاخ کر رہا ہوں گا

(d) Similarly, Qasier Wali Khan MPA (he gave a list of 7 candidates for appointment of which only 3 candidates fulfilling the selection criteria) who were accommodated namely:-

(1) Iftikhar Alam s/o Noor Dad (Male Mobilizers).

(2) Bakht-i-Multaj s/o Gul Taj Khan (Chowkidar)

(3) Shah Zeb s/o Shamroz Khan (Mali Sweeper).

He has also used abusive languages against me and my family on my cell which is reproduced as under as 4 of his recommendies could not been appointed not fulfilling the requisite criteria.

(i) میں تمہاری بیوی کو گستاخ کر رہا ہوں گا

(ii) میں تمہاری بیٹی کو گستاخ کر رہا ہوں گا

It is further added that Mr. Qaiser Wali MPA telephonically informed me that he will see me if I failed to appoint his recommendees. It may also be added that the nephew of Qaiser Wali MPA namely Mr. Shuja has threatened me in UBL Buner Branch that Shamsul Ghani FWA (M) will continue his studies on regular basis at Abdul Wali Khan University Campus Buner and will also get pay from your office but you will neither open your lips nor stop his pay and will also not take any action against him. In this connection the undersigned told him that it is not a proper place to discuss the official matter's you may come to my office. Suddenly he got up and beated me in the presence of public as well as the


ATTESTED

P-63-64

~~bank staff. After that the undersigned has requested to~~
~~the DPO Buner to lodge an FIR against Mr. Shuja,~~
~~nephew of MPA Mr. Qaiser Wali Khan. In this regard~~
~~DCO Buner has also taken action and wrote the letter to~~
~~the DPO Buner for necessary action.~~ This complex
situation was created due to non appointment of all his
recommendees. Since all the three MPAs and one MNA
were of ANP and the Department was under the
Minister of PPPP, therefore I was between the devil
and the deep sea and it was not possible to
make all people happy. Therefore law and order
situation was likely to be created and there was a
danger of bloodshed, I therefore keeping in view all the
pressures, I informed the hon'ble Minister for
Population Welfare Mr. Saleem Khan of the situation
who informed the Secretary Population Welfare KPK. He
has ordered me on telephone to issue all such
appointment orders of the recommendees of MPAs,
MNA including Minister for Education and
recommended of the president of PPPP District Buner. I
informed the Secretary Population Welfare that the
Merit list and the Minutes of DSC meeting were ready
but not yet signed by the remaining committee
members. He has ordered me to issue the appointment
orders to handle the situation and control the law and
order situation, otherwise he will damage me, and asked
me he will get the minutes and the merit list signed by
the respective committee members. I repeatedly
requested the Minister for Population Welfare for
persuading the committee members to sign the minutes
he promised but no one helped me either the Minister
or Secretary Population under whose direction I had
issued these orders. In this critical situation the survival

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of a government servant cannot be possible, as despite submission of copy of the letter of President PPPP of District Buner (Annex-IX), instead of exonerating me, I was suspended and disciplinary action was initiated against me.

Besides, the aforesaid precarious undue political interference, Mr. Qaiser Wali,

(e) The president PPP District Bunner has also sent a list of his recommendees (he gave a list of 9 candidates for appointment against various posts who all were fulfilling the selection criteria and as such accommodated namely:-

- (1) Bakht- Chman Khan s/o Musharraf Khan Male Mobilizers
- (2) Wazir Zada s/o Shah Zada male Mobilizers.
- (3) Faridullah s/o Ghulam Sarwar Driver
- (4) Gul Hasia w/o Sherinzada (Aya)
- (5) Asmat d/o Daulat Khan (FWA (F)
- (6) Salizer s/o Sabzer Chowkidar
- (7) Jansher s/o Amir Jaber Chowkidar
- (8) Rahat Bibi d/o Gulzamid Khan (Aya)
- (9) Saeedur Rahman s/o Amir Ghawas Khan Male mobilizers.

(f) Istiqbal Khan, MNA sent two recommendees for appointment as FWA (M) & Male Mobilizers wherein only one candidate fulfilled the selection criteria and accommodated namely Shah Faisal s/o Muhammad Zaman Khan Male Mobilizer.

All recommendees letter placed at (Annex-X).

Although all the candidates fulfilling the criteria were selected on merit but the following candidates had no approach but having bright academic score and performance during the test/ interview without recommendation of any body and were purely selected on merit.

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- (1) Syed Ishraq s/o Syed Kamash FWA (M)
- (2) Farman Ali s/o Amir Akbar FWA (M)
- (3) Nasia Bibi d/o Aman Khan FWA (F)
- (4) Neelam Saeed w/o Ihtisham Gul FWA (F)
- (5) Mrs. Waliat w/o Bakht Amin FWA (F)
- (6) Umma Aiman d/o Sarman Khan Aya FWA (F)
- (7) Sajjad Ali s/o Fareed Khan Male Mobilizer

(i) Miss Nasia was at the top of the merit list and was not
recommendable of any elected representative, while the elected
stake holder insisted for appointment of all their
recommendables and stressed upon non selection of Miss Nasia
which was not justice and merit was to be protected.
Therefore, I kept one of the vacancy unfilled for her and not
disclosed that vacancy to the elected representatives.
Therefore, her appointment order was issued late in May,
2012 on merit basis which is within 3 months whereas the
merit list / recommendations of DSC remains intact for 6
months till the end of a calendar year which ever is earlier and
it was real justice. There was no malafide intention in this case
and had no relative / known people in Bunner and all the
decision were taken on merit.

(ii) Position given is correct, however the background of the case is that Mrs. Neelam Syed was at second position of the merit list, but due to typing mistake, she was issued offer of appointment against the project post later on the same day, the mistake was identified and another offer of appointment issued to her on temporary / regular basis. The offer issued against project post was although torn out as cancelled but someone in the office might have made photo copy thereof and placed in the office record which created confusion. Actually she is appointed and posted against the post of FWA (F) being on 2nd position in the merit list. According to the enquiry officer para-4 (ii) of his report this charge has not been proved but intentionally has been included in the show cause

ATTESTED

notice by those who have fabricated a plot for damaging my future career for obvious reasons who had been in the Administrative Department as well as in the Directorate General Office.

- (iii) Yes Sir, Mr. Shah Zeb sweeper / Mali is recommendee of (Mr. Qaiser - Wali - Khan MPA and Mr. Faridullah Driver is recommendee of PPP, if the inquiry officer feels that those appointments are in violation of rules, the same could be recommended by the inquiry officer for cancellation / with drawl of appointments orders. Yes Sir Mr. Faridullah driver and Mr. Shah Zeb Sweeper / Mali were appointed through registration with employment exchange Swat which is adjoining district as employment exchange was not available in District Buner. This case is similar to that of Chowkidar, namely Mr. Mushtaq Hussain s/o Yahya Gul who was registered with employment exchange Peshawar vide registration No. 2351/NT/10 dated 8/12/2010 (Annex-XI), - his appointment No.1(4)/2009-10/Admn dated 24/12/2010 is at (Annex-XII), - but appointed in district Charsadda on the recommendation of the worthy Secretary Population Welfare Mr. Ahmad Hanif Orakzai, who vacated one post of Chowkidar at DPWO Office Charsadda by transferring Mohamamd Javid Chowkidar to Peshawar vide office order No.1(4)/2010-Admn dated 7/12/2010 (Annex-XIII). - The appointee at District Charsadda is still drawing his pay from Charsadda. However, your attention is drawn to the 3rd proviso of Rule-10 (2) of the KPK - Civil - Servant (Appointment, Promotion and Transfer) Rules, 1989, - Registration of Employment Exchange is a valid way in case of appointment to posts in B-01 to B-04. The instant case is strictly analogous to that of Mr. Mashtaq Hussain s/o Yahya Gul registered with the Employment Exchange Peshawar and appointed in Charsadda. This point has been agreed upon by the other two members of the DSC (Annex-XIV) who are supposed to guide field officer/

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Organization in terms of Rules / Regulation. If I am guilty in this case, the other two members who cleared it cannot be absolved. A selective victimization is against the rules and maxims of equity and justice. Even another Driver of Bunner who was registered in Employment Exchange Swat in 2011 was cleared for appointment by the member of DSC Mr. Kashif Fida, Assistant Director (Admn) D.G PWD Office. Whereas this very member in a preliminary enquiry has objected this action as against the rules which is not understood.

PR see P-85
P-84-90

P-91-100

(vi) (1) Syed Ishraq was 1st divisioner and has sufficient relevant experience with NGO's. His application was registered in the Dairy at serial No. 174 on 2/1/2012 while expiry date was 5/1/2012. His application was therefore considered as per prevailing procedure.

P-101-107

(2) Mrs. Waliyat was appointed as FWA (F) BPS-5 because she applied for both the posts of FWA and Dai/Aya. She was found suitable for the post of FWA (F), her placement in at S.No.3 being 1st Divisioner and well experienced is not objectionable in any way.

P-108-112

(3) Miss. Umi Aiman applied for both the posts of FWA (F) and helper / Dai but she was failed in the written test of FWA (F) and found suitable against the post of helper / Dai (B-1).

(viii) Male Mobilizers are basically contingent staff with fix honoraria of Rs. 7000/- per month and do not fall within the definition of Govt: servant. Therefore the Director General Population Welfare KPK under letter No. 2(14)/2010-Admin-MM/Volume-III dated 8/10/2011. Circulated amongst all DPWO's to adopt the following recruitment process for the registration in case of male mobilizers has been completed accordingly. Moreover these posts of male mobilizers were to be advertised locally at UC, which were advertised accordingly. Proper interview was conducted was prepared Individual wise detailed are as under:-

ATTACHED

- (a) Identification of union councils.
- (b) Advertisement through local publicity hand bill in the identified union councils and through TMO office.
- (c) Scrutiny of application.
- (d) Interview and selection should be completed positively.

The selectees were as under:-

- (1) Mr. Iftikhar Alam s/o Noor Dad Khan
- (2) Mr. Sajjad Ali s/o Sabzali Khan
- (3) Mr. Sajjad Ali s/o Farid Khan
- (4) Mr. Bakht Chaman Khan s/o Musharaf Khan

1. Mr. Shah Faisal s/o Muhammad Zaman Khan.

However, the enquiry officer in para-14 (i) of his report has declared this charge as unfounded and not proved. It is quite surprising that the said charge has again been included in the show cause notice at S.NO (XV) which is an ample proof of the fact that the case has not been perused thoroughly and objectively.

- (viii) Miss Noor Nishta FWA (F) was absent from duty as reported by the I/C & Chowkidar of family welfare centre Bampokha and Chowkidar (Annex-XVI), I personally visited the FWC Bampokha and found her absent from duty. The undersigned has instructed time and again her to attend her duties in the monthly meetings but she failed to comply with, as a result show cause notice was issued to her and accordingly she was removed from service, on 31/5/2011. However she was re-instated by the Director General vide letter No.4(6)/2011/Admn dated: 16/10/2012 with the condition that her absence period with effect from 2/12/2011 to 31/12/2012 at (Annex-XVII) be treated as without pay. This testified that the action taken by the under signed as DPWO Buner was correct and without any ulterior motive. It may also be pointed out that the Enquiry Officer has declared this charge as infructuous but the same has again been included in

ACCEPTED

(11)

the show cause notice which is an obvious anomaly and injustice with me which also shows an arbitrary and intended victimizing attitude with me.

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(ix) Cannot be agreed as no notice in this respect has been received by the undersigned from the High Court. However, the Enquiry Officer has declared this charge as not proved but ironically it has again been included in the show cause notice which speaks of malafide intentions of the framers of the show cause notice.

P-118-126

(x) During the year 2010-11 charcoal was issued on proper receipts. The same were verified by the Deputy District Population Welfare Officer Buner at (Annex-XVIII). Besides, separate detailed enquiry had already been conducted in this case and the enquiry committee had cleared me of the charges found by it as baseless. It may further be mentioned that Mr. Kashif Fida, Assistant Director (Admn) was also a member of the aforesaid committee which exonerated me of this very charge whereas he, in a subsequent preliminary enquiry in the same charge recommended inclusion of this charge alongwith other 10 in the charge sheet & now in the show cause notice despite of the fact that I have already been absolved of this charge. It was under pressure of my ill wiser higher ups. Your honour is therefore requested to ensure justice and safety to me against the conspiracies of those who have decided to mar my service career.

(xi) The actual position is that the Husband of Shagufta Khanam FWW was living with her in FWC Totalaye. She was time and again instructed not to allow stay of her husband in the FWC during office hrs as due to presence of her husband the family planning client's privacy was not maintained but she failed to do so. She was transferred from Totalaye. However, it may be mentioned that the re-inclusion of this charge in the show cause notice is an obvious anomaly and against the rules as the Enquiry Officer in para-15 (ii) of his report has declared this charge as infructous.

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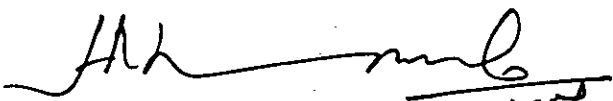
(12)


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7. In view of the above explanation of the case, it is, therefore, requested your honour to exonerate me of all the charges as nothing wrong was done by me. The political pressure accompanied with Administrative directions leave no way for a Govt employ to do otherwise, but as done by me in good faith and despite all the pressures, I sustained and ensured merit in a few merited cases. It is hoped that justice will be done in my case and I will be saved from conspiracies of those wrong doers who have resolved to oust me from their way as I am in hindrance in the way of their corruption and mal-practices.

8. I request for personal hearing with your good self please.

Thanking you in anticipation.


(HABIB UR REHMAN SANDEELA) 05/11/2013
Deputy District Population Welfare
Officer Mardan (under suspension)


ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT
STREET NO.7/B HOUSE NO.125/111 DEFENCE OFFICER COLONY
KHYBER ROAD PESHAWAR CANTT:

Annex-J-P-60
Dr 919
Date 23-7-2014

Peshawar
Diary No. *1496*
Dated *24/7/14*
S/s *[Signature]*

Dated Peshawar the, 21st July, 2014

NOTIFICATION

NO. SOE (PWD) 1-81/2011/PF: - Whereas, Mr. Habib-ur-Rehman Sandeela (BS-17) District Population Welfare Officer, Buner now posted as Deputy District Population Welfare Officer (Non-Tech), Mardan was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the statement of allegations;

AND WHEREAS, Mr. Ahmad Khan (PCS EG BS-18), Deputy Secretary, Home & Tribal Affairs Department, Khyber Pakhtunkhwa was appointed as inquiry officer to conduct inquiry against the said officer for charges leveled against him in accordance with rules;

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

AND WHEREAS, on the basis of findings and recommendations of the Inquiry Officer, Show Cause Notice was served upon the accused officer to which he replied;

NOW, THEREFORE, the Competent Authority after having considered the charges, evidence on record, findings of the Inquiry Officer, the explanation of the accused officer to the Show Cause and hearing him in person on 08-07-2014 and exercising his powers under Rule-14 (5) (ii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 has been pleased to impose major penalty of "**Removal from Service**" upon Mr. Habib-ur-Rehman Sandeela, (BPS-17) the then DPWO, Buner now Deputy District Population Welfare Officer (Non-Tech), Mardan with immediate effect.

SECRETARY
POPULATION WELFARE DEPARTMENT
KHYBER PAKHTUNKHWA

Endst: NO. SOE (PWD) 1-81/2011/PF 2030-40. Dated Peshawar the, 21st July, 2014

Copy forwarded for information & necessary action to the; -

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. All Administrative Secretaries, Khyber Pakhtunkhwa.
3. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- ✓ 4. Director General Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
5. All Heads of Attached Departments, Khyber Pakhtunkhwa.
6. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
7. PS to Advisor for Chief Minister for Population Welfare, Khyber Pakhtunkhwa.
8. PS to Secretary, Govt. of Khyber Pakhtunkhwa, Population Welfare Department, Peshawar.
9. District Population Welfare Officers, Buner & Mardan.
10. District Accounts Officers, Buner & Mardan.
11. Manager, Government Printing Press, Peshawar.
12. Officer concerned.
13. Personal file of the officer.
14. Master file.

[Signature]
SECTION OFFICER (ESTABLISHMENT)
Phone # 091-9212991

ATTESTED

[Handwritten notes and signatures]
Dated 25/7
S/s

To

Amu-Kⁿ-PBI

The Chief Minister,
Khyber Pakhtunkhwa,
Chief Ministers' Secretariat, Peshawar.

THROUGH PROPER CHANNEL.

9/11/17

Subject: DEPARTMENTAL APPEAL UNDER SECTION 22 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS ACT, 1973 READ WITH RULE 3 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPEAL) RULES, 1986 AGAINST THE IMPUGNED ORDER DATED 21ST JULY, 2014 THEREBY IMPOSED MAJOR PENALTY OF "REMOVAL FROM SERVICE" UPON THE APPELLANT WITH IMMEDIATE EFFECT.

Respected Sir,

I, the appellant submit this departmental appeal on the following facts and grounds for your kind consideration and sympathetic action.

A - Facts

1. That I initially joined the services of Population Welfare Department as Photographer BPS-11 on 17.11.1982 then promoted as Liaison Officer BPS-16. Later on, when this post was abolished then I was adjusted against the post of Assistant District Population Welfare Officer (BPS-16). In the year 2010, I was promoted as Assistant Director/Dy. District Population Welfare Officer BPS-17. As such I served the department for more than three decades having brilliant service record. At the time of passing the impugned order I was working at Mardan.
2. That all of sudden, the **Chief Secretary at the instance of Secretary** initiated disciplinary proceedings against me on flimsy, baseless and concocted allegations/charges and also placed me under suspension by an order dated 21.02.2013. Then issued me charge sheet with statement of allegations on 26.02.2013 thereto I submitted reply on 06.03.2013. The inquiry was carried out by **Mr. Islam Zaib**, the then **Additional Secretary P&D FATA** and at the conclusion of inquiry, the Inquiry Officer recommended **minor penalty**.
3. That instead of implementing the recommendations of the **Inquiry Officer**, the **Chief Secretary** without cogent reasons and legal justification served upon me another identical charge sheet with statement of allegations on 12.07.2013 containing the same and similar allegations/charges. **Mr. Ahmed Khan** the then **Dy. Secretary Home Department** was appointed as **Inquiry Officer**. I submitted reply on 18.07.2013.
4. That at the conclusion of subsequent enquiry conducted by **Mr. Ahmed Khan Orakzai, Enquiry Officer**, he recommended major penalty in

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terms of "demotion to lower grade". Thereafter, the Chief Secretary issued me show cause notice on 21.10.2013 thereto I, the appellant filed reply on 05.11.2013 and resultantly the impugned order dated 21.07.2014 was issued thereby I was removed from service with immediate effect.

B - Grounds:

- A. That all the alleged allegations are frivolous, false and concocted without any substance which were not proved against the appellant during the proceedings of both the enquiries thus not warranted and the impugned order based on these unproved allegations is not sustainable in the eyes of law and rules on subject.
- B. That in earlier regular inquiry conducted by **Mr. Islam Zaib, Additional Secretary FATA** who furnished his findings after thorough scrutiny of the record of the case and concluded his recommendations in terms of **minor penalty**. Therefore, the competent authority was under legal obligation to consider his recommendation and pass an appropriate order in accordance with rules but he ignored such recommendation without cogent reasons and acted in arbitrary manner by appointing another Inquiry Officer and issued identical charge sheet with statement of allegations containing of same and similar allegations which has no legal sanctity, of no legal effect and not operative against my rights.
- C. That the competent authority has acted in violation of mandatory provisions of sub rule 6 of rule 14 of the Rules, 2011 and without passing any order of de novo inquiry, he appointed another Inquiry Officer which is illegal and not sustainable and liable to be set aside. The relevant provisions of sub rule 6 is reproduced for your kind perusal:

*"Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may **order a de novo inquiry** through different inquiry officer or inquiry committee".*

- D. That the subsequent inquiry has not been conducted in accordance with rules on subject and thus the findings and recommendations have no legal sanctity and not sustainable under the rules, liable to be set aside for the below reasons.
- i. As mentioned in para iv of the inquiry report the statement of Mr. Shams-ur-Rahman, DPWO, Buner was recorded but the same was recorded at the back of appellant and no opportunity of cross examination was provided to him thus such statement has no weight in the eyes of law which could not use against the appellant.
 - ii. That the findings of Inquiry Officer regarding allegation No.1 pertaining to non provision of record to Inquiry Officer by appellant is erroneous and not supported by documentary or oral evidence. Neither the statement of Mr. Abdul Waheed, FWA(M)

ATTESTED

record keeper was recorded by the Inquiry Officer nor any document has been produced by the departmental representative to show that the requisite record was in the possession of the appellant who deliberately evaded to entrust the requisite documents to the Inquiry Officer. Neither any iota of evidence in written has been brought on record to show that any Inquiry Officer has requisitioned the requisite record from appellant and the same was not provided by him. Therefore, the allegation/charge No. 1 has not proved against appellant and the Inquiry Officer wrongly established the same without any proof which is not sustainable. P-63

- iii. That the allegation No.2 pertaining to factual controversy which could not resolve without evidence and thus the Inquiry Officer has failed to collect any documentary or oral evidence and thus his finding is based on presumptions which is not warranted.
- iv. That regarding allegation No.3, the Inquiry Officer has neither recorded the statement of female concerned nor brought solid evidence against the appellant that he had kept the appointment order of female concerned malafidely. Thus the same is not sustainable being unproved.
- v. That as per finding of the Inquiry Officer the allegation No.4 has not been proved.
- vi. As evident from the Inquiry Report and the facts of the case, the allegation No.5 has also not been proved therefore the Inquiry Officer has wrongly recorded that this allegation is also established which has no legal sanctity.
- vii. The findings regarding the allegation No.6 are not based on cogent evidence (documentary/oral) and in such circumstances the finding is not sustainable.
- viii. As per the para 7 of the Inquiry Report the allegation No.7 has not been proved against the appellant.
- ix. The allegation No.8 has not proved against the appellant as evident from para 8 of the Inquiry Report.
- x. This allegation No.9 has not proved against the appellant as per para 9 of the Inquiry Report.
- xi. That no specific findings have been furnished by the Inquiry Officer regarding allegation No.10 meaning thereby that this charge is without any substance and not proved against the appellant.
- xii. The allegation No.11 has also not been proved against the appellant.

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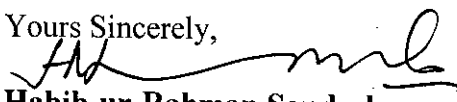
P-64

- E. That the Inquiry Officer has not conducted proper regular inquiry in the case of appellant because the alleged allegations as leveled against appellant are pertaining to factual controversies which could not resolve without producing proper evidence (documentary/oral) in support of each allegation which has not done in this case and the findings and recommendations are only based on presumptions which is not sustainable and thus the impugned order based on such illegal Inquiry Report has no legal sanctity and liable to be set aside.
- F. That the copies of the documents as shown annexures in the Inquiry Report have not been provided to me enabling me to defend my case properly and as such I was condemn unheard and the proceedings conducted at my back is not sustainable being violative of the principal of natural justice.
- G. That no cogent or convincing incriminating evidence existed to establish the allegations leveled against me. Mere framing the charge sheet, holding of inquiry and issuance of final show cause notice to me would not mean that allegations against me stood proved. Therefore, the finding and recommendation of the second Inquiry Officer are of no legal effect and without lawful authority liable to be set aside.
- H. That I was not found guilty in the first inquiry that is the reason that the Inquiry Officer recommended **minor penalty**. Therefore, the second inquiry has no legal justification amounting to an act of victimization and based on malafide which is not sustainable. In addition, the findings recorded in second inquiry are based on mere conjectures and surmises and not a single piece of evidence has been relied upon while recording the purported findings thus the finding and the recommendation of the second Inquiry Officer has no legal sanctity and the impugned order based on such findings is of no legal effect and inoperative against my rights being without lawful authority and tainted with malafide intention.
- I. That the Inquiry Officer recommended the penalty as "**demotion to lower grade**" but the competent authority has totally ignored the recommendations of Inquiry Officer without cogent reasons and awarded major penalty of **removal from service** to me which is not sustainable under the law and rules on subject.
- J. That the competent authority has acted in arbitrary manner and unlawfully awarded major penalty of **removal from service** to me contrary to the recommendation of the Inquiry Officer which is not commensurate in the circumstances of the case and thus not tenable.

It is therefore, humbly prayed that on acceptance of this department appeal I may kindly be exonerated of the charges/allegations and may graciously be reinstated me in the service with all back benefits.

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Yours Sincerely,

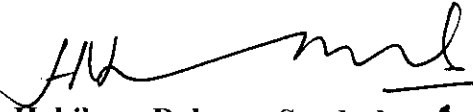

Habib-ur-Rahman Sandeela,
Ex-Dy. District Population Welfare Officer,
Mardan.

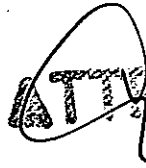
Dated: 04/08/2014

Copy for information and necessary action:-

P-65

1. The Chief Secretary, Govt. of Khyber Pakhtunkhwa, Civil Secretariat Peshawar with request to kindly forward this copy of my appeal to appellate authority as required by the rules on subject.
2. The Secretary, Govt. of Khyber Pakhtunkhwa, Population Welfare Department, Peshawar.
3. The Director General Population Welfare Department, Peshawar.
First Floor FC Trust Building Sunehri Masjid Road, Peshawar Cantt.


Habib-ur-Rahman Sandeela, 04/8/2014


ATTACHED

P. 66-

No. 628

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered* addressed to Seetha

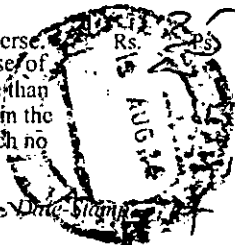
Initials of Receiving Officer ST/114 with the word "insured" before it when necessary.

Insured for Rs. (in figures) well (in words) one

If insured.

Insurance fee Rs. 2 Ps. 00 (in words) two Weight 5 Kilo Grams

Name and address of sender Department



629

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. 35 Ps.

Received a registered* addressed to D. G. P. Reddy

Initials of Receiving Officer ST/114 with the word "insured" before it when necessary. Insured for Rs. (in figures) well (in words) one

Insurance fee Rs. 2 Ps. 00 (in words) two Weight 5 Kilo Grams

Name and address of sender



630

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

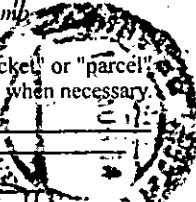
Rs. 35 Ps.

Received a registered* addressed to Chief Seetha

Initials of Receiving Officer ST/114 with the word "insured" before it when necessary. Insured for Rs. (in figures) well (in words) one

Insurance fee Rs. 2 Ps. 00 (in words) two Weight 5 Kilo Grams

Name and address of sender



No. 537

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. 35 Ps.

Received a registered* addressed to Chief Seetha

Initials of Receiving Officer ST/114 with the word "insured" before it when necessary. Insured for Rs. (in figures) well (in words) one

Insurance fee Rs. 2 Ps. 00 (in words) two Weight 5 Kilo Grams

Name and address of sender



ATTESTED

WAKALAT NAMA

IN THE COURT OF I.R.P. Service Tribunal, Peshawar

Hobibur Rehman Sandeela
Ex. by district population
welfare Union, Peshawar Appellant(s)/Petitioner(s)

VERSUS

Chief Secretary
Govt. of P. & F.
Peshawar

Respondent(s)

I/We Hobibur Rehman Sandeela do hereby appoint **Mr. Khush Dil Khan, Advocate** in the above mentioned case, to do all or any of the following acts, deeds and things.

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

AND hereby agree:-

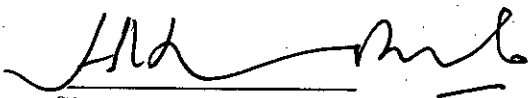
- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

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

Attested & Accepted by


Khush Dil Khan
Advocate, Supreme Court of Pakistan

9-B, Haroon Mansion
Khyber Bazar, Peshawar.


Signature of Executants

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 346 /ST

Dated 1 / 3 / 2016


To

The Secretary,
Population Welfare Department,
Peshawar.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 18.2.2016 passed by this Tribunal on subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL NO. 1309 OF 2014

Habib Ur Rehman Sandeela.....Petitioner

VERSUS

Chief Minister Khyber Pakhtunkhwa & othersRespondents

PARAWISE COMMENTS / REPLY ON BEHALF OF RESPONDENTS

Respectfully Sheweth,

Preliminary Objections:

- A. That the appeal under reply is misconceived and is not maintainable.
- B. That the appellant has not come to this Honorable Tribunal with clean hands.
- C. That the appellant has been stopped by his own conduct to file the instant appeal.
- D. That the appellant under reply is premature as departmental appeal was filed on 05/08/2014, without waiting for the statutory period of 90 days, the appeal in hands has been filed on 06/10/2014 just after 60 days, hence liable to be turned down summarily.
- E. That the appellant has miserably failed to point out even a single ground for material irregularity and/or illegality in the departmental inquiry.
- F. That the appellant has no cause of action as well as locus standi.
- G. That the appeal is bad for non-joinder of necessary and mis-joinder of unnecessary parties.

ON FACTS

1. Pertains to service record hence needs no comments.
2. Para No.2 as drafted is misleading hence not admitted. As a matter of fact, The appellant while posted as District Population Welfare Officer Buner had committed gross illegalities and irregularities which proved against the appellant during inquiry Proceeding on the recommendation of the competent authority.(copies of charge sheet, statement of allegation and inquiry report are attached as annexure A,B,&C respectively).
3. That Para No. 3 as framed is not admitted to be correct. The first inquiry Could not answer each count of allegation as accused officer as was desired by the competent authority which necessitated for another thorough inquiry. Otherwise too more than one inquiry is permissible if the competent authority is not satisfied with first inquiry as reported 1991 PLC (C.S) 307(Copy of judgment is attached as Annexure -D).

4. That Para No.4 pertains to record thus needs no comments. However Appellant proved guilty in the inquiry. II 811
5. Pertains to record. However appellant proved guilty of the alleged commission of the allegations made against him. Further the competent authority is not bound to the recommendations of the inquiry officer. Appellant was issued final show cause notice and after fulfilling all the codal formalities he was awarded the major punishment according to law.


ON GROUNDS

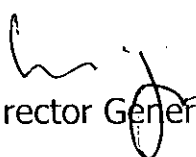
- A. Incorrect and baseless. The respondent duly followed the principles of fair play and justice by providing opportunity of personal hearing and cross examination to the appellant. Appellant was treated according to law.
- B. Incorrect and categorically denied. The recorded inquiry spells out in detail reason for each account of allegation against the appellant which stood proved against him.
- C. Incorrect and denied. As the appellant had committed gross illegalities and irregularities in the recruitment process for which a thorough inquiry on each count of allegation was necessary. Thus a second inquiry was conducted in accordance with law.
- D. Incorrect. The competent authority has acted within the ambit of law.
- E. Incorrect and denied. All actions taken are according to law and rules.
- I. Incorrect and denied. On page 2 item (a) of the inquiry report states that the appellant/accused officer himself provided the office requisite record to his successor (Mr. Shams ur Rehman) vide acknowledged letter F.N.1(2)/admn/2012-13 dated 05/04/2013 and the inquiry officer fulfilled all the codal formalities. (Reference is made to the contents of already enclosed inquiry report)
- II. Incorrect and denied. Statement of Abdul Wahid, FWA, male was duly recorded in presence of the appellant/accused officer and opportunity for cross examination was also provided to the appellant. (Reference is made to the contents of said inquiry report).
- III. Incorrect and denied. All the codal formalities have been duly followed and all the allegations stood proved.
- IV. Incorrect and denied. The detail reply has given in para 'E' clause II.
- V. Pertains to the contents of inquiry report.
- VI. Incorrect and denied. Pertains to the contents of inquiry report, already attached.
- VII. Incorrect and denied as reported in above paras.
- VIII. Pertains to the contents of inquiry report.

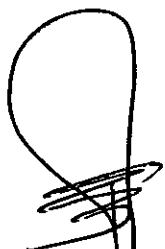
- IX. Pertains to the contents of inquiry report.
- X. Pertains to the contents of inquiry report.
- XI. Incorrect and denied. A separate detail inquiry was suggested as per contents of inquiry report.
- XII. Incorrect and denied, misappropriation of salaries have been revealed from the record.

- F. Incorrect and denied. All documentary and oral evidence were keenly examined and the same is evident from the contents of inquiry report.
- G. Incorrect and denied. Fair opportunity of hearing and cross examination was given to the appellant.
- H. Incorrect and denied. The appellant has admitted the due procedure of inquiry which was followed by the respondents.
- I. Incorrect and denied. All action are taken in accordance with law and rules on the subject.
- J. Incorrect and denied. As stated the first inquiry could not answer each count of allegation against accused officer as was desired by the competent authority which necessitated for another thorough inquiry.
- K. Incorrect and denied. The competent authority acted with in the domain vested in it.
- L. The competent authority has exercised the powers with due diligence.
- M. As framed is misleading and denied.

It is therefore prayed that in view of the facts and circumstances stated above, the appellant deserves no relief from this Honorable Tribunal and the appeal in hand may kindly be dismissed.


Secretary to Khyber Pakhtunkhwa
Population Welfare Department
Respondent No.3


(Director General)
Population Welfare Khyber Pakhtunkhwa
Respondent No.4


Chief Secretary
Khyber Pakhtunkhwa
Respondent No. 2

BEFORE THE HON'ABLE SERVICE TRIBUNAL, PESHAWAR**APPEAL NO. 1309 / 2014**

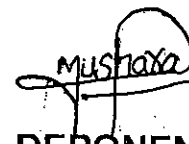
Habib-ur-Rehman SandeelaPetitioner

VERSUS

Chief Minister Khyber Pakhtunkhwa & othersRespondents

AFFIDAVIT

I, Sagheer Musharraf Assistant Director (Litigation) Directorate General, Population Welfare Peshawar do solemnly affirm and declare on oath that the contents of Para-wise comments on behalf of respondents are true and correct to the best of my knowledge and belief, nothing has been concealed from this Hon' able Court.

Musharraf


DEPONENT

(CNIC No. 17301-1642774-9)



①

INQUIRY REPORT ON THE COMPLAINT AGAINST MR. HABIB-UR-REHMAN, EX-DPWO BUNNER

BACKGROUND

Miss. Alia Bibi, Village and Post office Ambila Moh: Khan Ghar, District Bunner submitted complaint *Annex: 1 (17 pages)* to the Secretary to Govt: of Khyber Pakhtunkhwa, Population Welfare Department, Peshawar as well as Director General, Population Welfare Department, Peshawar against the recruitment of Family Welfare Assistant (Female) BPS-5 recently been made in District Population Welfare Office, Bunner. Meanwhile Miss. Noor Nishta, Ex-FWA(Female) also submitted representation *Annex:2 (13 pages)* to the Appellate Authority I.e. Director General, Population Welfare Department with respect to her removal from service on 31.05.2012 by Mr. Habib-ur-Rehman, Ex-DPW officer Bunner. At the same time, the Directorate General, PWD received a copy of Dismissal from Service w.e.f. 01.06.2012 in respect of Mr. Shamsul Ghani, Ex-FWA(Male), DPW Office, Bunner.

In order to probe the above issues, the Director General, Population Welfare Department appointed Mr. Ikram Ullah Marwat, DPW Officer, Lakki Marwat & Mr. Kashif Fida, Assistant Director (Admn) as inquiry officers vide order dated 20.06.2012 *Annex: 3 (1 page)*. Due to some engagements of Mr. Ikram Ullah Marwat *Annex:4 (1 page)* he was replaced with Mr. Noor Afzal, DPW Officer, Kohat vide order dated 03.07.2012 *Annex:5 (1 page)*. On 19.07.2012 the staff of DPW Office, Bunner mostly consist of female staff submitted general complaint against the said Ex-DPWO *Annex:85*. Staff of District Bunner also submitted joint complaint *Annex: 6 (2 pages)* against the same officer for non-payment of IUD & Charcoal allowance. All of the complaints were made a part of the on going inquiry.

The assignment dispense to the inquiry officers is divided in to the following four parts.

- B ——— Jh
- Part A:- Complaint of Miss. Alia Bibi, against the recruitment process.
 - Part B:- Representation of Miss. Noor Nishta, Ex-FWA(Female) with reference to her removal from service.
 - Part C:- Dismissal of Mr. Shams-ul-Ghani, Ex-FWA(Male).
 - Part D:- General complaints of the staff against Mr. Habib-ur-Rehman, EX-DPW Officer, Bunner.

The inquiry officers visited DPW officer Bunner on 25.06.2012 & 27.08.2012.

PROCEEDINGS:-

In order to investigate the matter, the inquiry officers during visit to DPW Office, Bunner asked the setting DPW Officer, Bunner for provision of record pertaining to the recruitment made in the said office during the year 2012. Mr. Shams-ur-Rehman, setting DPWO and Mr. Fahad Sarwar, DDPWO (N.T) BPS-17, member of the DSC informed the inquiry officers that only offer of appointments are available in the office and in this respect they have issued letter to Mr. Habib-ur-Rehman, EX-DPWO, Bunner for providing record. Statement of Mr. Fahad Sarwar, member of the DSC and letter dated 07.07.2012 of DPW Officer, Bunner **Annex : 7&8 (1 page)** are in line with this respect. The Inquiry Officers also asked Mr. Habib-ur-Rehman, EX-DPWO Bunner for provision of the recruitment record vide letter No.4(6)/2011/Admn/4103-04 dated 26.06.2012 **Annex: 9 (1 page)** followed by reminder No. 4(6)/2011/Admn/4776-7 dated 02.07.2012 **Annex:10 (1 page)**. During visit of the inquiry officers to District Bunner on 27.08.2012, he suddenly came to the office for picking his wife. The inquiry officers again asked him for record. He verbally confessed that whole record is in his custody and will be provided within 04 days **Annex: 11 (1 page)**. He did not given any written statement. He informed verbally that Miss. Alia Bibi was absent at the time of interview. He was again reminded vide letter dated 03.09.2012 **Annex: 12 (1 page)** but he did not acceded to the request of the inquiry officers.

Available record reveals that the following incumbents have been appointed /registered in District Bunner in the year 2012.

S.No	Name of appointee	Post	Status
1	Neelam Saeed W/O Ihtisham Gul, Annex: 13 &14 (1 page)	FWA(F)	Contract and Temporary
2	Rifat Bibi D/O Said Mohammad Shah, Annex: 15 (1 page)	FWA(F)	Contract
3	Asmat D/O Dowlat Khan, Annex: 16 (1 page)	FWA(F)	Contract
4	Wajiat W/O Bakht Amin Annex: 17 (1 page)	FWA(F)	Contract
5	Nasia D/O Aman Khan Annex: 18 (1 page)	FWA(F)	Temporary
6	Nisar Mohammad S/O Haji Mohammad Annex: 19 (1 page)	FWA(M)	Contract
7	Syed Ishraq S/O Syed Qamash Annex: 20 (1 page)	FWA (M)	Contract
8	Farman Ali S/o Amir Akbar Annex: 21 (1 page)	FWA (M)	Contract
9	Salih Zer S/O Sahib Zer Annex: 22 (1 page)	Chowkidar	Temporary
10	Bakht Multaj S/O Gul Taj Khan Annex: 23 (1 page)	Chowkidar	Contract
11	Jansher Khan S/O Amir Jafar Khan Annex: 24 (1 page)	Chowkidar	Contract
12	Qamar Zaman Annex: 25 (1 page)	Chowkidar	Contract
13	Farid Ullah S/O Ghulam Sarwar Annex: 26 (1 page)	Driver	Temporary

14	Shah Zeb Khan S/O Shamroz Khan <i>Annex: 27 (1 page)</i>	Sweeper/Mali	Temporary
15	Shakila Begum W/O Aurangzeb <i>Annex: 28 (1 page)</i>	Aya/Helper	Contract
16	Umi Aaiman D/O Sarmir Khan <i>Annex: 29 (1 page)</i>	Aya/Helper	Contract
17	Rahat Bibi W/O Zamir Khan <i>Annex: 30 (1 page)</i>	Aya/Helper	Contract
18	Gul Hasia W/O Sheriq Zada <i>Annex: 31 (1 page)</i>	Aya/Helper	Contract
19	Sajjad Ali S/O Farid Khan <i>Annex: 32 (1 page)</i>	Male Mobilizer	Registration
20	Shah Faisal S/O <i>Annex: 33 (1 page)</i>	Male Mobilizer	Registration
21	Iftikhar Alam S/O <i>Annex: 34 (1 page)</i>	Male Mobilizer	Registration
22	Sajjad Ali S/O Subzali Khan <i>Annex: 35 (1 page)</i>	Male Mobilizer	Registration
23	Sardar Bahadar S/O Barakat Shah <i>Annex: 36 (1 page)</i>	Male Mobilizer	Registration
24	Said-ur-Rehman S/O Amir Ghawas Khan <i>Annex: 37 (1 page)</i>	Male Mobilizer	Registration
25	Bakht Chaman Khan S/O Musharraf Khan <i>Annex: 38 (1 page)</i>	Male Mobilizer	Registration
26	Wazir Zada S/O Shah Zada <i>Annex: 39 (1 page)</i>	Male Mobilizer	Registration

Mr. Nasim Ullah, member of the DSC provided lists *Annex: 40 (5 pages)* of all the candidates appeared for the interview of FWA(M), FWA(F), Chowkidar and Aya/Helper while Mr. Fahad Sarwar, 2nd Member of the said committee also provided the said lists except Aya/Helper *Annex: 41 (5 pages)*. It is obvious from the said record that names of the following incumbents are not included in the interview respected list showing that they were not interviewed nor selected by the Departmental Selection Committee but appointment.

1. Syed Ishraq, FWA(Male)
2. Waliat FWA(Female)
3. Umi Aaiman, Aya/Helper

fh?

Similarly, according to the available record, nomination of the persons registered as Male Mobilizers were not interviewed and examined by the concerned committee. Offer of appointment / Registration letters were issued on 28.02.2012, 01.03.2012 & 02.03.2012. Astonishingly offer of appointment to Miss. Nasia D/O Aman Khan was issued on 18.05.2012 (*Annex: 18*).

Documents *Annex: 42 (7 pages)* provided by Miss. Alia Bibi (complainant) indicates that She is has 2nd division in Matric with higher qualification of Graduation. She has worked as CFS Facilitator in Islamic Relief w.e.f. 12.11.2009 to 28.02.2010 and Social Mobilizer in Rural Development Support Programme w.e.f. 01.01.2011 to 31.12.2011. While particulars of the newly appointed Family Welfare Assistants (Female) in District Buner are as under:-

S.No	Name of appointee	Qualification	Experience
1	Neelam Saeed	Matric, 3 rd Division with higher qualification of B.A, Homeopathic Doctor <i>Annex: 43 (6 pages)</i>	i. Worked as Teacher with Muslim Aid Pakistan w.e.f. 22.6.2009 to 21.7.2009. ii. Worked as Team Leader w.e.f. 1.2.2010 to 31.12.2010 with Sustainable Peace and Dev. Organization. iii. Worked as Field Officer w.e.f. 1.1.2011 to 30.11.2011 with Basic Education & Employable Skill Training. <i>Annex: 44(3 pages)</i>
2	Asmat	Matric 1 st Division with Higher qualification of FA <i>Annex: 45 (3 pages)</i>	Her statement at <i>Annex: 46 (2 pages)</i> indicates that her original experience certificate is in the custody of the then DPWO, Bunner.
3	Nasia	Matric 2 nd Division with higher qualification of B.A <i>Annex: 47 (4 pages)</i>	Worked with Rural Development Organization Bunner w.e.f. 1.1.2009 to 31.12.2011. Designation is not mentioned in the experience certificate <i>Annex: 48 (1 page)</i>
4	Rifat Bibi	Matric 3 rd Division with higher qualification of FA <i>Annex: 49 (3 pages)</i>	Nil.
5	Waliat	Matric 2 nd Division <i>Annex: 50 (2 pages)</i>	Nil.

In light of the above it is clear that the complainant is stronger than various selected candidates. Attention is invited to the written statements of Mr. Naseem Ullah, Ex-AD (M&E), Directorate General, PWD (Member of the DSC) *Annex: 40* that she has attended interview. Statement *Annex: 7* and information provided by Mr. Fahad Sarwar, DDPWO (N.T) (Member of DSC) *Annex: 41* is also confirming her presence in the interview.

The statement of Mrs. Maqbool Jehan, FWC *Annex: 51 (4 pages)* shows that she has paid Rs. 2,000,00/- to Mr. Habib-ur-Rehman, EX-DPWO, Bunner for appointment of her daughter in Law namely Mrs. Neelam Saeed on project post *Annex: 13* as FWA(Female). Later on after laps of 04 months she paid further Rs. 100,000/- for appointment of the said incumbent on regular basis *Annex: 14*. Similarly Miss. Asmat stated that *Annex: 46* her uncle gave a loan of Rs. 3,00,000/- to the said officer for his 2nd marriage. Now he has denied to return the same with the plea that the said amount be consider paid on account of her appointment. Complaint and statement of Mrs. Noor Nisa, Helper /Dai, DPW Office, Bunner *Annex: 52 (1 page)* indicates that her son and daughter applied for

the posts of FWA(Male) and FWA(Female) respectively and the then DPWO demanded her for bribe in connection with their appointment. Miss. Rahat Bibi, newly appointed Helper /Dai also submitted that *Annex:53(1 page)*. She has paid Rs. 150,000/- to Mr. Humayun, FWA(Male) of District Bunner for her appointment as FWA(Female) but unfortunately she has been recruited as Helper/Dai. Like wise Miss. Wilait newly appointed FWA (Female) in her statement *Annex:54 (1 page)* submitted that Mr. Humayun FWA(Male) informed her about the recruitment in DPW office, Bunner and gave her offer of appointment. She not mentioned any sort of payment in this respect. Another newly recruited FWA(Female) (Appointed in May, 2012) namely Miss. Nasia informed the inquiry officers that she appeared in the test and interview in the month of March 2012 and appointed in May, 2012 *Annex:55 (1 page)*.

Advertisement floated by the then DPWO, Bunner in the daily Mashriq dated 19.12.2011 *Annex: 56 (1 page)* shows that posts were advertised only for project on contract basis. Contrary to the advertisement two FWA(Female) and one FWA (Male) were appointed on regular temporary posts. Similarly one driver and Mali/Sweeper were also appointed on regular basis which are not reflected in the advertisement. Recommendations of the Manager Employment Exchange Mingora Swat *Annex: 57 & 58 (2 pages and 1 page)* shows that these posts were filled through employment Exchange. Requisition made by the then DPWO for these posts is not available in the record of DPW Office, Bunner. Statement of Mr. Farid Ullah *Annex:59 (1 page)* shows that he was working as Mali before appointment as Driver. He was issued offer of appointment as Driver on 28.2.2012 and has vacated the post of Mali accordingly. However the Employment Exchange, Mingora Swat recommended Mr. Shah Zeb Khan for the post of Mali on 20.2.2012, when the said post was not vacant. Letter dated 15.08.2012 of the setting DPWO *Annex:60 (2 pages)* speaks that four Dai/Helper (BPS-1) were appointed against the available 03 vacant posts.

FINDINGS:-

1. Offer of appointment were issued with out making merit list and minutes of the DSC meeting and signature of the members.
2. Alia Bibi (complainant) has actually attended both test and interview but was ignored for the selection of weaker / poor candidate.
3. Due to malafide intentions, offer of appointment as FWA (Female) in respect of Miss. Nisa was issued after interval of about two and half months to the earlier issued offer of appointments in the same recruitment process.
4. Two types of offer of appointments i.e. regular & contract were issued to Mrs. Neelam Saeed showing the element of corruption in the instant matter.
5. Appointment procedure of Mr. Shah Zeb Khan S/O Shamroz Khan as Mali/Sweeper is wrngng as the post was not vacant when the recommendation of the Employment Exchange was made. Further more page 20 of Esta Code (Revised Edition) 2011 *Annex: 61* stated that where in a District, the office of the Employment Exchange does not exist, appointment in BPS-1- 4 shall be made after advertising the posts in the leading newspapers.

Handwritten signature/initials

6. Incumbents not included in the interview lists were appointed. Male Mobilizers were registered without proper interview by the registration committee.
7. All the appointments made in DPW office, Bunner during the year 2012 are contrary to the Rules, Regulation and Prescribed manner.

RECOMMENDATIONS:-

1. Since all the appointments made by Mr. Habib-ur-Rehman, Ex-DPWO, Bunner are made without observing Rules, Regulations and codal formalities, therefore may be cancelled and re-advertised for proper recruitment.
2. Disciplinary proceedings may be initiated against Mr. Habib-ur-Rehman, Ex-DPWO, Bunner now DPW Officer, Malakand for misconduct established against him.

(7)

PART B:- REPRESENTATION OF MISS. NOOR NISHTA, EX-FWA(FEMALE)
WITH REFERENCE TO HER REMOVAL FROM SERVICE

PROCEEDINGS:

During the course of inquiry, attendance register of FW Centre, Bampoha was presented. The six months old register was quiet in a new condition. Written statements of Mr. Fahad Sarwar, DDPWO (NT) *Annex: 62 (1 page)* Mrs. Maqbool Jehan, FW-Counselor, Incharge *Annex: 63 (1 page)*, Mr. Mohammad Rasheed, FWA (Male), *Annex: 64 (1 page)* Mr. Daud Shah, Chowkidar *Annex: 65 (1 page)* and Miss. Bakht Rawana, FWA(Female), FWC Bampoha *Annex: 66 (1 page)* reveals that attendance register of FWC, Bampoha was changed by Mr. Habib-ur-Rehman, Ex-DPWO, Bunner.

The Show Cause Notice dated 24.05.2012 *Annex: 67 (1 page)* served upon the appellant indicates that she has been absent from 12.1.2012 to 23.1.2012, 26.1.2012 and 7.5.2012 to 23.05.2012, while the attendance register of FWC, Bampoha presented before the inquiry officers reveals that she remained absent for the whole month of January and May, 2012 *Annex: 68 (6 pages)*.

During the inquiry proceedings the appellant informed in her statements *Annex: 69 (6 pages)* that the then DPW Officer, Bunner demanded for Rs. 100,000/- otherwise, threaten her that she will be dismissed from service. She further affirmed that her salaries and allowances for the Month of January to May, 2012 have not been paid. Mr. Abdul Wahid, FWA(Male) working as Account Assistant submitted *Annex: 70 (1 page)* that salaries and allowances of the appellant worth Rs. 57,825/- for the months January to May, 2012 have been given to Mr. Habib-ur-Rehman, Ex-DPWO, Bunner on his demand.

Attention is invited to the point *Annex: 71 (1 page)* that during the inquiry proceedings the said Ex-DPWO, Bunner confessed verbally before the inquiry officers that 03 months salary in question is with him while the remaining is with the Account Assistant. By intervention of the inquiry officers, she has been paid one month salary by the Account Assistant.

Statement of Mrs. Noor Jehan, Ex-Dai/Helper now FWW *Annex: 72 (1 page)* and verbal witnesses of other employees shows that the appellant was not regular in her duty but was not continues absent.

FINDINGS:-

- B. h?
1. Statements collected by the inquiry officers and as testified by the concerned employees of DPW Office, Bunner proofs that daily attendance register of the appellant was intentionally changed to make her continues willful absent from duty in order to vacate post for selection of near and dears.
 2. Her absentiseem from duty w.e.f. 1st January, 2012 till her dismissal from service could not proved due to replacement of the daily attendance register.

- (8)
3. Mr. Habib-ur-Rehman, Ex-DPWO, Bunner is in habit of making money by unfair means and harassing employees for malafide intentions.
 4. Mrs. Noor Nishta (appellant) has not regularly performed her official duties.

RECOMMENDATIONS:-

- B. / h2
1. The incumbent was dismissed from service for malafide intention and not in the public interest. Therefore, she may be re-instated into service and the disputed period i.e. from 02.12.2011 to 31.12.2011 mentioned as absence from duty in the show cause notice served upon her by the Ex-DPWO may be treated as leave without pay.
 2. The DPWO, Bunner may be asked to recover her pending salaries and allowances of 04 months (January to April 2012) in respect of Noor Nishta and ensure its payment to the official concerned.
 3. Disciplinary action may be initiated against Mr. Habib-ur-Rehman, EX-DPWO, Bunner and Mr. Abdul Wahid, FWA(Male) working as Account Assistant, DPW Office, Bunner on account of unauthorized with holding of salaries and allowances of the appellant with malafide intention.

PROCEEDINGS:-

Mr. Shams-ul-Ghani, EX-FWA(Male) was dismissed from service w.e.f. 01.06.2012 on account of regular admission in Abdul Wali Khan University, Bunner campus, Zoology Department. The daily attendance register of FW Centre Pacha kaly also speaks his absence from duty *Annex: 73 (16 pages)*. The result of 1st Semester, Department of Zoology, Abdul Wali Khan University Bunner Campus *Annex: 74 (2 pages)* duly signed by the concerned Chairman shows that he appeared under Roll No. 47 in the said Exam. Written statement *Annex: 75 (1 page)* of Mrs. Maqbool Jehan, Incharge of the said FW Centre reveals that he was studying in the said University but marked his attendance in the daily attendance register.

The said Ex-FWA (Male) in his written statement *Annex: 76 (1 page)* confessed that he was a regular student and paid half salary to Mr. Habib-ur-Rehman, EX-DPWO, Bunner. After that he demanded for payment of full salary. He refused and resultantly was dismissed from service. The said Ex-DPWO again demanded for Rs. 2,000,00/- for re-instatement into service.

FINDINGS:-

1. Shamsul Ghani, Ex- FWA(M) remained absent from duty and was studying as a regular student without permission of the Competent Authority.
2. After dismissal from Service on 01.06.2012, he has not submitted any sort of appeal to the appellate authority.

RECOMMENDATIONS

1. He may not be re-instated into service being found guilty of misconduct and non-submission of appeal within the stipulated period.
2. However, the Competent Authority on humanitarian grounds may convert the major penalty of dismissal from service awarded to him into the "Removal from Service" enabling him eligible for future Govt: Service.

PROCEEDINGS

The staff of DPW Office Buner mostly consist of female staff visited D.G office on 19-07-2012 and submitted complaints against Mr. Habib-ur-Rehman, ex, DPW Officer Buner Miss Asmat newly appointed FWA (F) in her complaint *Annex: 77 (1 page)* as explained in section A of the report that the above noted officer considered Rs. 300000/- loan of her uncle as reward of her appointment.

Similarly Mrs. Asmat FWA (F), Mrs. Maqbol Jehan FWC, Mrs Bibi Zenab Dai / Helper, Mrs. Bakht Rawana FWA (F), Mrs. Nusrat FWW, Mrs. Fozia Durani FWW, Mrs. Bakht Jehan Dai / Helper, Mrs. Gulshan Zari FWW, Mrs. Shagufta Khanam FWW, Mrs. Noor Nisa Dai / Helper, and Mrs. Nusrat Dai / Helper, in their joint Complaint *Annex: 78 (1 page)* submitted that the said the then DPWO was in habit of taking unauthorized money from the staff by some way or the other. He terminates illegally the service of Noor Nisa and regularized the services of two girls by taking bribe. They have not got the requisite payment for electricity bills, Charcoal, IUD for the year 2010 and rent of FW Centre for the year 2011. Gul Shan FWW complained *Annex: 79 (1 page)* that the said officer got bribe from Nuzhat Begum and transfer her to another FW Centre, and Nazakat Begum in calibration with the said Ex- DPWO took various items from the centre. Mrs. Neelam saeed, FWA (Female) in her complaint *Annex: 80 (1 page)* stated that for her appointment the said officer demanded for Rs. 200000/- and more 100000/- for regularization. Mrs. Noor Nishata Ex- FWA(F) complained *Annex: 81 (1 page)* about her illegal removal from service and demand of bribe by him.

During the inquiry proceeding Mrs. Fozia Durani, FWW, Mrs. Gulshan Zari, FWW, Mrs. Maqbol Jehan FWC, Mrs. Nusrat Bibi FWW and Feroza Khan FWW in their joined statement *Annex: 82 (1 page)* submitted that Mr. Habib-ur-Rehman Ex- DPWO Buner demanded for money every month that he share the same with the Minister for Population Welfare Department Khyber Pakhtunkhwa and if some body object, will be transferred. Resultantly on our visit to Director General office and submission of complaint against him our two colleges namely Mrs. Maqbol Jehan FWC and Mrs. Fozia Durani, FWW were transferred to District Mardan and Dir (Upper) respectively *Annex: 83 (1 page)*. Mrs. Mehnaaz, FWA (F) in her statement submitted that *Annex: 84 (1 page)* Mr. Habib-ur-Rehman always torched them and demanded for cash and mobile set.

Attention is invited to joint statement *Annex: 85 (9 page)* of about thirty five employees of DPW Office Buner wherein they have expressed their reservation about this inquiry. According to them, there two senior Colleagues have been transferred out District in consequences of visiting Director General Office. They suspect that in these circumstances this inquiry will not be done in transparent manner and if done so, will not be implemented. They also stated that Mr. Habib-ur- Rehman always threaten them that he feed high ups including concerned minister. They also provide a copy of the inquiry report (Attached with the statement) submitted by Mr. Masud Khan Orakzai, Director (A&P), Mr. Muhammad Anwar Qureshi, Director, PME (Retired) and Mr. Shah Nawab khattak, the then DPW Officer Kohat in connection with kidnapping of Mr. Habib-ur-Rehman, while posted as DPWO Hangu. In the said report the inquiry officers recommended that the said officer should not be given any administrative post throughout his service.

(11)

Mrs. Aisha Habib (2nd wife of Mr. Habib-ur-Rehman) serving as FWW in DPW Office Buner presented statement *Annex: 86 (1 page)* duly signed by Mrs. Refat Bibi, FWA(F), Mr. Ashraf, FWA (M), Mr. Shahzar, Chowkidar, Jehansher Chowkidar, Mrs. Gul Hasia, Dai / Helper, Mr. Wazirdad, Male Mobilizer and Bakht Chaman Khan Male Mobilizer wherein it has been stated that all the complaints and applications against the Ex- DPWO Buner are un true and the staff concerned use it for their own gains. They further intimated that there signatures on previous complaint are bogus. Similarly Mrs. Nazakat Begum FWW in her statement *Annex:87 (1 page)* declared no grievances from the said officer.

In connection with non payment for Charcoal, Satellite Camp, IUD etc, Mrs. Maqbol Jehan FWC, Mrs. Mrs. Feroza Khan FWW, Mrs. Nusrat Bibi, FWW, Mrs. Gulshan Zari FWW, and Mrs. Fozia Durani FWW informed the inquiry officers *Annex: 88 (1 page)* that since 2010 they have not received payment of Charcoal, Satellite Camp, Stationery and Impress money. Like wise various FWA (M) *Annex: 89 (1 page)*, Chowkidars *Annex: 90 (1 page)* and Dai / Helpers *Annex: 91 (1 page)* Submitted similar reservation during inquiry proceeding. Mrs. Shagufta Khanam, FWW *Annex: 92 (1 page)* informed about the same complaints with addition that she is requesting for drawl of her salary through Bank Account for last two years but in vain. Her salary for the month of March and April 2011 have been drawn through bogus signatures.

By perusal of the record it was noted that Charcoal 237kg was handed over to FW Centres and 135kg and 130kg to Distt Head Quarter Buner during the winter season 2010-2011. Copies of 10 Nos receipts are attached *Annex: 93 (10 pages)*. The inquiry officer got a copy of Charcoal Register of FW Centre Nawagai showing receipt of 37kg Charcoal *Annex: 94 (1 pages)*. Probably the figure of "2" is added before 37 after signature of the concerned official making it 237kg. The record of satellite proformas for the months December 2010 and January 2011 to May 2011 *Annex: 95 (6 pages)* indicates that payment has been made to the concerned in charge of FW Centre.

FINDINGS

- 1) Majority of the staff of DPW Office Buner was fed up by poor behaviour of Mr. Habib-ur-Rehman Ex- DPWO Buner.
- 2) The statement *Annex:86* signed by seven officials, provided by Mr. Ayisha Habib (2nd wife of Mr. Habib-ur-Rehman) wherein it has been stated that their signatures on previous application / complaint is baseless because only Mr. Jehan Sher Chowkidar has signed one complaint and none of the other.
- 3) Recommendation of the three senior officers contained in the inquiry report submitted by them in connection with kidnaping of Mr. Habib-r-Rehman that he should not be given any administrative post throughout his service is not implemented in true spirit.
- 4) Mrs. Maqbol Jehan, FWC and Mrs. Fozia Begum, FWW have un necessary been transferred to other District.
- 5) Receipt of Charcoal are seems to be tampered with.
- 6) There is dispute of two months (March and April 2011) Salary and allowances drawn by fake signatures, in respect of Mrs. Shagufta Khanam, FWW.

RECOMMENDATION

(12)

- 1) Mr. Habib -ur- Rehman should be banned for administrative post throughout his service as already been suggested in a Previous inquiry. Conducted by senior officers.
- 2) It is recommended that the transfer of the two Female employees (FWW and FWC) outside the District be withdrawn and reshuffling within the District without cogent reason may be stopped.
- 3) The sitting DPWO Buner may be asked to switch over salary of all the employees from DDO to Bank and solve the dispute of her two month salary and allowances for the month of March and April 2011.
- 4) Special audit may be conducted with respect to the issues of payment of operational liabilities.



(Noor Afzal)
District Population Welfare
Officer Kohat
(Inquiry Officer)



(Kashif Fida)
Assistant Director (Admn)
Directorate General, PW,
Peshawar
(Inquiry Officer)

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CHARGE SHEET

I, Ghulam Dastagir Akhtar, Chief Secretary, Khyber Pakhtunkhwa as competent authority, hereby charge you, Mr. Habib-ur-Rehman (BPS-17 Deputy District Population Welfare Officer (Non-Tech), DPW Office, Mardan as follows:

That you, while posted as District Population Welfare Officer, Buner committed the following irregularities:

- (i) You have taken all the recruitment record (year 2012) of DPW Office, Bunner illegally for malafide intension. You were called time and again by the inquiry officers for provision of requisite record but you failed to do so.
- (ii) You have issued 26 offer of appointments from BPS-1 to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, Chowkidar BPS-1, Mali/Sweeper BPS-1 & Aya/Helper BPS-1 without making merit list and minutes of the Departmental Selection Committee meeting which was not signed by the members as per available record.
- (iii) You have issued offer of appointment as Family Welfare Assistant (Female) BPS-5 to Miss. Nasia, on 18.05.2012 while other appointee in the same recruitment process were issued offer of appointment on 28.02.2012 which shows malafide intentions.
- (iv) You have issued offer of appointment as Family Welfare Assistant (Female) BPS-5 as a project employee on 28.02.201 to Mrs. Neelam Saeed and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (v) You have appointed Mr. Farid Ullah as Driver (BPS-4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Mali/Sweeper in violation of rules. Under NWFP ART Rules, 1989, Rule 10 Sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment Exchange does not exist. The appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers".
- (vi) You have appointed Mrs. Waliat W/O Bakht Amin, Family Welfare Assistant (Female), BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Male) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helper (BPS-1) during recruitment made in 2012 inspite of the fact that their names were not included in the interviewees list as evident from the list of the members of Departmental Selection Committee.
- (vii) You have registered Sajjad Ali S/O Farid Khan, Shah Faisal, Iftikhar Alam, Sajjad Ali S/O Subzali Khan, Sardar Bahadar S/O Barakat Shah, Said-ur-Rehman S/O Amir Ghawas Khan, Bakht Chaman Khan S/O Musharraf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for Registration.

- (viii) You with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWA (Female) and marked her absent from duty and dismissed her from Service to vacate the seat for your favourable candidate.
- (ix) You created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressal of their grievances.
- (x) You have tampered receipts of Charcoal, during the financial year 2010-11.
- (xi) You have shown disbursed five (05) months salary and allowances in respect of Mrs. Shagufta Khanam, FWW on fake signatures as DDO during the financial year 2010-2011.

2. By reason of the above, you appear to be guilty of mis-conduct 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 rules ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/inquiry committee.

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

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

6. A statement of allegations is enclosed.


CHIEF SECRETARY
Competent Authority

Mr. Habib-ur-Rehman
The then District Population Welfare Officer, Buner
Now posted as Dy. District Population Welfare
Officer (Non-Tech), Mardan

DISCIPLINARY ACTION

I, Ghulam Dastagir Akhtar, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, am of the opinion that Mr. Habab-ur-Rehman (BPS-17), the then DPW Officer, Bunner now posted as Deputy District Population Welfare Officer (Non-Tech), 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, Government Servants (Effective and Discipline) Rules, 2011:

STATEMENT OF ALLEGATIONS

- (i) He has taken all the recruitment record (year 2012) of DPW Office, Bunner illegally for malafide intension. He was called time and again by the inquiry officers for provision of requisite record but he failed to do so.
- (ii) He has issued 26 offer of appointments from BPS-1 to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, Chowkidar BPS-1, Mali/Sweeper BPS-1 & Aya/Helper BPS-1 without making merit list and minutes of the Departmental Selection Committee meeting which was not signed by the members as per available record.
- (iii) He has issued offer of appointment as Family Welfare Assistant (Female) to Miss. Nasia after an interval of about two and half months i.e. on 18.05.2012 and offer of appointment issued earlier on 28.02.2012 in the same recruitment process which shows malafide intentions.
- (iv) He has issued offer of appointment to Mrs. Neelam Saeed, as Family Welfare Assistant (Female) as a project employee on 28.02.2012 and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (v) He has appointed Mr. Farid Ullah as Driver (BPS-4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Mali/Sweeper in violation of rules. Under NWFP APT Rules, 1989, Rule 10 Sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment Exchange does not exist, the appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers".
- (vi) He has appointed Mrs. Waliat W/O Bakht Amin, Family Welfare Assistant (Female), BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Male) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helper (BPS-1) during recruitment made in 2012, inspite of the fact that their names were not included in interviewees list as evident from the list of the members of Departmental Selection Committee.

- (vii) He has registered Sajjad Ali S/O Farid Khan, Shah Faisal, Iftikhar Alam, Sajjad Ali S/O Subzali Khan, Sardar Bahadar S/O Barakat Shah, Said-ur-Rehman S/O Amir Ghawas Khan, Bakht Chaman Khan S/O Musharraf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for registration.
- (viii) He with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWA (Female) BPS-5 and marked her absent from duty and dismissed her from service to vacate the seat for favourable candidate
- (ix) He created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressal of their grievances
- (x) He has tampered receipt of Charcoal during the financial year 2010-11.
- (xi) He has shown disbursed five (05) months salary and allowances in respect of Mrs. Shagufta Khanam, FWW on fake signatures as DDO during the financial year 2010-11.

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 rules 10(1) (a) of the ibid rules.

- a. Mr. Islam Zeb AS FATA SECH.
- b. _____

3. The inquiry officer / inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty 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 / inquiry committee.


 CHIEF SECRETARY,
 Govt. of Khyber Pakhtunkhwa
 Competent authority

INQUIRY REPORT

17 2

Subject: CHARGE SHEET AND STATEMENT OF ALLEGATIONS DISCIPLINARY PROCEEDINGS AGAINST MR. HABIB-UR-REHMAN, DY. DISTRICT POPULATION WELFARE OFFICER, MARDAN.

I. BACKGROUND:

1. The Population Welfare Department vide letter No. SOE (PWD) 1-81/2011/PF/14196-99 dated: 22-02-2013 (Annex-1), intimated that the Competent Authority i.e. Chief Secretary, KPK approved initiation of disciplinary proceedings against Mr. Habib-Ur-Rehman (B-17), Dy. District Population Welfare Officer, Mardan on account of complaints against appointments of 26 different posts during his tenure in Buner.
2. In the said letter the undersigned (Islam Zeb, Additional Secretary, P&D FATA) was also appointed as inquiry officer to scrutinize the conduct of the aforesaid officer vis-à-vis the attached statement of allegations/ Charges Sheet and desired that the inquiry officer should take further necessary action and submit findings/ recommendations/ report.

II. PROCEEDINGS:

3. In compliance with the above order, Mr. Habib-Ur-Rehman, Dy. District Population Welfare Officer, Mardan was asked through a letter on 26-02-2013 (Annex-II) to submit Para wise / allegation wise responses, duly supported with documentary evidences as well as the overall record of the appointments mentioned in the subject case within a week time to enable the inquiry officer to fix a date for hearing.
4. In response Mr. Habib-Ur-Rehman, Dy. District Population Welfare Officer, Mardan submitted parawise written replies to the allegations on 06-03-2013(Annex-III). After going through his replies and supported material attached to the replies, he was given the opportunity of personal hearing on 12-03-2013. During his personal hearing, the replies to the allegations were discussed in detail and inquired additional information to the allegations, as deem appropriate.
5. Relevant documents including advertisement, diary register of receipt of applications, call letters, written test paper of candidates, correspondence of the respective elected representatives with regard to recommending different candidates for various posts, the absence/ termination in case of Miss Noor Nishta FWA (F) District Buner and her

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re-instatement order dated 15-05-2012 (by Director General, Population Welfare), letter dated 15-05-2012 by Mr. Habib-Ur-Rehman to DPO Buner to give him protection, letter dated 17-05-2012 from DCO Buner to DPO Buner in connection of giving protection to Mr. Habib-Ur-Rehman, etc. were also provided.

III. FINDINGS

6. The "Departmental Selection Committee" for appointments against the said 26 posts was consisting of the Following:
 - a. Mr. Habib-Ur-Rehman Dy. District Population Welfare Officer, Buner. - Chairman
 - b. Mr. Naseem Ullah, Assistant Director (M&E) Population Welfare Department Peshawar. - Member-I
 - c. Mr. Fahad Sarwar Dy. District Population Officer, (C&T), DPW Office, Buner. - Member-II
7. The merit list was signed only by Mr. Habib-Ur-Rehman, Dy. District Population Welfare Officer, Mardan, as ex-DDPWO, Buner/Chairman of the Departmental Selection Committee while the other two members as mentioned above, did not sign any single merit list.
8. Appointment orders were issued by Mr. Habib-Ur-Rehman, ex- Dy. District Population Welfare Officer, Buner, on the basis of the merit list which was signed only by him as chairman of the committee without signatures of the other two members of the committee.
9. The recommendations of elected representative for appointment cannot become grounds for non-completion of the procedural formalities.
10. The objectives behind issuing appointment orders on the basis of the merit list which was not signed by the other members (02 Nos) of Departmental Selection Committee could not be clearly revealed.
11. According to the verbal statement of Mr. Habib-Ur-Rehman, Dy. District Population Welfare Officer, Mardan, during his personal hearing, he categorically stated that no contact has been made with him by any quarter for providing the record. Now, as asked for, the same is provided along with replies to the allegations, given in the inquiry.

15/03

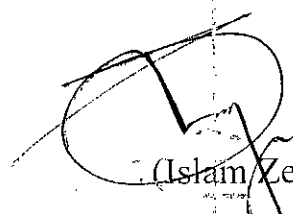
- 12. Appointed by the concerned officer, he remained under constant political pressure throughout the overall process of recruitments.
- 13. According to the written reply and personal hearing, details of 26 appointments against different posts, which were objected, are given below:

01. Candidates appointed on merit	- 07
02. Candidates appointed as per recommendations by the elected representatives	- 11
03. Appointments made on fixed salaries posts appointed through local advertisements / Employment Exchange Registration in consultation with elected representatives.	- 08

Total - 26

IV. RECOMMENDATIONS:

- 14. The merit list on the basis of which the appointment orders were issued was not signed by the other 02 members of the Committee. Therefore, all the appointment orders issued on the basis of this merit list are irregular. Hence, all these appointment orders be cancelled and re-advertised.
- 15. Mr. Habib-Ur-Rehman, Dy. District Population Welfare Officer, Mardan should be given minor penalty (payment of re-advertisement) for non completion of procedural formalities, with the instruction to ensure to avoid such situation in future.


 (Islam Zeb)
Inquiry Officer/Additional Secretary
Planning & Development Department
FATA Secretariat.

CHARGE SHEET

I, Atta Ullah Khan, Chief Secretary, Khyber Pakhtunkhwa as competent authority, hereby charge you, Mr. Habib-ur-Rehman (BPS-17 Deputy District Population Welfare Officer (Non-Tech), DPW Office, Mardan as follows:

That you, while posted as District Population Welfare Officer, Buner committed the following irregularities:

- (i) You have taken all the recruitment record (year 2012) of DPW Office, Bunner illegally for malafide intension. You were called time and again by the inquiry officers for provision of requisite record but you failed to do so.
- (ii) You have issued 26 offer of appointments from BPS-1 to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, Chowkidar BPS-1, Mali/Sweeper BPS-1 & Aya/Helper BPS-1 without making merit list and minutes of the Departmental Selection Committee meeting which was not signed by the members as per available record.
- (iii) You have issued offer of appointment as Family Welfare Assistant (Female) BPS-5 to Miss. Nasia, on 18.05.2012 while other appointee in the same recruitment process were issued offer of appointment on 28.02.2012 which shows malafide intentions.
- (iv) You have issued offer of appointment as Family Welfare Assistant (Female) BPS-5 as a project employee on 28.02.201 to Mrs. Neelam Saeed and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (v) You have appointed Mr. Farid Ullah as Driver (BPS-4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Mali/Sweeper in violation of rules. Under NWFP APT Rules, 1989, Rule 10 Sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment Exchange does not exist. The appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers".
- (vi) You have appointed Mrs. Waliat W/O Bakht Amin, Family Welfare Assistant (Female), BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Male) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helper (BPS-1) during recruitment made in 2012 inspite of the fact that their names were not included in the interviewees list as evident from the list of the members of Departmental Selection Committee.
- (vii) You have registered Sajjad Ali S/O Farid Khan, Shah Faisal, Iftikhar Alam, Sajjad Ali S/O Subzali Khan, Sardar Bahadar S/O Barakat Shah, Saig-ur-Rehman S/O Amir Ghawas Khan, Bakht Chaman Khan S/O Musharraf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for Registration.

- (viii) You with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWA (Female) and marked her absent from duty and dismissed her from Service to vacate the seat for your favourable candidate.
- (ix) You created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressal of their grievances.
- (x) You have tampered receipts of Charcoal, during the financial year 2010-11.
- (xi) You have shown disbursed five (05) months salary and allowances in respect of Mrs. Shagufta Khanam, FWW on fake signatures as DDO during the financial year 2010-2011.


2. By reason of the above, you appear to be guilty of mis-conduct 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 rules ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/inquiry committee.

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

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

6. A statement of allegations is enclosed.


 CHIEF SECRETARY
 Competent Authority

Mr. Habib-ur-Rehman
 The then District Population Welfare Officer, Buner
 Now posted as Dy. District Population Welfare
 Officer (Non-Tech), Mardan

DISCIPLINARY ACTION

I, Atta Ullah Khan, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, am of the opinion that Mr. Habab-ur-Rehman (BPS-17), the then DPW Officer, Bunner now posted as Deputy District Population Welfare Officer (Non-Tech), 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, Government Servants (Effective and Discipline) Rules, 2011:

STATEMENT OF ALLEGATIONS

- (i) He has taken all the recruitment record (year 2012) of DPW Office, Bunner illegally for malafide intention. He was called time and again by the inquiry officers for provision of requisite record but he failed to do so.
- (ii) He has issued 26 offers of appointments from BPS-1 to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, Chowkidar BPS-1, Mali/Sweeper BPS-1 & Aya/Helper BPS-1 without making merit list and minutes of the Departmental Selection Committee meeting which was not signed by the members as per available record.
- (iii) He has issued offer of appointment as Family Welfare Assistant (Female) to Miss. Nasia after an interval of about two and half months i.e. on 18.05.2012 and offer of appointment issued earlier on 28.02.2012 in the same recruitment process which shows malafide intentions.
- (iv) He has issued offer of appointment to Mrs. Neelam Saeed, as Family Welfare Assistant (Female) as a project employee on 28.02.2012 and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (v) He has appointed Mr. Farid Ullah as Driver (BPS-4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Mali/Sweeper in violation of rules. Under NWFP APT Rules, 1989, Rule 10 Sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment Exchange does not exist, the appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers".
- (vi) He has appointed Mrs. Waliat W/O Bakht Amin, Family Welfare Assistant (Female), BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Male) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helper (BPS-1) during recruitment made in 2012, inspite of the fact that their names were not included in interviewees list as evident from the list of the members of Departmental Selection Committee.

- (vii) He has registered Sajjad Ali S/O Farid Khan, Shah Faisal, Iftikhar Alam, Sajjad Ali S/O Subzali Khan, Sardar Bahadar S/O Barakat Shah, Said-ur-Rehman S/O Amir Ghawas Khan, Bakht Chaman Khan S/O Musharraf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for registration.
- (viii) He with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWA (Female) BPS-5 and marked her absent from duty and dismissed her from service to vacate the seat for favourable candidate
- (ix) He created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressal of their grievances.
- (x) He has tampered receipt of Charcoal during the financial year 2010-11.
- (xi) He has shown / disbursed five (05) months salary and allowances in respect of Mrs. Shagufta Khanam, FWW on fake signatures as DDO during the financial year 2010-11.

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 rules 10(1) (a) of the ibid rules.

- a. Mr. Ahmad Khan D.S. Home
- b. _____

3. The inquiry officer / inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty 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 / inquiry committee.


 CHIEF SECRETARY,
 Govt: of Khyber Pakhtunkhwa
 Competent authority

ENQUIRY REPORT

Subject: - DISCIPLINARY PROCEEDINGS AGAINST
MR. HABIB-UR-REHMAN, DY: DISTRICT
POPULATION WLEFARE OFFICER, MARDAN

The subject enquiry has been assigned to the undersigned to scrutinize the conduct of the above mentioned accused officer and to submit Enquiry Report thereof with Findings/ Recommendations in accordance to Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

II- On 22/07/2013, accused officer Habib-Ur-Rehman Ex-DPWO Buner, has submitted reply (in his defense) to the charge sheet and statement of allegations already been served upon him by the Population Welfare Department vide letter No. SO E (PWD) 1-81/2011/PF/703 dated 12/07/2013. The department was also asked to depute a well conversant officer as Departmental Representative to produce the relevant record on 24/07/2013. Simultaneously the accused Officer was asked to be available for further proceedings in the assigned Enquiry.

III- On 24/07/2013 accused officer himself and Mr. Muhammad Wali, Deputy Director (Departmental Representative) has come up with the relevant record. Accused officer was assured of providing him ample opportunities to defend himself by all possible means.

IV- In order to achieve the task in a more transparent manner (the present District Population Welfare Officer Buner (successor of the accused officer) and the concerned Family Welfare Assistant (Male) Mr. Abdul Wahid of the said office also been summoned. Bothe the officer/official came up with the relevant record. Statement of the present DPWO Buner Mr. Shamu-ur-ehman with regard to the allegations and reply/response of the accused officer obtained vide Annex-I.

(1) ALLEGATION/CHARGE NO. (i)

On 24/07/2013 the accused officer was asked to present his view point with regard to the said allegation, which is pertaining (to the retention/ non-production to the earlier Enquiry Officer) to the official record with regard to the alleged illegal appointments of 26 candidates. In his written reply the accused officer states that:-

			(M)/F		
1	Ali Bibi	Zulfat Shah	FWA.(F)	15/60	

"Office record including recruitment in question is handled by Mr. Abdul Wahid FWA (M) who is also working as record keeper, Store keeper, Accounts Assistant and Steno in the office of District Population Welfare Officer Buner and despite of repeated directions he did not provide me the record for the reasons that his brother was not recommended for selection by the Selection Committee because of his low merit"

- (a) On the other side, the ground realities altogether different from the reply of the accused officer. The accused officer himself has provided the said record to his successor on 04/04/2013 (the present PWDO Buner Mr. Shams-Ur-Rehman vide acknowledged letter F.NO. 1(2)/Admn/2012-13 dated 05/04/2013 Annex-II). Thus the charge stands established against the accused officer.
- (b) Furthermore, as per Part-"A" of the earlier Enquiry Report (which was based on the complaint of Miss Alia Bibi R/O Buner) vide Annex-III besides other things testify the fact that actually the said record was in the custody of the accused officer, but he for time and again has tried his level best to evolve self made complications just to throw the responsibilities on the shoulders of others on one or other pretext.
- (c) Further more during cross examination, Mr. Abdul Wahid FWA (M), whom was allegedly blamed for keeping the said record un-lawfully as per reply of the accused officer to his show cause, the former flatly denied the allegation and even clarified the position by stating that though he was the sole Accountant, Head Clerk, Cashier and Stenographer has even denied the typing of all the alleged illegal/un-law-full 26 offer of appointments by him or in his office, which also strengthen the allegation leveled upon the accused officer. The accused officer without any hesitation admitted and endorsed the statement of the said multifold status holder Mr. Abdul Wahid the FWA (M) of the said office. The accused officer in the said very cross examination has admitted that those offers of appointments were typed by another stenographer who visited the said Distt: office along with deputed officer (being member of the said very Departmental Selection Committee).
- (d) On this when was asked, that when the visiting officer (Member of that very DSC) was kind enough to direct his accompanied Stenographer to render his services, which depicts the congenial atmosphere at the time of selection of the candidates, then why and on what grounds the said member of (DSC) along with other member has avoided to put their signature on that very minutes of the DSC (being the second charge/ allegation against him).

Sl. No.	Name of Candidate	Name of Officer	Post	Grade	Remarks
1	Ali Bibi	Zulfat Shah	(M)/F FWA (F)	15/60	

(e) The accused officer without any hesitation just repeats the concocted story of Political pressure upon him by the local political figures by repeating the illogical and beyond any reasons as he stated in his reply to show cause. The accused officer having no plausible explanation while asked that why he alone bow down to such so called political pressure while his 02 other Co-Members of the said DSC not only denied/re-butted that very political pressure (if existed in reality), they not only avoided to sign that very dubious proceedings of the (so called DSC). The accused officer found no single word to put in his defense except to beat about bush.

(2) ALLEGATION/CHARGE NO. (ii)

The second charge also stands established and the accused has been found guilty of committing grave mis-conduct on his part by issuance of 26 offer of appointments which not only un-law-full, in wake of it issuance in his individual capacity instead of combine DSC proceedings but also stands un-law-full/illegal as all appointments were made against the project posts but the existing project policy and Committee thereof were totally surpassed by the accused officer. Thus issuance of 26 offer of appointments without the consent/recommendations of the Co-Members of that very Departmental Selection Committee by all members stands un-lawful / ab-initio on one hand and on the other it is a sheer misconduct on the part of accused officer above and beyond any reason, (who dame care for any discipline) proven himself above the law of the land.

(3) ALLEGATION/CHARGE NO. (iii)

With regard to the issuance of Offer of Appointment to one female candidate after an interval of two and half month than the issuance of other offer of appointments in the same very so-called Departmental Selection Committee proceedings (being dealt single handedly) the accused officer stats that due to the reason that she was topper/first division holder but due to political pressure he was unable to issue the offer of appointment to her along side of the other offer of appointments.

(a) The explanation of the accused officer seems nothing but a lame excuse which cannot be considered by any reason. Because the official management at all levels expect/demands transparency and any such like hidden reason stands as vested interest of an individual especially in case of appointment with particular reference of female, thus the allegation also stands established and mis-conduct on the part of accused officer strengthen to the highest mark which neither could be denied nor could provide any sort of leniency to beneficial for the accused officer.

	Name of Candidate	Name of Officer	For the post of	Marks	Remarks
1	Ali Bibi	Zulfat Shah	(M)/F FWA.(F)	15/60	

E

(4) ALLEGATION/CHARGE NO. (iv)

Fourth allegation (against the accused officer) is pertaining to the issuance of two separate offer of appointments (on the same very day) to the same female candidate. On temporary basis against project post as well other on against regular post. Again the accused officer remains deficient to justify his omission. When asked by the undersigned that if any mistake/error occurred in the issuance of any official order, according to the procedure the concerned authority has to issue a cancellation order by clarifying the mistake/error.

On this the accused officer admitted the omission and simply stated that the earlier offer of appointment issued against the project post was torn out and new offer of appointment were accordingly issued to the said candidate. As the candidate draws her emoluments against a regular post, the accused officer could not be blamed for the allegation/charge which having no sound reason. Thus allegation/charge not been established against him.

(5) ALLEGATION/CHARGE NO. (v)

Fifth allegation is pertaining to over-looking of existing policy for appointments of Class-IV in such districts where Employment Exchange not existed. Though there was no Employment Exchange at District Buner but the reply and quoted precedent by accused officer also having its weight-age. Thus it will be in the fitness of things and to fulfill the norms of natural justice, because all human being are equal in the eyes of law. Though the deviation from the policy by the accused officer on one or the other pretext cannot be justified, and that is why that the allegation/charge stands established by so many reasons. However the logic put forth by the accused officer in his reply also seems to be considered, this will also be commented upon under the sub-Heading of "OTHER RECOMMENDATIONS".

(6) ALLEGATION/CHARGE NO. (vi)

Sixth allegation speaks about the appointments of such candidates whom names were not included in the interviews list. In his defense the accused officer instead to put some meaning-full explanation, has just put forth the original Diary Register instead of denying the list of DSC (in which the names of the candidates were not in-listed). The Diary Register shows the names of the appointed candidate upto the extent of submission of their applications. As earlier stated that in the said

No.	Name of Candidate	Name of Officer	Post	Ratio	Remarks
1	Ali Bibi	Zulfat Shah	(M)/F FWA (F)	15/60	

appointments the required project policy has been ignored due to which all such appointments became illegal hence the question of appointing of such candidate whom names were not included in the interviews lists does not arise. The charge stands established.

(7) ALLEGATION/CHARGE NO. (vii)

Seventh charge/allegation is pertaining to the registration of Male Mobilizers without adopting the codal procedures, but the accused officer submitted the proof of advertisement through pump lets/other means for the purpose which shows that the charge/allegation is baseless and that the accused officer has fulfilled the desire responsibilities, hence this charge/allegation against the him is without sound footing and he could not be blamed for any violation of procedures in this particular allegation. The allegation could not proved against the accused officer.

(8) ALLEGATION/CHARGE NO. (viii)

This allegation is pertaining to the illegal dismissal of one FWA (F) by the accused officer on the basis of her absence from duty. According to the available record and verbal confirmation of the successor District Family Welfare Officer Buner Mr. Shams Ur Rehman beside verbal statement of the said FWA (F), already been re-instated into service, hence the allegation/charge seems in-fructuous and needs not to be probed further.

(9) ALLEGATION/CHARGE NO. (ix)

The allegation speaks about the complaint seeking relief of the court by major bunch of employee of the District Buner, against the poor behavior of the accuse officer while he was posted there. The accused officer in his reply to show cause has submitted that he has got no notice from any court and the departmental representative also could not provide sufficient material of worth consideration except the following:-

(a) Peshawar High Court in a Writ Petition No.2487-P/2012 as per **part -D** of the earlier Enquiry Report vide Annex-IV. But Peshawar High Court Directions testify the matter that the very Writ Petition under discussion was pertaining to the Terms and Conditions of Services and very frankly disposed of the said on the basis of jurisdiction, however on the request of the Counsel of the petitioners, the learned court just for the sake of satisfaction of the Counsel asked the department to decide the pending presentation of the petitioners either way within a specific time.

S.No	Name of Candidates	Father/Husband Name	For the post of FWA (M)/F	MARKS	REMARKS
1	Ali Bibi	Zulfat Shah	FWA (F)	15/60	

(b) Thus this very allegation to add into the account of the accused officer seems un-justified and without any sound footing, hence the accused officer could not be blamed for that. The allegation not proved.

(10) ALLEGATION/CHARGE NO. (x)

The allegation pertaining to tempering of Charcoal distributed amongst various Centre under the District Population Welfare Officer Buner by the accused officer, during his posting there. This is a grave allegation and needs through separate full-fledged investigation on the basis of ascertaining the total funds provided by the Finance Department to the Population Welfare Department.

Its further distribution amongst the District Population Welfare Offices/other entities of the said department. The rate fixed by the concerned Divisional Commissioners with the list of authorized dealers. The admissibility of Charcoal with yard stick fixed by the Govt. The procurement made by the concerned District Officers and its stock registers, onward distribution amongst the Govt. servants according to their entitlement. As huge funding involved in and its mis-appropriation could not be ruled out, hence it is suggested that the issue by dig-out through separate Enquiry on the sole subject of "Mis-appropriation of Charcoal funds" that the hidden facts could be un-earthed and those found guilty be brought to book accordingly.

(11) ALLEGATION/CHARGE NO. (xi)

The allegation pertaining to the mis-appropriation of 05 months pay of one Mst. Shagufta Khanam FWW but during the course of enquiry it was revealed by the Departmental Representative that actual 02 month pay was mis-appropriated by the accused officer. In order to find the actual position the present (successor of the accused officer) District Population Welfare Officer Mr. Shams-Ur-Rehman testifies that salary for that very period already paid to the incumbent thus the allegation/charge seems in-fructuous in nature.

(a) Though one thing reached to its conclusion by obtaining written statement of that very Female FWW that she has received her (that very) salaries vide Annex-V, thus the allegation seems in-fructuous in nature yet certain things which yet needed to be elaborated within the Financial Disciplines frame work will discussed under the sub-heading "OTHER RECOMMENDATIONS".

S.NO	Name of Candidates	Family Name	(M)/F		
1	Ali Bibi	Zulfat Shah	FWA (F)	15/60	

(12)

FINDINGS

Allegations/Charges Proved/Established

On the basis of the enquiry proceedings the following allegations/charges found established by all means without any doubt. As each allegation/charge is so grave in nature that despite of all sympathetic considerations, yet the conscience of a reasonable person will not tolerate to show any kind of leniency in case of the accused officer of the instant enquiry. His committing of mis-conduct is above board and it is high time to curb the evil in the bud:-

- (i) He has taken all the recruitment record (year 2012) of DPW Office, Buner illegally for malafide intention, He was called time and again by the inquiry officers for provision of requisite record but he failed to do so.
- (ii) He has issued 26 offers of appointments, from BPS-I to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, chowkidar BPS-I, Mali/Sweeper BPS-I & Aya/Helper BPS-I without making merit list and minutes of the Departmental Selection committee meeting which was not signed by the members as per available record.
- (iii) He has issued offer of appointment as Family Welfare Assistant (Female) to Miss. Nasia after an interval of about two and half months i.e. on 18.05.2012 and offer of appointment issued earlier on 28.02.2012 in the same recruitment process which shows malafide intentions.
- (iv) He has appointed Mr. Farid Ullah as Driver (BPS_4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Malik/Sweeper in violation of Rules. Under NWFP APT Rules, 1989, Rule 10 sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment of Exchange does not exist, the appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers."
- (v) He has appointed Mrs. Waliat W/O Bakht amin, Family Welfare Assistant (Female) , BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Maale) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helfare (BPS-I) during sreruitment made in 2012, inspite of the fact that their names were not included in interviewees list as evident from the list of the members of Departmental Selection Committee.

(13) Out of 11 allegations/charges 03 found not proved while 02 x allegations/charges termed as In-fructuous on the reasons noted below. Thus the sole charge under heading Tempering receipts of Charcoal has been recommended for separate full-fledged enquiry, as embezzlement of public money involved, that should be dig out separately:-

S.NO	Name of Candidates	(M)/F	
1	Ali Bibi	Zulfat Shah	FWA (F) 15/60

(14)

Allegations/Charges Not Proved

- (i) He has registered Sajjad Ali S/O Farid Khan, Shah Faisal, Iftikhar Alam, Sajjad Ali S/O Subzail Khan, Sardar Bahadur S/O Barakat shah, Said-Ur-Rehman S/O amjr Ghawaz Khan, Bakht Chaman Khan S/O Musharraf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for registeraton
- (ii) He has issued offer of appointment to Mrs. Neelam Saeed, as Family Welfare Assistant (Female) as project employee on 28.02.2012 and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (iii) He created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressed of their grievances.

(15)

Allegations/Charges Termed as in-fructuous

The allegations/charges termed as in-fructuous on the basis of having least effect either to the incumbents or to the Public exchequer which are as under:-

- (i) He with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWA (Female) BPS-5 and marked her absent from duty and dismissed her from service to vacate the seat for favorable candidate.
- (ii) He has shown/dispursed five (05) months' salary and allowances in respect of Mrs. Shagufta Khanam, FWW on fake signatures as DDO during the financial year 2010-11

(16)

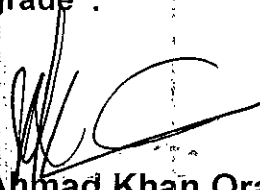
Allegation Recommended for separate Enquiry

- (i) He has tempered receipt of Charcoal during the Financial year 2010-11

(17)

RECOMMENDATION

In view of the above proven mis-conduct on the part of the said accused officer Mr. Habib-Ur-Rehman Sandeela EX-DPWO Buner is hereby recommended for "demotion to lower grade".



(Ahmad Khan Orakzai)

Enquiry Officer/Dy. Secretary (L&O)
Home & Tribal Affairs Deptt.

D.P.W.O

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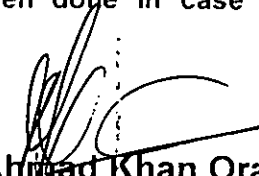
Ali Bibi

Zulfat Shan

(18) OTHER RECOMMENDATIONS

Following are the recommendations which have been evolved on the basis of information came into the notice of the undersigned during the course of enquiry. The said are submitted for special perusal of the competent authority so that the department may discharge/deliver upto the expected extent in accordance to the assigned mandate:-

- (a) Internal Audit (Being mandatory feature) GFR Para-13 needs to be re-vitalized/reactivate on war footing basis.
- (b) All Financial Disciplines as well Standing Orders of the Finance Department should be followed strictly not only on HQs but its implementation should be ensured at the end of lower formation
- (c) Mechanism for result oriented surprise visits of the supervisory staff of Administrative department Deptt: should be evolved and it should be done on regular basis with a reasonable interval.
- (d) Temporary attachment/detail-mint being the illegal practices (of the officials especially of the field officials for the purpose of management/administration should be ceased forthwith in accordance to the FD standing orders. With single stroke of pin, throughout the province all such officials should be asked to resume their original position. This should be done without any pick and choose.
- (e) Finance Standing Order with regard to disbursement of pay to the Provincial Got: Servant through bank/cheques should be implemented in toto. The DDOs who yet not implanted said should be preceded against
- (f) In case of Project position/work, there is Project Policy but the Administrative department in itself ignored the said policy for the unknown reasons, thus appointments made against the project posts in the entire province are null and void because the established criteria not been adopted, corrective measures should be adopted forthwith.
- (g) In case of appointments of Class-IV i.e from BPS-I to BPS-4 the dual standard adopted by the Administrative department should be curbed with, rather it will give birth un-necessary and unwanted litigation process for the deptt: e.g. as has been done in case of District: charsadda and Buner.


(Ahmad Khan Orakzai)
Enquiry Officer/Dy: Secretary (L&O)
Home & Tribal Affairs, Deptt

A-11 33

SHOW CAUSE NOTICE.

I, Muhammad Shehzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve you Mr. Habib-ur-Rehman Sandeela, BPS-17 District Population Welfare Officer, Buner now posted as Deputy District Population Welfare Officer (Non-Tech), Mardan as follows:-

- (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer / inquiry committee for which you were given opportunity of hearing vide communication No. SOE(PWD)1-81/2011/PF/703 dated 12-07-2013; and
- (ii) on going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defence before the inquiry officer.

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

- (i) You have taken all the recruitment record (year 2012) of DPW Office, Buner illegally for malafide intension. You were called time and again by the inquiry officers for provision of requisite record but you failed to do so.
- (ii) You have issued 26 offer of appointments from BPS-1 to BPS-5 (FWA(M&F) BPS-5, Driver BPS-4, Chowkidar BPS-1, Mali/Sweeper BPS-1 & Aya/Helper BPS-1) without making merit list and minutes of the Departmental Selection Committee meeting which was not signed by the members as per available record.
- (iii) You have issued offer of appointment as Family Welfare Assistant (Female) BPS-5 to Miss. Nasia, on 18.05.2012 while other appointee in the same recruitment process were issued offer of appointment on 28.02.2012 which shows malafide intentions.
- (iv) You have issued offer of appointment as Family Welfare Assistant (Female) BPS-5 as a project employee on 28.02.201 to Mrs. Neelam Saeed and then as a regular employee on the same date in the same process of recruitment allegedly on the receipt of illegal gratification.
- (v) You have appointed Mr. Farid Ullah as Driver (BPS-4) and Mr. Shah Zeb Khan S/O Shamroz Khan as Mali/Sweeper in violation of rules. Under NWFP APT Rules, 1989, Rule 10 Sub Rule-2, which is reflected in page 20 of the Esta Code revised edition 2011 "where, in office of the Employment Exchange does not exist. The appointment in BPS-1-4 shall be made after advertising the posts in the leading newspapers".


- (vi) You have appointed Mrs. Waliat W/O Bakht Amin, Family Welfare Assistant (Female), BPS-5, Syed Ishraq S/o Syed Qamash, Family Welfare Assistant (Male) BPS-5 and Mrs. Umi Aiman D/O Sarmin Khan Aya/Helper (BPS-1) during recruitment made in 2012 inspite of the fact that their names were not included in the interviewees list as evident from the list of the members of Departmental Selection Committee.
- (vii) You have registered Sajjad Ali S/O Farid Khan, Shah Faisal, Iftikhar Alam, Sajjad Ali S/O Subzali Khan, Sardar Bahadar S/O Barakat Shah, Said-ur-Rehman S/O Amir Ghawas Khan, Bakht Chaman Khan S/O Musharraf Khan, Wazir Zada S/O Shah Zada as Male Mobilizers without adopting the codal procedure for Registration.
- (viii) You with ulterior motives changed the daily attendance register of Miss. Noor Nishta, FWA (Female) and marked her absent from duty and dismissed her from Service to vacate the seat for your favourable candidate.
- (ix) You created harassment and discontent amongst the staff due to which the complaints increased and 50 employees collectively approached the High Court for redressal of their grievances.
- (x) You have tampered receipts of Charcoal, during the financial year 2010-11.
- (xi) You have shown disbursed five (05) months salary and allowances in respect of Mrs. Shagufta Khanam, FWW on fake signatures as DDO during the financial year 2010-2011.

2. As a result thereof, I, as Competent Authority, have tentative decided to impose upon you the penalty of "Removal from service" under Section-4 of the said Rules.

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

4. If no reply to this notice is received within 07 or not more than 15 days of its delivery, it shall be presumed that you have no defense to put in and in that case an exparte action shall be taken against you.

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


CHIEF SECRETARY
KHYBER PAKHTUNKHWA



GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT
STREET NO. 7/B HOUSE NO. 125/111 DEFENCE OFFICER COLONY
KHYBER ROAD PESHAWAR CANTT:

1835

Dated Peshawar the, 21st July, 2014

NOTIFICATION

NO. SOE (PWD) 1-81/2011/PF: - Whereas, Mr. Habib-ur-Rehman Sandeela (BS-17) District Population Welfare Officer, Buner now posted as Deputy District Population Welfare Officer (Non-Tech), Mardan was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the statement of allegations;

AND WHEREAS, Mr. Ahmad Khan (PCS EG BS-18), Deputy Secretary, Home & Tribal Affairs Department, Khyber Pakhtunkhwa was appointed as inquiry officer to conduct inquiry against the said officer for charges leveled against him in accordance with rules;

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

AND WHEREAS, on the basis of findings and recommendations of the Inquiry Officer, Show Cause Notice was served upon the accused officer to which he replied;

NOW, THEREFORE, the Competent Authority after having considered the charges, evidence on record, findings of the Inquiry Officer, the explanation of the accused officer to the Show Cause and hearing him in person on 08-07-2014 and exercising his powers under Rule-14 (5) (ii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 has been pleased to impose major penalty of "**Removal from Service**" upon Mr. Habib-ur-Rehman Sandeela, (BPS-17) the then DPWO, Buner now Deputy District Population Welfare Officer (Non-Tech), Mardan with immediate effect.

SECRETARY
POPULATION WELFARE DEPARTMENT
KHYBER PAKHTUNKHWA

Endst: NO. SOE (PWD) 1-81/2011/PF /2030-40

Dated Peshawar the, 21st July, 2014

Copy forwarded for information & necessary action to the: -

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. All Administrative Secretaries, Khyber Pakhtunkhwa.
3. Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. Director General Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
5. All Heads of Attached Departments, Khyber Pakhtunkhwa.
6. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
7. PS to Advisor for Chief Minister for Population Welfare, Khyber Pakhtunkhwa.
8. PS to Secretary, Govt. of Khyber Pakhtunkhwa, Population Welfare Department, Peshawar.
9. District Population Welfare Officers, Buner & Mardan.
10. District Accounts Officers, Buner & Mardan.
11. Manager, Government Printing Press, Peshawar.
12. Officer concerned.
13. Personal file of the officer.
14. Master file.

SECTION OFFICER (ESTABLISHMENT)
Phone // 091-9212991