



Sr. No	Date of order/ proceedings	Ord1er or other proceedings with signature of Judge or Magistrate
1	2	3
	31.01.2019 	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Appeal No. 557/2016</p> <p style="text-align: center;">Date of Institution ... 20.05.2016 Date of Decision ... 31.01.2019</p> <p>Engineer Aurang zeb , Now Executive Engineer (OPS) C&W, FATA Division, FR. Peshawar/Kohat.</p> <p style="text-align: right;">-----Appellant</p> <p>1. Govt. of Khyber Pakhtunkhwa through Chief Secretary to Govt. of KPK, Peshawar. 2. Secretary to Govt. of Khyber Pakhtunkhwa Communication & Works Department, Civil Secretariat</p> <p style="text-align: right;">-----Respondents</p> <p>Mr. Hamid Farooq Durrani.....Chairman Mr. Hussain Shah.....Member</p> <p style="text-align: center;"><u>JUDGMENT</u> <u>HUSSAIN SHAH, MEMBER:</u> - Appellant, learned counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General on behalf of the respondents present.</p> <p>2. The appellant was serving as Executive Engineer when disciplinary action was initiated against him on the ground of committing irregularities in the scheme "Construction of District Jail Hangu." A minor penalty of withholding of one increment for two years was awarded vide impugned order dated 23.02.2016. Where against he preferred departmental appeal on 10.03.2016 which was rejected by the appellate authority on 02.05.2016 and hence the instant service appeal on 20.05.2016.</p>

3. The appellant was working as XEN (OPS) C&W Division Hangu. A charge sheet and statement of allegation was served upon him alongwith his predecessor and successor XEN's for the irregularities allegedly committed in the aforementioned scheme. An inquiry committee was constituted which examined the charges/allegations and submitted its report. A show cause notice was served upon the appellant which he replied. The competent authority awarded the minor penalty vide impugned order dated 23.02.2016. The appellant submitted the revision petition through proper channel on 10.03.2016 which was rejected on 02.05.2016.

4. The learned counsel for the appellant argued that no irregularity has been committed by the appellant. The construction work on the scheme started before the posting of the appellant. As the scheme was ongoing project and the appellant remained posted for a short time of eight (08) months. Further contended that the inquiry committee did not prove any irregularity on the part of the appellant and exonerated him of the charges/allegations leveled against him. The competent authority issued the penalty order without considering the inquiry report, the reply of the appellant to the show cause notice and his review petition. The inquiry committee in its finding has noted that "the project under inquiry i.e. construction of District Jail Hangu is still in progress and is ongoing so the so called irregularities or in general practice of the C&W Department; all payments are considered as advance payments CPW Code and GFR, the contractor is responsible for

any deficiencies/short comings.” In the conclusion the inquiry committee observed that since the technical sanctioned had been accorded by the competent authority, the work executed as per requirements of the client department and any deficiencies/short comings can be removed/rectify before the completion of the project as such the charges/allegations cannot be attributed to be proved against any officer. As regarding the advance payments in the running project is concerned the inquiry committee observed that as per Para 224(b) CPWA Code Vol-iii and 144 are required to be regularized by subsequent action to be taken as the project was ongoing.

 5. Learned Assistant Advocate General contested the ground and arguments in the appeal and stated that the appellant was proceeded under E&D rules 2011 and all the codal formalities were full filled. He was given opportunity of defense at each level of the proceedings. It has been further stated that the inquiry committee mentioned in its conclusion that any short comings deficiencies could have been removed by the supervisor staff of the project before the completion of the project means that the accused had made advance payments to the contractor. As such it has been prayed that the appeal may be dismissed with costs.

6. The inquiry committee, consists of two senior officers examined in detail the allegations/charges level against the appellant and categorically stated that the allegations/charges cannot be attributed to the appellant. The competent authority did

not reject the inquiry report nor constituted another inquiry committee to re-examine the allegations/charges against the appellant. Moreover the same penalty has been imposed against the appellant and his nine (09) other colleagues. In view of the conclusion of the inquiry committee this tribunal is constrained to allow the appeal as per prayer. Parties are left to bear their own costs. File be consigned to the record room.



(HAMID FAROOQ DURRANI)
CHAIRMAN



(HUSSAIN SHAH)
MEMBER

ANNOUNCED
31.01.2019

Aurangzeb appeal No. 557/2016

12.12.2018

Appellant alongwith counsel and Mr. Muhammad Riaz Pinda Khel, Asstt. A.G for the respondents present.

At the outset learned counsel for the appellant referred to order of this tribunal passed on 24.11.2017 and stated that appeal No. 571/16 was not fixed of hearing today.

The office produced record of said appeal which reveals that it was dismissed of non-prosecution on 06.8.2018. In the circumstances, the appeal in hand can proceed independently and individually.

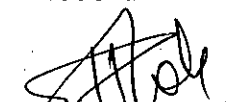
To come up for arguments on 31.1.2019 before the D.B.


Member


Chairman

31.01.2019

Appellant, learned counsel for the appellant and Mr. Riaz Pindakhel learned Assistant Advocate General for the respondents present. Vide separate judgment of today of this tribunal placed on file the present service appeal is accepted. Parties are left to bear their own costs. File be consigned to the record room.


(Hussain Shah)
Member


(Hamid Farooq Durrani)
Chairman

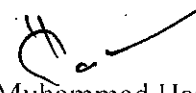
ANNOUNCED
31.01.2019

A. No. 557/2018
Aurangzeb vs Govt

06.08.2018


Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 27.09.2018 before D.B.

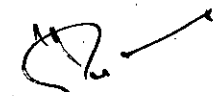

(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

27.09.2018

Clerk to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondent present. Due to general strike of the bar adjourn. To come up for arguments on 24.10.2018 before D.B.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

24.10.2018


Due to retirement of Hon'ble Chairman, the Tribunal is incomplete. Therefore, the case is adjourned. To come up for the same on 12.12.2018.



Reader

Appeal No. 557/2016
Aurangzeb vs Govt

24.11.2017

Counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents present stated that the identical nature appeal No. 571/2016 is fixed for 21.12.2017 and according to the judgment of the august Supreme Court of Pakistan identical nature appeal shall be decided together heard. Hence the present file be sent to learned Chairman for appropriate order.


(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

23.04.2018


Vide order sheet dated 19.04.2018 in service appeal No. 571/2016, this appeal is also clubbed with the above mentioned service appeal. To come up for arguments on 21.6.2018 before the D.B alongwith service appeal No. 571/2016. Notices be issued to the parties.


Chairman

21.06.2018

Counsel for the appellant and Adll: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.08.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

07.08.2017

Appellant with counsel present. Mr. Noor Ahmed, Superintendent alongwith Mr. Kabirullah Khattak, Assistant AG for the respondent present. Record mentioned in previous order sheet dated 25.05.2017 not produced by the respondents. The respondents are again directed to produce the same on the next date of hearing. Adjourned. To come up for record and arguments on 24.11.2017 before D.B.

MA

(Muhammad Amin Khan Kundi)
Member (J)

[Signature]

(Muhammad Hamid Mughal)
Member (J)

~~_____~~

~~_____~~

~~_____~~

~~_____~~

~~(Gul Zeb Khan)
Member~~

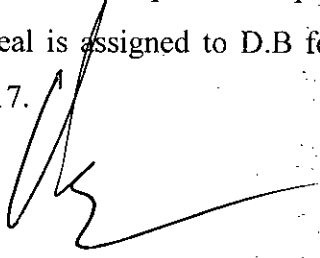
~~(Muhammad Hamid Mughal)
Member~~

MA

[Signature]

03.11.2016

Counsel for the appellant and Mr. Salim Shah, Supdt. alongwith Addl. AG for respondents present. Written reply submitted.. The appeal is assigned to D.B for rejoinder and final hearing on 12.01.2017.

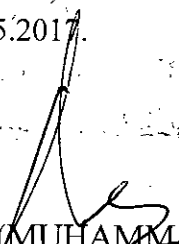


Member

12.01.2017

Counsel for the appellant ~~present~~ and Mr. Ziaullah GP, for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 25.05.2017.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

25.05.2017

Appellant alongwith his counsel present, Mr. Kabirullah Khattak, Assistant AG for the respondents also present. It was pointed out that the inquiry report is not ^{eligible} eligible, therefore, all the relevant record including inquiry report be produced. The respondents are directed to produce the same on or before the next date of hearing. To come up for record and arguments on 07.08.2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

14.06.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Executive Engineer when subjected to enquiry on committing irregularities in the scheme "Construction of District Jail, Hangu" and vide impugned order dated 23.02.2016 minor punishment in the shape of with-holding of one increment for two years was awarded where-against he preferred departmental appeal on 10.3.2016 which was rejected on 02.5.2016 and hence the instant service appeal on 20.05.2016.

That the enquiry committee exonerated the appellant but despite the same the afore-stated punishment was awarded which is against facts and law and therefore, liable to be set aside.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for before 23.08.2016 S.B.


Chairman

23.08.2016

Appellant with counsel and Mr. Salim Shah, Supdt. alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 3.11.2016 before S.B.


Chairman

Appellant Deposited
Security & Process Fee

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 557/2016

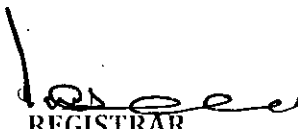
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25/05/2016	<p>The appeal of Mr. Aurang Zeb resubmitted today by Mr. Haji Shamsul Qamar Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	26-5-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30-5-16</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	30:05.2016	<p>None present for the appellant. The appeal be re-listed for preliminary hearing for 14.06.2016 before S.B.</p> <p style="text-align: right;">Chairman <i>[Signature]</i></p>

The appeal of Engineer Aurang Zeb Now XEN C&W FATA received to-day i.e. on 20.05.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- In page no.1 in the heading of appeal some contexts are missing.

No. 843 /S.T,

Dt. 23/5 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Haji Shamsul Qamar Adv, Pesh.

Sir

Completion was made accordingly. Page No. 1 of appeal has been changed and another complete sheet placed on it please.

H. Qamar
Advocate
24.5.2016.

Prayer in Appeal:

That the orders may please be declared void/illegal and against the principles of natural justice, inter alia on the following grounds and be set aside with the directions to the respondents to write of the penalty order from the service record of the appellant and all benefits may please be restored to appellant according to law.

Respectfully Sheweth:

The brief facts of the case are as under:-

1. *That earlier the appellant was working as XEN (OPS) C&W Division, Hangu.*
2. *That before my posting as XEN (OPS) C&W Division, Hangu, construction of the District Jail at Hangu had started in the period of my predecessor.*
3. *That the respondent served a charge sheet and statement of allegation against the appellant for some irregularities in the said scheme. (Annexure "C" & "D").*
4. *That according to letter bearing No SOE/C&W/8-20/2014 dated May 20, 2016, same charge sheet and statement of allegation upon my predecessor (XEN) and successor XEN was also served and inquiry committee consisting of Director Food Department, Peshawar and Superintendent,*

Engineer, PHE, Department was constituted. (Annexure "E").

5. *That the appellant submitted detailed explanation to the charge sheet and statement of allegation and pleaded no guilty to the charge. (Annexure "F").*
6. *That the Inquiry Committee conducted detailed inquiry into the allegation and submitted inquiry report, exonerating the appellant from the charge. (Annexure "G").*
7. *That upon the receipt of the inquiry report, the respondent served a show cause notice upon the appellant to which the appellant submitted detailed explanation and prayed that the Inquiry Committee has exonerated the appellant of the charges and the appellant may please be exonerated of charges. (Annexure "H" & "I").*
8. *That the respondents, however issued the impugned order of penalty. (Annexure "A")*
9. *That the appellant submitted representation to the respondent (Annexure "J") but the same was also rejected. (Annexure "B").*

10. That the appellant now approach this learned Tribunal with the prayers as mentioned above inter alia on the following grounds:-

Grounds:-

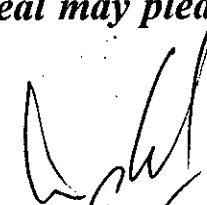
- A. That the appellant had committed no illegality and the work was completed by the contractor as per requirement of the client department (Jail Department)
- B. That the inquiry committed has also exonerated the appellant and all other mentioned in the letter (Annexure "E") in the inquiry report (Annexure "G"). The last Para of the inquiry report (i.e. conclusion) is self explanatory.
- C. That the respondent has not considered the inquiry report and has passed the impugned orders which is against law/rules and facts, principles of natural justice and without any evidence.
- D. That the review/representation of the appellant was also not considered by the respondents, although these points were again highlighted by the appellant it.
- E. That none has spoken any word against the appellant nor any other illegality was found in the

project at the spot by the Inquiry Committee due to which the appellant was exonerated.

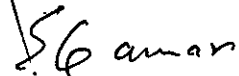
- F. *That the appellant seek the permission of this Honourable Tribunal to reply on additional grounds at the time of hearing in the light of documents if any produced by respondent department.*

It is requested that the appeal may please be accepted as prayed for.

Dated:- 18/05/2016


Appellant
Engineer Aurang Zeb

Through:-


Haji Sham Sul Qamar
Advocate, High Court,
Peshawar.

0301-8806554

18/5/2016



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the February 23, 2016

A
Page 6

ORDER:

No.SOE/C&WD/8-20/2014: WHEREAS, the following officers/officials of C&W Department were proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the alleged irregularities in the scheme "Construction of District Jail Hangu":

- i. Engr. Kifayatullah XEN (BS-18) the then XEN C&W Division Hangu now working as Project Director PaRRSA/USAID Directorate, Swat
- ii. Engr. Aurangzeb SDO (BS-17) the then XEN (OPS) C&W Division Hangu now working in FATA
- iii. Engr. Khurshid Iqbal SDO (BS-17) the then XEN (OPS) C&W Division Hangu now working as Assistant Research Officer RR&MT Lab, Battagram
- iv. Mr. Sanaulah Sub Engineer (BS-16) the then SDO (OPS) C&W Sub Division Hangu now working in FATA
- v. Mr. Muhammad Abid SDO (BS-17) C&W Sub Division Hangu
- vi. Mr. Ejaz Rasool Sub Engineer (BS-11) the then Sub Engineer C&W Division Hangu now working as Sub Engineer O/O XEN C&W Division Abbottabad
- vii. Mr. Sultan Mehmood Sub Engineer (BS-11) O/O XEN C&W Division Hangu
- viii. Mr. Shabir Ahmad Sub Engineer (BS-11) O/O XEN C&W Division Hangu
- ix. Mr. Saeedullah Sub Engineer (BS-11) O/O XEN C&W Division Hangu

2. AND WHEREAS, for the said act of misconduct they were served charge sheets/statement of allegations.

3. AND WHEREAS, an inquiry committee comprising of Mr. Muhammad Anwar Khan Director Food Department, Peshawar and Engr. Rehmat Ali Superintending Engineer PHE Department was constituted, who submitted the inquiry report:

4. NOW THEREFORE, the Competent Authority after having considered the charges, material on record, inquiry report of the inquiry committee, explanation of the officers/officials concerned, in exercise of the powers under Rule-14(5)(ii) of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose the minor penalty of "Withholding of one increment for two years" upon the aforementioned officers/officials.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

Kamar
Advocate

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Accountant General, PR (sub office) Peshawar.
3. Secretary Admn, Infrastructure & Coord Deptt, FATA, Sectt, Warsak Road, Peshawar
4. Chief Engineer FATA W&S Peshawar
5. Chief Engineer (Centre) C&W Peshawar
6. Chief Engineer (East) Abbottabad
7. Project Director PaRRSA/USAID Directorate Swat
8. Superintending Engineer C&W Circle Kohat/Battagram/Abbottabad
9. Executive Engineer C&W Division Hangu/Abbottabad
10. District Accounts Officer Hangu/Battagram/Swat/Abbottabad
11. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
12. PS to Secretary, C&W Peshawar
13. Officers/officials concerned
14. Office order File/Personal File

Uman
(USMAN JAN)
SECTION OFFICER (Estab)



Regd.

Annex B

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-20/2014
Dated Peshawar, the May 02, 2016

Page 7

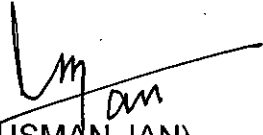
TO

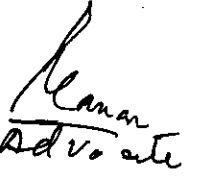
Engr. Aurangzeb
Executive Engineer (OPS)
C&W FATA Division FR Peshawar/Kohat

Subject: REVIEW PETITION AGAINST THE PENAL ORDER BEARING NO. SOE/C&WD/8-20/2014 DATED 23-02-2016 C&W DEPARTMENT (WITHHOLDING OF ONE INCREMENT FOR TWO YEARS) ON ACCOUNT OF ALLEGED IRREGULARITIES IN THE SCHEME "CONSTRUCTION OF DISTRICT JAIL HANGU"

I am directed to refer your appeal/representation dated 10.03.2016, which was examined and submitted to the Competent Authority (Chief Minister). The Competent Authority has rejected your appeal/representation.

2. You are hereby informed accordingly.


(USMAN JAN)
SECTION OFFICER (Estb)


Aman
Advocate

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar

SECTION OFFICER (Estb)

CHARGE SHEET

Annex e
Page 8

Whereas, I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa, as Competent Authority, charge you Engr. Aurangzeb Assistant Engineer (BS-17) C&W Department; presently working as Assistant Engineer O/O CE (CDO) C&W Peshawar.

"That you while posted as XEN (OPS) C&W Division Hangu, committed the following irregularities in the scheme "Construction of District Jail Hangu":

- i. You made payments to the contractor amounting to Rs.0.625815 million in advance, which were not executed at site, thus you rendered yourself liable to be proceeded against on account of referred advance payments.
 - ii. You incurred irregular expenditure without technical sanction of the scheme thus you violated Para 2.4 of B&R Code, Para 178(ii) of General Financial Rules (GFR)
 - iii. You allowed execution of substandard work and made payments for the same".
2. By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 ibid.
3. You are, therefore, required to submit your written defence within ten (10) days of the receipt of this charge sheet to the inquiry Officer/Committee.
4. Your written defence, if any, should reach the Inquiry Officer/ Committee within specified period, failing which it shall be presumed that you have no defence to make and in that case exparte action shall be taken against you.
5. The Statement of Allegations is enclosed.

(Pervez Khattak)
Chief Minister
Khyber Pakhtunkhwa

10/04/2015

Pervez Khattak
Ad. Vocate

DISCIPLINARY ACTION

Annex D

Page 1

I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Engr. Aurangzeb Assistant Engineer (BS-17) C&W Department; presently working as Assistant Engineer O/O CE (CDO) C&W Peshawar 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 (Efficiency & Discipline) Rules, 2011:

STATEMENT OF ALLEGATIONS

"That he while posted as XEN (OPS) C&W Division Hangu, committed the following irregularities in the scheme "Construction of District Jail Hangu":

- i. He made payments to the contractor amounting to Rs.0.625815 million in advance, which were not executed at site, thus he rendered himself liable to be proceeded against on account of referred advance payments.
- ii. He incurred irregular expenditure without technical sanction of the scheme thus he violated Para 2.4 of B&R Code, Para 178(ii) of General Financial Rules (GFR)
- iii. He allowed execution of substandard work and made payments for the same".

2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/inquiry committee, consisting of the following, is constituted under rule 10(1)(a) of the ibid rules:-

- i. Mr. Aurangzeb Assistant Engineer (BS-17)
- ii. Engr. Pervez Khattak Chief Minister

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 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.

(Pervez Khattak)
Chief Minister
Khyber Pakhtunkhwa

04/04/2015

Pervez Khattak
Advocate



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-20/2014
Dated Peshawar, the May 20, 2015

TO

1. Mr. Muhammad Anwar Khan (PMS BS-19)
Director Food Department, Peshawar
2. Engr. Rehmat Ali (BS-19)
Superintending Engineer
PHE Department

Annex E
Page 10

Subject: INQUIRY INTO UNDER CONSTRUCTION DISTRICT JAIL HANGU

I am directed to refer to the subject noted above and to state that the Competent Authority (Chief Minister) has been pleased to appoint you as inquiry committee to conduct formal inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in the subject case against the following officers/officials of C&W Department:

Sl.No.	Name	Sl.No.	Name
1	Engr. Aurangzeb Khan the then XEN C&W Division Hangu now working as Assistant Design Engineer O/O CE (CDO) C&W Peshawar	2.	Engr. Khurshid Iqbal the then XEN C&W Division Hangu now working as Assistant Research Officer RR&MT Lab O/O SE C&W Circle Battagram
3.	Engr. Kifayatullah the then XEN C&W Division Hangu now working as XEN C&W Division Shangla	4.	Mr. Sanaullah the then SDO C&W Division Hangu now working as SDO (OPS) C&W Sub Division Lakki Marwat
5.	Mr. Muhammad Abid SDO C&W Division Hangu	6.	Mr. Ejaz Rasool the then Sub Engineer C&W Division Hangu now working as Sub Engineer O/O XEN Provincial Building (Construction) Division No.1, Peshawar
7.	Mr. Sultan Mehmood Sub Engineer C&W Division Hangu	8.	Mr. Faiz Muhammad Faiz SDO (OPS) C&W Division Hangu
9.	Mr. Shabir Ahmad Sub Engineer C&W Division Hangu	10.	Mr. Saeedullah Sub Engineer C&W Division Hangu

2. Copies of the charge sheets and statement of allegations duly signed by the Competent Authority (Chief Minister) are enclosed, with the request to serve these upon the above mentioned accused officers/officials and initiate proceedings against them under the provision of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and submit report within 30 days positively.

Ham
Advocate

Encl: As above

(USMAN JAN)
SECTION OFFICER (ESTT)

PTO

P-11

Endst even No. & date

Copy forwarded to the:

1. Chief Engineer (Centre) C&W Peshawar. He is requested to ~~depute an officer~~ well conversant with the case to assist the inquiry committee and provide ~~best~~ all relevant record required by the inquiry committee.
2. Superintending Engineer C&W Circle Kohat
3. Executive Engineer C&W Division Hangu
4. Copy along-with copy of the charge sheet/statement of allegations is forwarded to the following officers/officials with the direction to appear before the inquiry committee on the date, time and place fixed for the purpose of inquiry proceedings:

<u>Sl.No.</u>	<u>Name</u>	<u>Sl.No.</u>	<u>Name</u>
1	Engr. Aurangzeb Khan Assistant Design Engineer O/O CE (CDO) C&W Peshawar	2.	Engr. Khurshidi Iqbal Assistant Research Officer RR&MT Lab O/O SE C&W Circle Battagram
3.	Engr. Kifayatullah XEN C&W Division Shangla	4.	Mr. Sanaullah SDO (OPS) C&W Sub Division Lakki Marwat
5.	Mr. Muhammad Abid SDO C&W Division Hangu	6.	Mr. Ejaz Rasool Sub Engineer C/O XEN Provincial Building (Construction) Division No.1, Peshawar
7.	Mr. Sultan, Mehmood Sub Engineer C&W Division Hangu	8.	Mr. Faiz Muhammad Faiz SDO (OPS) C&W Division Hangu
9.	Mr. Shabir Ahmad Sub Engineer C&W Division Hangu	10.	Mr. Saeedullah Sub Engineer C&W Division Hangu

Im
SECTION OFFICER (ESTT)

He an
Advocate

To

The Inquiry Officer/Committee

Subject:

INQUIRY INTO UNDER CONSTRUCTION JAIL HANGU.

Reference:

Secretary to Government of KP C&W Department Peshawar letter
No. SOE/C&WD/8-20/2014 dated 20.5.2015.

Sir,

The requisite parawise explanation to charges leveled against me is as
under please :-

1. That the payment of Rs. 625815/- was authorized by me as Executive Engineer on submission of work done bill by the Sub Divisional Officer duly certified quality & quantity by him and entered in the measurement Book by the Sub Engineer incharge. The Executive Engineer being executive officer of the Division has very less responsibility and authorized payment on the certificate of SDO and Sub Engineer. More over as per CPWA Code all running payment will be considered as advance payment and will be adjusted in Final Bill. The work is still in running condition. However it has been noticed that the articles of the above payment misplace/damaged/lost during bomb blast as per FIR No.10 dated 4.1.2013 P.S City Hangu of Police against the Contractor and chowkidar . The missing items were however fixed again by the Contractor as already reported by the Executive Engineer, C&W Division Hanau vide his NO. 555/4-HG dated 25.2.2015(Copy of letter and FIR attached).
2. The scheme was in running condition when I was posted in C&W Division Hangu as Executive Engineer and my predecessor has made payment of work done. The Detailed cost estimate of the work was already submitted to higher ups in July 2010 for Technical Sanction but it took much time in finalization of the observation from time to time. However the Technical Sanction of the work was accorded by the Competent Authority after completion of all observation. I was posted as Executive Engineer for Short time of eight months. It is further mentioned that payment was also made on the work after my transfer from C&W Division Hangu. Since the Technical Sanction has been accorded therefore para 2.4 of B&R code , para 178(ii) of GFR fulfilled. In view of the position explained the undersigned has not violated the rules.(copy of Technical Sanction letter attached)
3. The work has been carried out as per C&W Specification during my incumbency but due to earth quake /bomb blast as mentioned in para 2 above the deficiency has resulted after my transfer . In this connection Material test from Laboratory was also conducted. But the report /record was wasted due to bomb blast in the office. I try to trace some copies from some other office and if succeeded photocopies of laboratory test report shall be produced before your honor. However for the same the contractor gave an undertaking that the deficiency shall be removed at his own risk

For my records

Annex F

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Annex
Ad. Vets

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and cost and later on the work was satisfactory done by the contractor as reported by my successor Xen: C&W Division Hangu(copy enclosed). If there is still deficiency in the work , then the same may be set right out of his Security Deposit as per his undertaking.

The undersigned has not violated any rules, and no financial loss receive to Government, hence it is requested that I may please be exonerated of the charges leveled against me.

(AURANGZEB)
ASSISTANT DESIGN ENGINEER
O/O CDO C&W PESHAWAR.
Former Xen: C&W Division,Hangu.

Aurangzeb
Advocate

INQUIRY REPORT

IRREGULARITIES COMMITTED IN THE SCHEME "UNDER CONSTRUCTION DISTRICT JAIL HANGU"

AUTHORIZATION: Section Officer (Establishment), C&W Department letter No.SOE/C&WD/8-20/2014 dated 20th May, 2015 (Flag-A)

FACTS:

We the undersigned have been appointed as Inquiry Committee vide C&W Department above quoted letter, to conduct formal inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011, in the subject scheme, against the following officers/officials of C&W Department, for the irregularities committed in "UNDER CONSTRUCTION OF DISTRICT JAIL HANGU".

S.No.	Name of accused	S.No.	Name of accused
1.	Engr. Aurangzeb Khan, the then XEN C&W Division Hangu now working as Assistant Design Engineer in the office of Chief Engineer (CDO) C&W Peshawar.	2.	Engr. Khurshid Iqbal then then XEN C&W Division Hangu now working as Assistant Research Officer RRMT Lab O/O SE C&W Circle Battagram.
3.	Engr. Kifayatullah the then XEN C&W Division Hangu now working as XEN C&W Division Shangla.	4.	Mr. Sanullah the then SDO C&W Division Hangu now working as SDO (OPS) C&W Sub-Division Lakki Marwat
5.	Mr. Muhammad Abid Sub-Divisional Officer C&W Division Hangu	6.	Mr. Ijaz Rasool the then Sub-Engineer C&W Division Hangu now working as Building (Construction) Division No.1 Peshawar.
7.	Mr. Sultan Mehmood, Sub-Engineer, C&W Division Hangu.	8.	Mr. Faiz Muhammad Faiz, SDO (OPS) C&W Division Hangu.
9.	Mr. Shabir Ahmad, Sub-Engineer C&W Division Hangu.	10.	Mr. Saeedullah Sub-Engineer C&W Division Hangu.

Phase-I of the scheme was reflected vide ADP No.420 (2008-2009), the administrative approval was accorded for Rs. 11.067 million vide Section Officer (Prison), Home & T.As Department bearing No.4/23-60 Prs:HD:09 Vol-J dated 19/2/2009.

The scheme "Construction of District Jail at Hangu" was again reflected in ADP at Sr. No.1022/80466 (2011-12) estimated cost of Rs.263.757 Million was approved by the PDWP, Administrative approval for the scheme was issued by the Home & Tribal Affairs Department for implementation of the scheme ADP No.408 (2010-2011) i.e. Construction of District Jail Hangu, 50% cost sharing basis with FATA at a revised cost of Rs.264.391 million dated 18/5/2011 and technical sanction was issued by the Chief Engineer (Centre) C&W Department vide No.386/2-CE dated 2/10/2014 for Rs.263.757 million (Flag-B). The Project is still in progress.

PROCEEDINGS

On receipt of C&W Department letter dated 20/5/2015, the Chief Engineer (Centre) C&W Department was asked to depute an officer well conversant with facts to assist the inquiry committee and provide all the relevant records required to the inquiry committee. The Chief Engineer (Centre) C&W Department further asked the Superintending Engineer, C&W Circle Kohat who deputed Mr. Riaz Khan, Sub-Divisional Officer Hangu as representative of the department for assisting and providing the record. Mr. Riaz Khan, Sub-Divisional Officer o/o C&W Division Hangu was asked to provide all the relevant record i.e. Administrative Approval, Technical Sanction, copies of vouchers, work orders and releases and other related documents vide letter No.01/G-15 dated 9/6/2015 (Flag-C), subsequently all the accused officers/officials were individually served with charge sheet/statement of allegations/statement of allegations vide letter of even No. dated 26/5/2015, with the directions to all the accused officers/officials to submit their written replies to the charge sheet/statement of allegations to the inquiry committee (Flag-D). In response they have submitted their written replies with attached documents to the charges leveled against them which may be perused (Flags- E, F, G, H, I, J, K, L, M & N respectively).

They were also summoned and provided opportunity of personal hearing properly as provided in the rules. The replies of all the accused officers/officials have been examined, the consolidated position of each individual charge-wise replies summary is given as under:-

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S.No.	Name of accused	Charge	Reply
1	2	3	4
1.	Engr. -urangzeb Khan, the then XEN C&W Division Hangu now working as Assistant Design Engineer in the office of Chief Engineer (CDO) C&W Pesnawar.	Charge No.I You made payments to the contractor amounting to Rs.0.625815 (M) in advance, which were not executed at site, thus he rendered himself liable to be proceeded against on account of referred advance payments.	Reply to Charge No.I It is important to mentioned here that I have not made advance payment to the contractor, as evident from the Executive Engineer, C&W Division Hangu letter No.555/4-Hg dated 25/2/2015 (Annex-I) which speaks that the work done, as per contractor statement, he and his Chowkidar was arrested in Bumb Blast by the Police, as per FIR on the basis of that there was no one on the work site, hence someone has stolen the articles of joinery and internal electrification, therefore, the contractor has then removed the remaining joinery/internal electrification in order to avoid its missing on the plea that the same will be re-fixed during handing/taking over of the building to Client Department. The Executive Engineer has further confirmed that before his arrival, the missing items of joinery/internal electrification has been done again by the contractor and the work as per directions of the department has been done, he further stated that the work was in progress and if there remain any further deficiency, the same will be set right through the contractor. As evident from the above para, the payment of Rs. 6,25,815/- for Joinery, internal electrification was authorized by the Incumbent Executive Engineer on the submission of work done bill by the Sub-Divisional Officer duly certified quality and quantity entered in the measuring book by the Sub-Engineer incharge, moreover, as per CPWA Code all running payments are considered as advance payment, which requires adjustment in final bill. The work is still in running condition, therefore, if any deficiency is found, will be removed. As per Executive Engineer report in his letter under reference the contractor, has given under taking on stamp paper (Annex-II), taking responsibility of shortcomings if any..
		Charge No.II. You incurred irregular expenditure without technical sanction of the scheme thus you violated Para 2.4 of B&R Code, Para 178 (ii) of GFR.	Reply to Charge No.II The scheme was in running condition and the undersigned was posted as Executive Engineer, C&W Division Hangu, my predecessor has made payment on the work done. The detail cost estimate of the work was submitted prior to my assumption of charge to the higher ups in July 2010, due to some observations it took much time in clearance of observations, however, the

Team Adv. etc

technical sanction had been accorded by the competent authority after fulfillment of all observations, the undersigned remained as Executive Engineer only for eight months and tried my best to obtain technical sanction. The payment was continued on the work even after my transfer from C&W Division Hangu, now the technical sanction had been accorded vide letter dated 21/10/2014 (Annex-III), therefore the charge leveled against me has already been absolved.

Charge No.III.
You allowed execution of substandard work and made payments for the same.

Reply to Charge No.III
Execution of Sub-Standard work
As evident from the Executive Engineer, C&W Division Hangu letter dated 25/2/2015 already annexed, addressed to Superintending Engineer, C&W Circle Kohat which was further transmitted to the Chief Engineer and higher ups in which it was categorically mentioned that the deficiency as pointed out has been removed through the contractor being on-going scheme, if any deficiency/sub-standard work found it will further be removed through the contractor, therefore, the work done during my incumbency was carried out in according to CPWA code & C&W Specification. The report of Executive Engineer concerned was forwarded to the Superintending Engineer, Chief Engineer and others, the Chief Engineer is the technical sanctioning authority of the government who forwarded the Executive Engineer report to the C&W Department, which transpires that the work is in accordance to the specification of CPWA Code C&W Department, therefore, the undersigned cannot be counted for the charge which is found baseless, required to be withdrawn. It is further added that the undersigned during my incumbency after proper material tests from Laboratory and as per CPWA specification carried out the work, however, as mentioned in the FIR with regard to Earth Quake/bomb blast which was occurred in the Executive Engineer office after my transfer, the lab tests etc available record was destroyed from the office, the contractor had given undertaking that any deficiency /observations of the department if found will be removed with satisfaction of the department before handing/taking over the building to the client department.

Meamra
Advocate

2 Engr. Khurshid Iqbal then the XEN C&W Division Hangu now working

Charge No.I
You made payments to the contractor amounting to Rs.0.111939 (M) in advance.

Reply to Charge No.I
The officer replied that the works worth Rs.59,19,304/- (39,97,455,839) had been executed, measurement and check

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<p>as Assistant Research Officer RR/MT Lab/O/O SE C&W Circle Battagram</p>	<p>which were not executed at site, thus he rendered himself liable to be proceeded against on account of referred advance payments.</p>	<p>measurement by Sub-Engineer, SDO respectively and the then XEN. The measured work had already been passed by the then XEN C&W Division Hangu vide voucher No. 1-8 dated 4/3/2013 as 9th running account bill attached as Annex-A. In which an amount of Rs.39,87,465/- (including Rs.3,35,616/- for internal electrification of category-III residence) had been withheld from contractor due to non-availability of funds. After taking over the charge by him as XEN C&W Division Hangu reproduced the same passed bill fulfilling all codal formalities simply for releasing the withheld amount of 9th Account Bill. Copy of 10th running account bill attached as Annex-B. the outstanding amount against him had also been recovered. Copy attached as Annex-C.</p>
	<p>Charge No.II You incurred irregular expenditure without technical sanction of the scheme thus you violated Para 2.4 of B&R Code, Para 178 (ii) of GFR.</p>	<p>Reply to Charge No.II The scheme 'construction of District Jail, Hangu (Phase-I) ADP No.420 (2008-09) was approved by PDWP and accorded administrative approval (AA) for amounting to Rs.161.667 million were issued. However, the scheme revised at a total cost of Rs.254.391 million by PDWP in its meeting held on 18/5/2011. The competent authority has accorded technical sanction for the subject work amounting to Rs.263.757 million vide Chief Engineer (Centre) letter No.386/2-CD dated 21/10/2014, copy attached at Annex-D. A note given at the end of Para 30 of CPWA Code states that "an audit observation is usually removed by obtaining the requisite sanction, by making the necessary recovery, by correcting or completing the relevant account or voucher, by furnishing necessary documents or information, or otherwise securing compliance with the provision of specified rules. Since the payment has been regularized by obtaining TS of the competent authority, therefore, the charges of unauthorized payment cannot be established at this stage in the light of the Para-30 of the CPWA Code</p>
	<p>Charge No.III You allowed execution of substandard work and made payments for the same.</p>	<p>Reply to Charge No.III In this regard it is clarified that he has served as XEN C&W Division Hangu for a short period of 06 months from 24/5/2013 to 22/10/2013. He has not authorized any payment against any substandard work during his short tenure. The payment against which he has been charged is the only release of the earlier authorized withheld amount by his predecessor. In light of above explanation he shall not be held responsible for execution of substandard work and also for payment of work not executed at site</p>

Alamin
Advocate

<p>Engr. Kiyatullah the then XEN C&W Division Hangu now working as XEN C&W Division Shangla.</p>	<p>Charge No.1 You incurred irregular expenditure without technical sanction of the scheme thus you violated para 2.4 of B&R Cod, Para 178(ii) of General Financial Rules (GFR) thus you rendered yourself liable to be proceeded against.</p>	<p>Reply to Charge No.1 My duty as XEN was to continue the ongoing projects and achieve the targets as fixed like other projects. The under construction jail project was in progress and more than 70% work completed as reflected in the progress report in the month of October, 2013 (photocopy of the progress pages attached as Annex-A). In the remarks column of the progress report it was clearly mentioned that TS estimate also submitted to SE C&W Circle Kohat vide XEN Hangu letter No.475/GHG dated 16/5/2013 (copy of XEN Hangu Letter attached as Annex-B) which clearly shows that divisional office has fulfilled before my posting as XEN Hangu more than 70% work was completed and payment also made to the contractor without technical sanction which has accorded before commencement of work. As work has to be kept continue to achieve the required targets for the financial year 2013-14 therefore, payment had to be made as per contract agreement clause 8 otherwise stoppage of payment may lead to complication and resultantly the contractor could stop the work if not been paid for the work done. During my tenure as XEN Hangu I personally persued TS estimate in circle office Kohat and Chief Engineer (Centre) office and approval accorded vide Chief Engineer letter No.386/2-CD dated 2/10/2014. copy of TS attached as Annex-C.</p>
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<p>Mr. Sanoolah the then SDO C&W Division Hangu now working as SDO (OPS) C&W Sub-Division Lakki Marwai</p>	<p>Charge No.1 You made payments to the contractor amounting to Rs.0.111939 million in advance, which were not executed at site, thus you rendered yourself liable to be proceeded against on account of referred advance payments.</p>	<p>Reply to Charge No.1 The work worth Rs.5919304 (3987465 +1931839) has been executed, measurement and check measurement by Sub-Divisional Officer respectively and the then Sub-Divisional Officer. The measured work has already been passed by the then Executive Engineer C&W Division Hangu vide voucher No.1-B dated 4/3/2013 on 9th running account bill attached as Annex-A, in which an amount of Rs.97,87,465 (including Rs.3,35,816- for internal electrification of Category-III Residence has been withheld from contractor due to non-availability of funds). After taken over the charge by him as Sub-Divisional Officer C&W Division Hangu reproduced the same passed bill fulfilling all codal formalities simply for releasing the withheld amount of 9th running account bill. Copy of 10th running Account bill attached as Annex-B. The outstanding amount against undersigned has also been recovered and work done at site.</p>
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	<p>Charge No.II You incurred irregular expenditure without technical sanction of the scheme thus you violated Para 2.4 of B&R Code, para 178 (ii) of General Finance Rules (GFR).</p>	<p>Reply to Charge No II The scheme 'Construction of District Jail, Hangu (Phase-I) ADP No.420(2008-09) was approved by PDWP and accorded administrative approval (AA) for amount of Rs.161.637 million. However, the scheme revised at a total cost of Rs.264.391 million by PDWP in its meeting held on 18/5/2011. The competent authority has been accorded Technical sanction for the subject work, amounting to Rs 263.757 million vide Chief Engineer (Centre) letter No.386/2-CD dated 2/10/2014. Copy attached as Annex-D. A note given at the end of para 30 of CPWA Code stated that "An audit observation is usually removed by obtaining the requisite sanction, by making the necessary recovery, by correcting or completing the relevant account or voucher, by furnishing necessary documents or information or otherwise securing compliance with the provision of specified rules, since the payment has been regularized by obtaining TS or unauthorized payment cannot be established at this stage in light of Para 30 of the CPWA Code.</p>
	<p>Charge No.III You allowed execution of substandard work and made payments for the same.</p>	<p>Reply to Charge No.III. In this regard it is clarified that I have served as Sub-Divisional Officer, C&W Division Hangu for a short period of 06 months from 21/5/2013 to 24/7/2013, I have not authorized any payment against any substandard work during the short tenure. The payment against which he has been charged is only the release of the earlier authorized withheld amount by his predecessor. In light of above explanation he should not be held responsible for execution of substandard work and also for payment of work not executed at site.</p>
<p>5. Mr. Muhammad Abid Sub-Divisional Officer, C&W Division H</p>	<p>Charge No.I You incurred irregular expenditure without technical sanction of the scheme thus you violated para 2.4 of B&R Cod. Para 178(ii) of General Financial Rules (GFR) thus you rendered yourself liable to be proceeded against.</p>	<p>Reply to Charge No.I That while he was posted as Sub-Divisional Officer Building Sub-Division No.2 Hangu during July 2013, the work was in progress and approximately completed 60%. The Technical sanction of the scheme was under process at that time and that the payment on account of work done was made to the contractor as per clause-8 of the contract agreement and after proper release of funds for the work. The technical sanction of the work has now been accorded for Rs.263.757 Million on 2/10/2014 and the incurred expenditure regularized hence para 2.4 of B&R Code Para 178(ii) of GFR fulfilled.</p>
<p>6. Mr. Ijaz Rasool the then Sub-Engineer C&W Division</p>	<p>Charge No.I You made payment to contractor amounting to</p>	<p>Reply to Charge No.I It is submitted that no advance payment was made at all and the work was correctly</p>

Hamza Advocate

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Raman
Advocate

Hangu now working as Building (Construction) Division No.1 Peshawar.	Rs.1,470913/- million in advance, which were not executed at site, thus you rendered yourself liable to be proceeded against on account of referred advance payment	measured according to the design and specification and recorded in the measurement book duly certified by the Sub-Divisional Officer concerned.
	Charge No II You incurred irregular expenditure without TS of the sanctioning of scheme thus you violated Para 2.4 of B&S Code, GFR Para 178(ii) of GFR.	Reply to Charge No.II The TS was under process for sanctioning of the competent authority and payment was made on the basis of PC-I cost as per Bill of Quantity/rates quoted.
	Charge No.III You allowed execution of sub standard work, made and payments for the same.	Reply to Charge No.III I did not allowed any sub-standard work and the work was executed according to design specification, duly certified by the Sub-Divisional Officer and the payment was allowed by the Executive Engineer. Some running accounts bills were measured and recorded in Measurement Book as the work was on going and still not finalized and handed over the charge to Saeed-Ullah Sub-Engineer for continuing.
7 Mr. Sultan Mehmood, Sub-Engineer C&W Division Hangu.	Charge No.I You made payment to contractor amounting to Rs.1.922616 million in advance, which were not executed at site, thus you rendered yourself liable to be proceeded against on account of referred advance payment	Reply to Charge No.I That he has been posted in C&W Division Hangu as Sub-Engineer on 01/04/2011 while the work was in progress and 60% completed. The payment of Rs.1.9226 Million has not been made to the contractor but when he took over charge of the Building 1 he exercised the checking of running payment and recovered/adjusted all advance payment in the subsequent bill.
	Charge No.II You incurred irregular expenditure without TS of the sanctioning of scheme thus you violated Para 2.4 of B&S Code, GFR Para 178(ii) of GFR.	Reply to Charge No.II As explained in Para 1, the work was in progress before his incumbency and the Technical Sanction of the work for Rs.263.757 Million has been accorded on 02/10/2014 and the incurred expenditure regularized. Hence Para 2.4 of B&R Code, Para 178 (ii) of GFR fulfilled.
	Charge No.III You allowed execution of sub standard work made and payments for the same	Reply Charge No.III No substandard work has been allowed by him and instead such work where noticed has been rectified through contractor at his risk and cost
8 Mr. Faiz Muhammad Faiz SDO (OPS, C&W Division Hangu.	Charge No.I You changed the design of outer parameter wall watch tower from wall bearing structure to frame structure. You have also changed the outer parameter wall thickness from 13.5" to 18" without addition of buttresses at interval.	Reply to Charge No.I The outer compound wall was completed before his tenure and no payment made by him.
	Charge No.II Initially the package 2 06 Nos	Reply to charge No.II 08 Nos barracks were completed and 03

Manoj Advocate

	for 60 prisoners each was thus to accommodate a total of 360 prisoners, in which 02 Nos Baracks have been constructed for 60 prisoners basis, whereas 08 Nos Baracks have been constructed for 20 Prisoners each and 04 Nos. Barracks for 20 prisoners yet to be constructed without approval, thus ultimately increased the quantities..	Nos were paid upto 7 ft (Door level) before his tenure and duly included in approved Revised PC-I/Detailed cost Estimate and as well as in Technical sanction estimate.
	Charge No.III In PC-I, 7 Nos of type-V quarters have been approved whereas at site 08 Nos. type-V quarters have been constructed, such deviation from approved scope without approval from competent forum is irregular and against the contract documents clause-11 of CPW Code.	Reply to Charge No.III No payment made by him as already paid by others. However it is approved in Revised PC-I/Detailed Cost Estimate and as well as in Technical sanction estimate.
9	Mr. Shabr Ahmad, Sub-Engineer C&W Division Hangu. Charge No.I You changed the design of outer parameter wall watch towers from wall bearing structure to frame structure. You have also changed the parameter wall thickness from 13.5" to 18" with addition at buttresses at interval.	Reply to Charge No.I That he has been posted in C&W Division Hangu as Sub-Engineer during December 2010 and the project was remained on his charge only for two months and neither watch tower has been constructed under his supervision nor any payment made. The work of parameter wall was already completed 50% before his tenure. The parameter wall was in progress with 18" thickness as per attached drawing/design when the charge of Project was entrusted to him. It was not possible for him to come back to 13.5" thickness in view of Security problem. The thickness of the wall has been started/constructed as per approved drawing/design by the competent authority before taking over charge of the Project hence the responsibility of the same does not rest to him.
	Charge No.II Initially the package 2, 06 Nos for 60 prisoners each was thus to accommodate a total of 360 prisoners, in which 02 Nos Baracks have been constructed for 60 prisoners basis, whereas 08 Nos Baracks have been constructed for 20 Prisoners each and 04 Nos. Barracks for 20 prisoners yet to be constructed without approval, thus ultimately increased the quantities.	Reply to Charge No.II The barracks were already completed 95% when the charge of Project was again entrusted to him during November 2014 and remain in his charge for one Month only. Only finishing touches was made during his incumbency to these 3 Nos Barracks. Hence the charges leveled against him is not correct
	Charge No.III. In PC-I, 7 Nos of type-V quarters have been approved whereas at site 08 Nos. type-V	Reply to Charge No.III The Quarters (Type-V) have also not been started during his incumbency and completed before his tenure and no work

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		quarters have been cons ructed, such deviation from approved scope without approval from competent forum is irregular and against the contract documents clause-11 of CPW Code.	has been executed in the quarter in his supervision.
10	Mr. Saeedullah Sub-Engineer C&W Division Hangu.	Charge No.I You changed the design of outer parameter wall watch towers from wall bearing structure to frame structure. You have also changed the parameter wall thickness from 13.5" to 18" with addition at buttresses at interval.	Reply to Charge No.I That I have been posted in C&W Division Hangu as Sub-Engineer during March 2011 and the watch tower has been constructed after my transfer on detailment basis to C&W Division Kohat during May 2012. The undersigned neither execute the watch tower nor change the design of watch tower. During my incumbency I have completed the remaining some portion of under construction parameter wall by 5 to 6 feet and 8-1/2 feet and completed the work as per approved height and design with 18" thickness as previous work done was already carried out with the same thickness i.e. 16". The thickness of the wall has been started /constructed as per approved drawing/design before taking over charge of the project by the undersigned hence the responsibility of the same does not rest to me.
		Charge No.II Initially the package 2, 06 Nos for 60 prisoners each was thus to accommodate a total of 360 prisoners, in which 02 Nos Barracks have been constructed for 60 prisoners basis, whereas 08 Nos Barracks have been constructed for 20 Prisoners each and 04 Nos. Barracks for 20 prisoners yet to be constructed without approval, thus ultimately increased the quantities.	Reply to Charge No.II The barracks were not started during my incumbency. The 5 Nos Baraks (2 No for 60 prisoners and 3 Nos for 20 prisoners) were already completed 90% before my tenure. Only finishing touches was made during my incumbency to these 5 Nos Barracks. The remaining barracks have been constructed after my transfer from the C&W Division Hangu to C&W Division Kohat hence the charges leveled against me is not correct.
		Charge No.III In PC-I, 7 Nos of type-V quarters have been approved whereas at site 08 Nos. type-V quarters have been constructed, such deviation from approved scope without approval from competent forum is irregular and against the contract documents clause-11 of CPW Code.	Reply to Charge No.III. The quarters (Type V) have also not been started during my incumbency and completed before my tenure. Hence the charges of deviation from approved scope do not pertain to me.

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Kumar
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FINDINGS

During the proceedings of the inquiry and while examining the charges leveled against the officers/officials and replies thereof of all the accused and their personal explanation during the personal hearing held before the inquiry committee and consequent upon the visit/inspection of the members of the inquiry committee to the project, it was found that the project under inquiry i.e. Construction of District Jail Hangu is still in progress and is on-going the so called irregularities are in general practice of the Works Department; all payments are considered as advance payments under CPW Code and GFR, the contractor is responsible for any

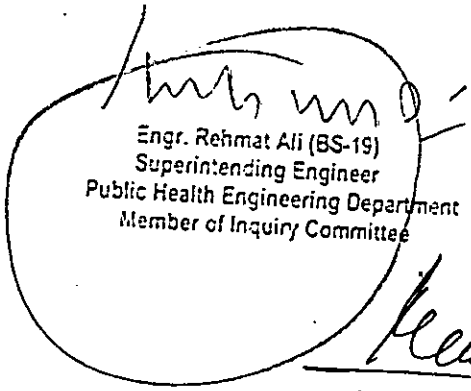
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deficiencies/shortcomings arisen during the construction work, the supervising staff held responsible to ensure the quality/specification of the project work, which had been done to their entire efforts during execution of the project. The expenditure shown as advance payment without technical sanction has been regularized by obtaining technical sanction of the revised administrative approval cost of the project. The expenditure shown in advance mentioned in the charge sheet, statement of allegations had been regularized by the department in to-to. It is further mentioned that the C&W Department is the executing agency whereas the Client Department is prison department, any deviation during the construction from the approved PC-I are being made by the project in charge officer/officials as per requirements of the Client Department, which has been regularized through Revised Administrative Approval (RADA) sanction of estimated cost of the project. Lab tests were properly carried out through Engineering Officers.

CONCLUSION

The inquiry committee after ~~examining~~ ^{through} examining the record of the divisional office, charges leveled in the charge sheet/statement of allegation against the accused officers/officials, replies thereof to the charge sheet/statement of allegations is of the considerable view that since technical sanction has been accorded by the competent authority, the work was executed as per requirement of the Client Department, being running project, any shortcomings/deficiencies can be removed by the supervisory staff of the project, before the completion of the project, resultant; the charges leveled against all the accused cannot be attributed to be proved against any one, as all advance payments in the running projects are considered as advance payments as per para 224 (b) CPWA Code Vol-III and 144, are required to be regularized by subsequent action to be taken in the on going scheme/Project (Flag-O).


Mr. Muhammad Anwar Khan
(PMS BS-19) Director Food Department
Member of Inquiry Committee


Engr. Rehmat Ali (BS-19)
Superintending Engineer
Public Health Engineering Department
Member of Inquiry Committee


Advocate



Annexure #

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-20/2014
Dated Peshawar, the October 05, 2015

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TO

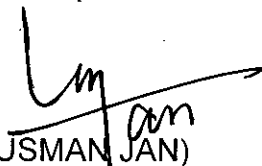
Engr. Aurangzeb ✓
Assistant Engineer
Presently working in FATA
C/O CE FATA W&S Peshawar

Subject: INQUIRY INTO UNDER CONSTRUCTION DISTRICT JAIL HANGU

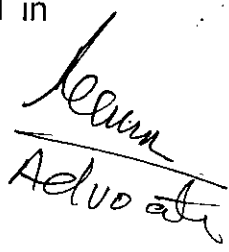
I am directed to refer to the subject noted above and to enclose herewith two copies of the show cause Notice containing tentative minor penalty of "withholding of one increment for two years" along-with inquiry report conducted by Mr. Muhammad Anwar Khan Director Food Department, Peshawar and Engr. Rehmat Ali Superintending Engineer PHE Department and to state that the 2ND copy of the show cause Notice may be returned to this Department after having signed as a token of receipt immediately.

2. You are directed to submit your reply, if any, **within 7 days of the delivery of this letter**, otherwise, it will be presumed that you have nothing to put in your defence and ex-party action will follow.

3. You are further directed to intimate whether you desire to be heard in person or otherwise.


(USMAN JAN)

SECTION OFFICER (Estb)


Advocate

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar

SECTION OFFICER (Estb)

SHOW CAUSE NOTICE

I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Engr. Aurangzeb Assistant Engineer (BS-17) C&W Department; presently working as Assistant Design Engineer O/O CE (CDO) C&W Peshawar as follows.

1. (i) that consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing; and
- ii) On going through the conclusion of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee;

I am satisfied that you while posted as XEN (OPS) C&W Division Hangu, committed the following irregularities in the scheme "Construction of District Jail Hangu":

- i. You made payments to the contractor amounting to Rs.0.625815 million in advance, which were not executed at site, thus you rendered yourself liable to be proceeded against on account of referred advance payments.
- ii. You incurred irregular expenditure without technical sanction of the scheme thus you violated Para 2.4 of B&R Code, Para 178(ii) of General Financial Rules (GFR)
- iii. You allowed execution of substandard work and made payments for the same".

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of "Withholding of one increment for two years" under Rule 4 of the said rules.

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

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

5. A copy of the findings of the inquiry officer is enclosed.

Pervez Khattak
(Pervez Khattak)
Chief Minister
Khyber Pakhtunkhwa
29/9/15
-108/2015-

P. 25
attested
Munir
A. No. 10

Anwar

BEFORE THE HONOURABLE CHIEF MINISTER,
KHYBER PAKHUNKHWA, PESHAWAR.

Subject: EXPLANATION TO THE SHOW CAUSE
NOTICE SERVED UPON THE
UNDERSIGNED VIDE SO (ESTB) NO
SO/E/C&W/8-20/2014 DATED
OCTOBER 05,2015.

P-26

Sir,

It is respectfully submitted as under:-

That the undersigned was posted as Executive Engineer, C&W Division Hangu for a short period and the work "Construction of District Jail" at Hangu was already in progress. During that time terrorist activities at Hangu was a great terror for civil servants and terrorists even did not spare under construction Jail building and on 04/01/2013, exploded the same which is supported by FIR No 10, Dated 04/01/2013 u/s 3/4 Exp Sub Act/427 P.P.C/7 ATA, Police Station City Hangu. Copy of which is available on the enquiry report. The life of civil servants at Hangu was also not safe. However, I have worked as XEN Hangu honestly and fearlessly.

Advocate

As regard the allegations mentioned in the show cause notice it is submitted that I have not committed any irregularity in the scheme, nor have made any advance payment.

It is also submitted that the last Para of the enquiry report is very clear and the inquiry committee has exonerated me of the charges.

As extracted from the conclusion of enquiry report is as under:-

"That since technical sanction has been accorded by the competent authority, the work was executed as per requirement of client department (i.e. Jail Department) having running project any short comings deficiencies can be removed by the supervisory staff of the project before the completion of the project resultantly the charges levelled against all the accused cannot be attributed to be proved against any one".

*Aurangzeb
Advocate*

It is therefore, humbly prayed that I may please be exonerated and the show cause notice may please be filed in the light of the finding of the enquiry committed and keeping in view my long services.

It is also submitted that the authorities have also submitted a certificate to that effect that the work was done according to quantity and quality.

It is also requested that I may please be given an opportunity of personal hearing to explain the position.

Dated:-

Sdf
Aurangzeb
Assistant Engineer,
Now C/O CE FATA W&S
FATA.

Annex - J,

**BEFORE THE CHIEF MINISTER, KHYBER PAKHTUNKHAWA,
PESHAWAR.**

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Through:- Proper Channel

Subject:- REPRESENTATION AGAINST THE
ORDERS ISSUED VIDE NOTIFICATION
NO SOE/C&W/8-20/2014 DATED
23/02/2016 VIDE WHICH THE
PENALTY OF WITHHOLDING OF ONE
INCREMENT FOR TWO YEARS WAS
IMPOSED UPON THE APPLICANT
(ANNEXURE-"A").

Prayer:

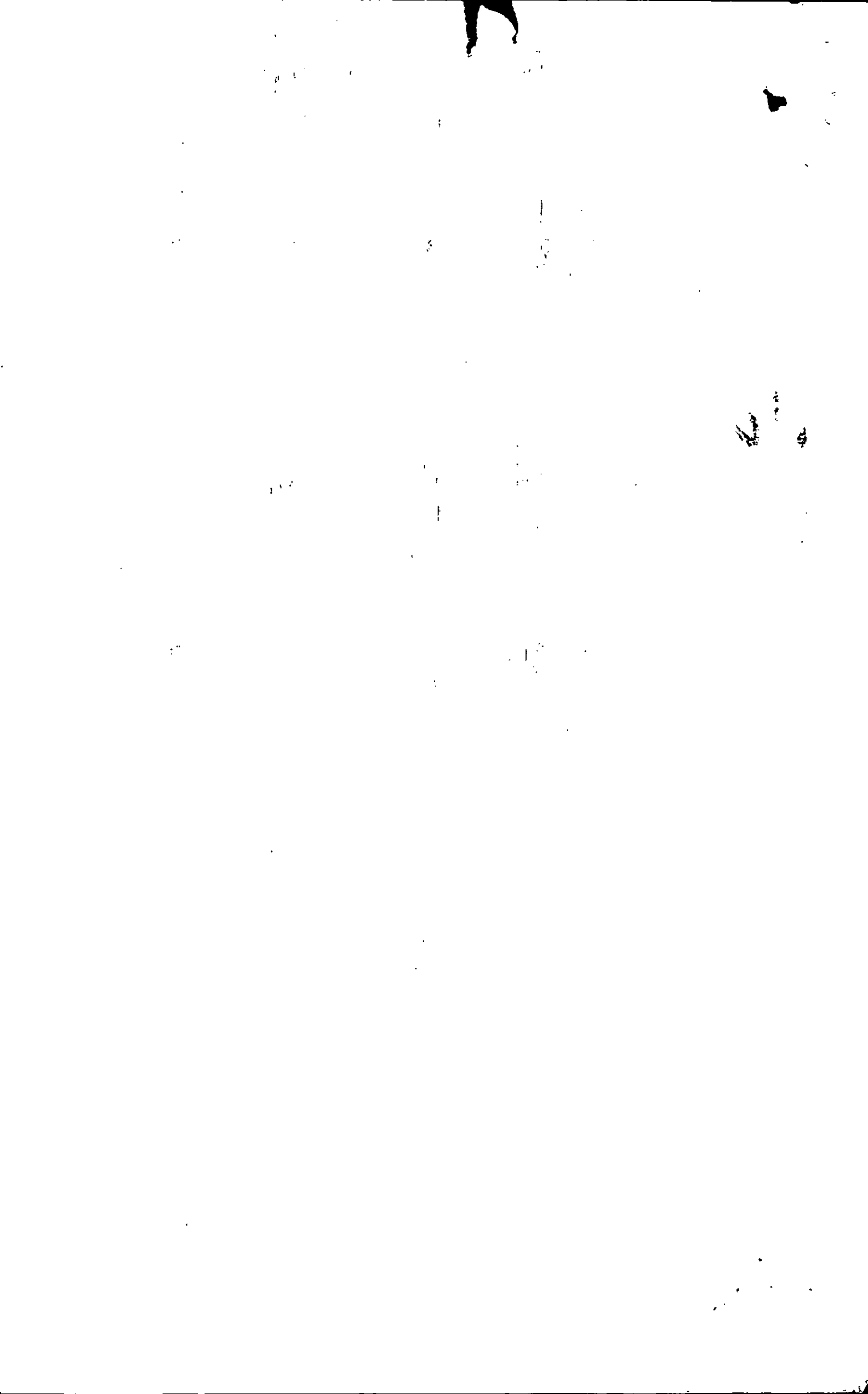
That the penalty may please be considered against the law, rules and principles of natural justice and may please be set aside.

Sir,

1. That the applicant was earlier serving as XEN (OPS), C&W Division, Hangu.
2. That some irregularities was allegedly committed in the scheme constitution of District Jail, Hangu.
3. That in this connection besides others, a charge sheet was also served upon the applicant and inquiry committee consisting of Mr. Muhammad Akram Khan, PMS-19, Director Food Department and Engineer Rehmat Ali BPS-19, S.E, Public Health Engineering Department was constituted for conducting departmental inquiry.

Muhammad
Azhar ali

10/3/16



4. That the committee conducted inquiry and submitted its findings.

Page 29

5. That the relevant portion regarding the findings of the committee is as under:-

"That since Technical Sanction has been accorded by the Competent Authority, the work was executed as per requirement of clients departmental being running project, any short comings/deficiencies can be removed by the supervising staff of the project before the completion of the projects, resultantly the charges leveled against the accused cannot be attributed to be proved against any one, as advance payments in the running project are considered as advance payment as per 224 (b) CPWA Code Vol-III are required to be regularized by subsequent action to be taken in the ongoing scheme. (Copy of inquiry reports is annexed "B").

*Alum
Advocate*

6. That a final show cause notice was served upon the applicant to which explanation was submitted accordingly.

7. That now the above noted penalty has been imposed upon the applicant which is against law, rules and principles of natural justice.
8. That in the light of inquiry report the applicant is innocent and not responsible for any misconduct.
9. That the applicant is a senior most official and the said penalty may damage the future of the applicant.

It is therefore, humbly prayed that the orders may please be reconsidered in the light of the findings of the inquiry committee, and may please be set aside and the applicant be exonerated.

Plum
Advocate

10.03.2016
Dated:- 04/03/2016

Your Sincerely

Aurangzeb
Aurangzeb
SDO (BPS-17)
Now XEN (OPS)
C&W, FATA
FR Peshawar/Kohat.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 557 OF 2016

Engr. Aurangzeb
XEN (OPS) C&W FATA Division
FR Peshawar/Kohat

--- Appellant

VERSUS

1. Govt of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar --- Respondents
2. Secretary to Govt of Khyber Pakhtunkhwa
C&W Department, Peshawar

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2

Respectfully Sheweth

Preliminary Objections

1. That the appeal is not maintainable in its present form.
2. That the appellant has no cause of action and locus standi.
3. That the appeal is time barred.
4. That the appeal is liable to be rejected on ground of non-joinder of necessary and mis-joinder of unnecessary parties
5. That the appellant is estopped by his own conduct to file the instant appeal

Facts

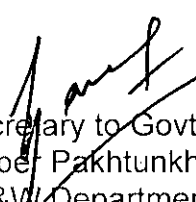
1. As per record
2. As per record
3. Incorrect. Formal inquiry was conducted through inquiry committee under E&D Rules, 2011. Proper charge sheet & statement of allegations were served upon the officers / officials, including the appellant (**Annex-I**).
4. Incorrect. The report has been examined by the Department and observed that technical sanction was not accorded before commencement of the subject scheme, thus they violated Para 2.4 of B&R Code, Para 178(ii) of General Financial Rules (GFR). Moreover as per conclusion of the report that any shortcomings/deficiencies can be removed by the supervisor staff of the project, before the completion of the project, meaning by the accused have made advance payment to the contractor. The C&W Department is of view that a minor penalty of "withholding of one increment for two years" may be imposed upon all the accused officers/officials.
5. Incorrect, the reply to the charge sheet/statement of allegations is a requirement under the law.
6. Incorrect, as explained in para-4 of the facts.

7. His reply to the show cause notice was dealt with as per rules.
8. Correct. He was issued a penalty after charges leveled against him were proved.
9. Correct to the extent that appellant review petition was processed and regretted by the Competent Authority.
10. Pertains to appellant request to the Service Tribunal.

Grounds

- A. Incorrect, the charges leveled against the appellant were properly inquired and were proved against him as per para-3 of the facts and penalty order is in accordance with law.
- B. Incorrect and mis-conceive, all relevant rules have been followed and action taken are within the prescribed law as explained in para-3 of the facts.
- C. Incorrect, there is no mala-fide, no discrimination and no violation of rights of the appellant, the instant inquiry was processed against the appellant according to law and rules.
- D. Incorrect. His review appeal was processed properly.
- E. Incorrect, the appellant was involved in the irregularity as he associated with the project and all the matters were carried out in accordance with relevant rules and law, and with the approval of the Competent Authority.
- F. The respondents seek permission of this Hon'able Tribunal to relay additional grounds at the time of arguments.

In view of the above, it is humbly prayed that the instant appeal may kindly be dismissed with cost.


Secretary to Govt of
Khyber Pakhtunkhwa
C&W Department
(Respondents No. 1 & 2)

Annex-I

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GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-20/2014
Dated Peshawar, the May 20, 2015

TO

1. Mr. Muhammad Anwar Khan (PMS BS-19)
Director Food Department, Peshawar
2. Engr. Rehmat Ali (BS-19)
Superintending Engineer
PHE Department

Subject: INQUIRY INTO UNDER CONSTRUCTION DISTRICT JAIL HANGU

I am directed to refer to the subject noted above and to state that the Competent Authority (Chief Minister) has been pleased to appoint you as inquiry committee to conduct formal inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in the subject case against the following officers/officials of C&W Department:

Sl.No.	Name	Sl.No.	Name
1	Engr. Aurangzeb Khan the then XEN C&W Division Hangu now working as Assistant Design Engineer O/O CE (CDO) C&W Peshawar	2.	Engr. Khurshid Iqbal the then XEN C&W Division Hangu now working as Assistant Research Officer RR&MT Lab O/O SE C&W Circle Battagram
3.	Engr. Kifayatullah the then XEN C&W Division Hangu now working as XEN C&W Division Shangla	4.	Mr. Sanaulah the then SDO C&W Division Hangu now working as SDO (OPS) C&W Sub Division Lakki Marwat
5.	Mr. Muhammad Abid SDO C&W Division Hangu	6.	Mr. Ejaz Rasool the then Sub Engineer C&W Division Hangu now working as Sub Engineer O/O XEN Provincial Building (Construction) Division No.1, Peshawar
7.	Mr. Sultan Mehmoos Sub Engineer C&W Division Hangu	8.	Mr. Faiz Muhammad Faiz SDO (OPS) C&W Division Hangu
9.	Mr. Shabir Ahmad Sub Engineer C&W Division Hangu	10.	Mr. Saeedullah Sub Engineer C&W Division Hangu

2. Copies of the charge sheets and statement of allegations duly signed by the Competent Authority (Chief Minister) are enclosed, with the request to serve these upon the above mentioned accused officers/officials and initiate proceedings against them under the provision of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and submit report within 30 days positively.

Encl: As above

(USMAN JAN)
SECTION OFFICER (ESTT)

PTO

Endst even No. & date

Copy forwarded to the:

1. Chief Engineer (Centre) C&W Peshawar. He is requested to depute an officer well conversant with the case to assist the inquiry committee and provide them all relevant record required by the inquiry committee.
2. Superintending Engineer C&W Circle Kohat
3. Executive Engineer C&W Division Hangu
4. Copy along-with copy of the charge sheet/statement of allegations is forwarded to the following officers/officials with the direction to appear before the inquiry committee on the date, time and place fixed for the purpose of inquiry proceedings:

<u>Sl.No.</u>	<u>Name</u>	<u>Sl.No.</u>	<u>Name</u>
1	Engr. Aurangzeb Khan Assistant Design Engineer O/O CE (CDO) C&W Peshawar	2.	Engr. Khurshid Iqbal Assistant Research Officer RR&MT Lab O/O SE C&W Circle Battagram
3.	Engr. Kifayatullah XEN C&W Division Shangla	4.	Mr. Sanaulah SDO (OPS) C&W Sub Division Lakki Marwat
5.	Mr. Muhammad Abid SDO C&W Division Hangu	6.	Mr. Ejaz Rasool Sub Engineer O/O XEN Provincial Building (Construction) Division No.1, Peshawar
7.	Mr. Sultan, Mehmood Sub Engineer C&W Division Hangu	8.	Mr. Faiz Muhammad Faiz SDO (OPS) C&W Division Hangu
9.	Mr. Shabir Ahmad Sub Engineer C&W Division Hangu	10.	Mr. Saeedullah Sub Engineer C&W Division Hangu


SECTION OFFICER (ESTT)

CHARGE SHEET

Whereas, I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa, as Competent Authority, charge you Engr. Aurangzeb Assistant Engineer (BS-17) C&W Department; presently working as Assistant Engineer O/O CE (CDO) C&W Peshawar.

"That you while posted as XEN (OPS) C&W Division Hangu, committed the following irregularities in the scheme "Construction of District Jail Hangu":

- i. You made payments to the contractor amounting to Rs.0.625815 million in advance, which were not executed at site, thus you rendered yourself liable to be proceeded against on account of referred advance payments.
 - ii. You incurred irregular expenditure without technical sanction of the scheme thus you violated Para 2.4 of B&R Code, Para 178(ii) of General Financial Rules (GFR)
 - iii. You allowed execution of substandard work and made payments for the same".
2. By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 ibid.
3. You are, therefore, required to submit your written defence within ten (10) days of the receipt of this charge sheet to the Inquiry Officer/Committee.
4. Your written defence, if any, should reach the Inquiry Officer/ Committee within specified period, failing which it shall be presumed that you have no defence to make and in that case exparte action shall be taken against you.
5. The Statement of Allegations is enclosed.

(Pervez Khattak)
Chief Minister
Khyber Pakhtunkhwa

11/5/15
/04/2015

DISCIPLINARY ACTION

I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Engr. Aurangzeb Assistant Engineer (BS-17) C&W Department; presently working as Assistant Engineer O/O CE (CDO) C&W Peshawar 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 (Efficiency & Discipline) Rules, 2011:

STATEMENT OF ALLEGATIONS

"That he while posted as XEN (OPS) C&W Division Hangu, committed the following irregularities in the scheme "Construction of District Jail Hangu":

- i. He made payments to the contractor amounting to Rs.0.625815 million in advance, which were not executed at site, thus he rendered himself liable to be proceeded against on account of referred advance payments.
- ii. He incurred irregular expenditure without technical sanction of the scheme thus he violated Para 2.4 of B&R Code, Para 178(ii) of General Financial Rules (GFR)
- iii. He allowed execution of substandard work and made payments for the same".

2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/inquiry committee, consisting of the following, is constituted under rule 10(1)(a) of the ibid rules:-

- i. Mrs. Anwar Begum (M.A. BS-17)
- ii. Mrs. Anwar Begum (M.A. BS-17)

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 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.

(Pervez Khattak)
(Pervez Khattak)
Chief Minister
Khyber Pakhtunkhwa

11/5/15
104/2015

Annex-II

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INQUIRY REPORT

SUBJECT: IRREGULARITIES COMMITTED IN THE SCHEME "UNDER CONSTRUCTION DISTRICT JAIL HANGU"

AUTHORIZATION: Section Officer (Establishment), C&W Department letter No.SOE/C&WD/8-20/2014 dated 20th May, 2015 (Flag-A)

FACTS: We the undersigned have been appointed as Inquiry Committee vide C&W Department above stated letter, to conduct formal inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Act 2011, in the subject scheme, against the following officers/officials of C&W Department, for the irregularities committed in "UNDER CONSTRUCTION OF DISTRICT JAIL HANGU".

S.No.	Name of accused	S.No.	Name of accused
1.	Engr. Aurangzeb Khan, the then XEN C&W Division Hangu now working as Assistant Design Engineer in the office of Chief Engineer (CDO) C&W Peshawar.	2.	Engr. Khurshid Iqbal then then XEN C&W Division Hangu now working as Assistant Research Officer RR*MT Lab O/O SE C&W Circle Battagram.
3.	Engr. Kifayatullah the then XEN C&W Division Hangu now working as XEN C&W Division Shangla.	4.	Mr. Sanaullah the then SDO C&W Division Hangu now working as SDO (OPS) C&W Sub-Division-Lakki Marwat
5.	Mr. Muhammad Abid Sub-Divisional Officer, C&W Division Hangu	6.	Mr. Ijaz Rasool the then Sub-Engineer C&W Division Hangu now working as Building (Construction) Division No.1 Peshawar.
7.	Mr. Sultan Mehmood, Sub-Engineer, C&W Division Hangu.	8.	Mr. Faiz Muhammad Faiz, SDO (OPS) C&W Division Hangu.
9.	Mr. Snabir Ahmad, Sub-Engineer C&W Division Hangu.	10.	Mr. Saeedullah Sub-Engineer C&W Division Hangu.

Phase-I of the scheme was reflected vide ADP No.420 (2008-2009), the administrative approval was accorded for Rs.101.067 million vide Section Officer (Prison), Home & T.As Department bearing No.4/23-60 (Prs)HD/09 Vol-JJ dated 19/2/2009.

The scheme "Construction of District Jail at Hangu" was again reflected in ADP at Sr. No.1022/80466 (2011-12) estimated cost of Rs.263.757 Million was approved by the PDWP, Administrative approval for the scheme was issued by the Home & Tribal Affairs Department for implementation of the scheme ADP No.408 (2010-2011) i.e. Construction of District Jail Hangu, 50% cost sharing basis with FATA at a revised cost of Rs.264.391 million dated 18/5/2011 and technical sanction was issued by the Chief Engineer (Centre) C&W Department vide No.386/2-CE dated 2/10/2014 for Rs.263.757 million (Flag-B). The Project is still in progress.

PROCEEDINGS.

On receipt of C&W Department letter dated 20/5/2015, the Chief Engineer (Centre) C&W Department was asked to depute an officer well conversant with facts to assist the inquiry committee and provide all the relevant record required to the inquiry committee. The Chief Engineer (Centre) C&W Department further asked the Superintending Engineer, C&W Circle Kohat who deputed Mr. Riaz Khan, Sub-Divisional Officer Hangu as representative of the department for assisting and providing the record. Mr. Riaz Khan, Sub-Divisional Officer o/o C&W Division Hangu was asked to provide all the relevant record i.e. Administrative Approval, Technical Sanction, copies of vouchers, work orders and releases and other related documents vide letter No.01/G-15 dated 9/6/2015 (Flag-C), subsequently all the accused officers/officials were individually served with charge sheet/statement of allegations/statement of allegations vide letter of even No. dated 26/5/2015, with the directions to all the accused officers/officials to submit their written replies to the charge sheet/statement of allegations to the inquiry committee (Flag-D). In response they have submitted their written replies with attached documents to the charges leveled against them which may be perused (Flags- E, F, G, H, I, J, K, L, M & N respectively).

			<p>technical sanction had been accorded by the competent authority after fulfillment of all observations, the undersigned remained as Executive Engineer only for eight months and tried my best to obtain technical sanction. The payment was continued on the work even after my transfer from C&W Division Hangu, now the technical sanction had been accorded vide letter dated 21/10/2014 (Annex-III), therefore the charge leveled against me has already been absolved.</p>
	<p>Charge No.III. You allowed execution of substandard work and made payments for the same.</p>	<p>Reply to Charge No.III <u>Execution of Sub-Standard work</u> As evident from the Executive Engineer, C&W Division Hangu letter dated 25/2/2015 already annexed, addressed to Superintending Engineer, C&W Circle Kohat which was further transmitted to the Chief Engineer and higher ups in which it was categorically mentioned that the deficiency as pointed out has been removed through the contractor being on-going scheme, if any deficiency/sub-standard work found it will further be removed through the contractor, therefore, the work done during my incumbency was carried out in accordance to CPWA code & C&W Specification. The report of Executive Engineer concerned was forwarded to the Superintending Engineer, Chief Engineer and others, the Chief Engineer is the technical sanctioning authority of the government who forwarded the Executive Engineer report to the C&W Department, which transpires that the work is in accordance to the specification of CPWA Code C&W Department, therefore, the undersigned cannot be counted for the charge which is found baseless, required to be withdrawn. It is further added that the undersigned during my incumbency after proper material tests from Laboratory and as per CPWA specification carried out the work, however, as mentioned in the FIR with regard to Earth Quake/bomb blast which was occurred in the Executive Engineer office after my transfer, the lab tests etc available record was destroyed from the office, the contractor had given undertaking that any deficiency /observations of the department if found will be removed with satisfaction of the department before handing/taking over the building to the client department.</p>	
2.	<p>Engr. Khurshid Iqbal then then XEN C&W Division Hangu now working</p>	<p>Charge No.I You made payments to the contractor amounting to Rs.0.111939 (M) in advance,</p>	<p>Reply to Charge No.I The officer replied that the works worth Rs.59,19,304/- (39,97,465,839) had been executed, measurement and check</p>

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They were also summoned and provided opportunity of personal hearing properly as provided in the rules. The replies of all the accused officers/officials have been examined, the consolidated position of each individual charge-wise replies summary is given as under:-

S.No.	Name of accused	Charge	Reply
1	2	3	4
	Engr. Aurangzeb Khan, the then XEN C&W Division Hangu now working as Assistant Design Engineer in the office of Chief Engineer (CDO) C&W Peshawar.	<p>Charge No.I</p> <p>You made payments to the contractor amounting to Rs.0.625815 (M) in advance, which were not executed at site, thus he rendered himself liable to be proceeded against on account of referred advance payments.</p>	<p>Reply to Charge No.I</p> <p>It is important to mentioned here that I have not made advance payment to the contractor, as evident from the Executive Engineer, C&W Division Hangu letter No.555/4-Hg dated 25/2/2015 (Annex-I) which speaks that the work done, as per contractor statement, he and his Chowkidar was arrested in Bumb Blast by the Police as per FIR on the basis of that there was no one on the work site, hence someone has stolen the articles of joinery and internal electrification, therefore, the contractor has then removed the remaining joinery/internal electrification in order to avoid its missing on the plea that the same will be re-fixed during handing/taking over of the building to Client Department. The Executive Engineer has further confirmed that before his arrival, the missing items of joinery/internal electrification has been done again by the contractor and the work as per directions of the department has been done, he further stated that the work was in progress and if there remain any further deficiency, the same will be set right through the contractor.</p> <p>As evident from the above para, the payment of Rs. 6,25,815/- for Joinery, internal electrification was authorized by the Incumbent Executive Engineer on the submission of work done bill by the Sub-Divisional Officer duly certified quality and quantity entered in the measuring book by the Sub-Engineer incharge, moreover, as per CPWA Code all running payments are considered as advance payment, which requires adjustment in final bill. The work is still in running condition, therefore, if any deficiency is found, will be removed. As per Executive Engineer Report in his letter under reference the contractor, has given under taking on stamp paper (Annex-II), taking responsibility of shortcomings if any.</p>
		<p>Charge No.II.</p> <p>You incurred irregular expenditure without technical sanction of the scheme thus you violated Para 2.4 of B&R Code, Para 178 (ii) of GFR.</p>	<p>Reply to Charge No.II</p> <p>The scheme was in running condition and the undersigned was posted as Executive Engineer, C&W Division Hangu, my predecessor has made payment on the work done. The detail cost estimate of the work was submitted prior to my assumption of charge to the higher ups in July 2010, due to some observations it took much time in clearance of observations, however, the</p>



<p>as Assistant Research Officer RR*MT Lab O/O SE C&W Circle Battagram.</p>	<p>which were not executed at site, thus he rendered himself liable to be proceeded liable to be proceeded against on account of referred advance payments.</p>	<p>measurement by Sub-Engineer, SDO respectively and the then XEN. The measured work had already been passed by the then XEN C&W Division Hangu vide voucher No. 1-B dated 4/3/2013 as 9th running account bill attached as Annex-A. in which an amount of Rs.39,87,465/- (including Rs.3,35,816/- for internal electrification of category-III residence) had been withheld from contractor due to non availability of funds. After taking over the charge by him as XEN C&W Division Hangu reproduced the same passed bill fulfilling all codal formalities simply for releasing the withheld amount of 9th Account Bill. Copy of 10th running account bill attached as Annex-B. the outstanding amount against him had also been recovered. Copy attached as Annex-C.</p>
	<p>Charge No.II You incurred irregular expenditure without technical sanction of the scheme thus you violated Para 2.4 of B&R Code, Para 178 (ii) of GFR.</p>	<p>Reply to Charge No.II The scheme "construction of District Jail, Hangu (Phase-I) ADP No.420 (2008-09) was approved by PDWP and accorded administrative approval (AA) for amounting to Rs.161.867 million were issued. However, the scheme revised at a total cost of Rs.264.391 million by PDWP in its meeting held on 18/5/2011. The competent authority has accorded technical sanction for the subject work amounting to Rs.263.757 million vide Chief Engineer (Centre) letter No.386/2-CD dated 2/10/2014, copy attached at Annex-D. A note given at the end of Para 30 of CPWA Code states that "an audit observation is usually removed by obtaining the requisite sanction, by making the necessary recovery, by correcting or completing the relevant account or voucher, by furnishing necessary documents or information, or otherwise securing compliance with the provision of specified rules. Since the payment has been regularized by obtaining TS of the competent authority, therefore, the charges of unauthorized payment cannot be established at this stage in the light of the Para-30 of the CPWA Code.</p>
	<p>Charge No.III You allowed execution of substandard work and made payments for the same.</p>	<p>Reply to Charge No.III In this regard it is clarified that he has served as XEN C&W Division Hangu for a short period of 06 months from 24/5/2013 to 22/10/2013. He has not authorized any payment against any substandard work during his short tenure. The payment against which he has been charged is the only release of the earlier authorized withheld amount by his predecessor. In light of above explanation he shall not be held responsible for execution of substandard work and also for payment of work not executed at site</p>

<p>Engr. Kifayatullah the then XEN C&W Division Hangu now working as XEN C&W Division Shangla.</p>	<p>Charge No.1 You incurred irregular expenditure without technical sanction of the scheme thus you violated para 2.4 of B&R Cod, Para 178(ii) of General Financial Rules (GFR) thus you rendered yourself liable to be proceeded against.</p>	<p>Reply to Charge No.1 My duty as XEN was to continue the ongoing projects and achieve the targets as fixed like other projects. The under construction jail project was in progress and more than 70% work completed as reflected in the progress report in the month of October, 2013 (photocopy of the progress pages attached as Annex-A). In the remarks column of the progress report it was clearly mentioned that TS estimate also submitted to SE C&W Circle Kohat vide XEN Hangu letter No.475/GHG dated 16/5/2013 (copy of XEN Hangu Letter attached as Annex-B) which clearly shows that divisional office has fulfilled before my posting as XEN Hangu more than 70% work was completed and payment also made to the contractor without technical sanction which has accorded before commencement of work. As work has to be kept continue to achieve the required targets for the financial year 2013-14 therefore, payment had to be made as per contract agreement clause 8 otherwise stoppage of payment may lead to complication and resultantly the contractor could stop the work if not been paid for the work done. During my tenure as XEN Hangu I personally persued TS estimate in circle office Kohat and Chief Engineer (Centre) Office and approval accorded vide Chief Engineer letter No.386/2-CD dated 2/10/2014; copy of TS attached as Annex-C.</p>
<p>4. Mr. Sanaulah the then SDO C&W Division Hangu now working as SDO (OPS) C&W Sub-Division Lakki Marwat.</p>	<p>Charge No.1 You made payments to the contractor amounting to Rs.0.111939 million in advance, which were not executed at site, thus you rendered yourself liable to be proceeded against on account of referred advance payments</p>	<p>Reply to Charge No.1 The work worth Rs.5919304 (3987465 +1931839) has been executed, measurement and check measurement by Sub-Divisional Officer respectively and the then Sub-Divisional Officer. The measured work has already been passed by the then Executive Engineer C&W Division Hangu vide voucher No.1-B dated 4/3/2013 on 9th running account bill attached as Annex-A, in which an amount of Rs.97,87,465 (including Rs.3,35,816- for internal electrification of Category-III Residence has been withheld from contractor due to non-availability of funds). After taken over the charge by him as Sub-Divisional Officer C&W Division Hangu reproduced the same passed bill fulfilling all codal formalities simply for releasing the withheld amount of 9th running account bill. Copy of 10th running Account bill attached as Annex-B. The outstanding amount against undersigned has also been recovered and work done at site.</p>

	<p>Charge No.II You incurred irregular expenditure without technical sanction of the scheme thus you violated Para 2.4 of B&R Code, para 178 (ii) of General Finance Rules (GFR).</p>	<p>Reply to Charge No.II. The scheme "Construction of District Jail, Hangu (Phase-I) ADP No.420(2008-09 was approved by PDWP and accorded administrative approval (AA) for amount of Rs.161.857 million. However, the scheme revised at a total cost of Rs.264 391 million by PDWP in its meeting held on 18/5/2011. The competent authority has been accorded Technical sanction for the subject work, amounting to Rs.263.757 million vide Chief Engineer (Centre) letter No.386/2-CD dated 2/10/2014. Copy attached as Annex-D. A note given at the end of para 30 of CPWA Code stated that "An audit observation is usually removed by obtaining the requisite sanction, by making the necessary recovery, by correcting or completing the relevant account or voucher, by furnishing necessary documents or information or otherwise securing compliance with the provision of specified rules, since the payment has been regularized by obtaining TS or unauthorized payment cannot be established at this stage in light of Para 30 of the CPWA Code.</p>
	<p>Charge No.III You allowed execution of substandard work and made payments for the same.</p>	<p>Reply to Charge No.III. In this regard it is clarified that I have served as Sub-Divisional Officer, C&W Division Hangu for a short period of 06 months from 21/5/2013 to 24/7/2013, I have not authorized any payment against any substandard work during the short tenure. The payment against which he has been charged is only the release of the earlier authorized withheld amount by his predecessor. In light of above explanation he should not be held responsible for execution of substandard work and also for payment of work not executed at site.</p>
<p>5. Mr. Muhammad Abid Sub-Divisional Officer, C&W Division H</p>	<p>Charge No.I You incurred irregular expenditure without technical sanction of the scheme thus you violated para 2.4 of B&R Code, Para 178(ii) of General Financial Rules (GFR) thus you rendered yourself liable to be proceeded against.</p>	<p>Reply to Charge No.I That while he was posted as Sub-Divisional Officer Building Sub-Division No.2 Hangu during July 2013, the work was in progress and approximately completed 60%. The Technical sanction of the scheme was under process at that time and that the payment on account of work done was made to the contractor as per clause-8 of the contract agreement and after proper release of funds for the work. The technical sanction of the work has now been accorded for Rs.263.757 Million on 2/10/2014 and the incurred expenditure regularized hence para 2.4 of B&R Code, Para 178(ii) of GFR fulfilled.</p>
<p>6. Mr. Ijaz Rasool the then Sub-Engineer C&W Division</p>	<p>Charge No.I You made payment to contractor amounting to</p>	<p>Reply to Charge No.I It is submitted that no advance payment was made at all and the work was correctly</p>

<p>Hangu now working as Building (Construction) Division No.1 Peshawar.</p>	<p>Rs.1,470,913/- million in advance, which were not executed at site, thus you rendered yourself liable to be proceeded against on account of referred advance payment</p>	<p>measured according to the design and specification and recorded in the measurement book duly certified by the Sub-Divisional Officer concerned.</p>	
	<p>Charge No.II You incurred irregular expenditure without TS of the sanctioning of scheme thus you violated Para 2.4 of B&S Code, GFR Para 178(ii) of GFR.</p>	<p>Reply to Charge No.II The TS was under process for sanctioning of the competent authority and payment was made on the basis of PC-I cost as per Bill of Quantity/rates quoted.</p>	
	<p>Charge No.III You allowed execution of sub standard work made and payments for the same.</p>	<p>Reply to Charge No.III I did not allowed any sub-standard work and the work was executed according to design specification, duly certified by the Sub-Divisional Officer and the payment was allowed by the Executive Engineer. Some running accounts bills were measured and recorded in Measurement Book as the work was on going and still not finalized and handed over the charge to Saeed-Ullah Sub-Engineer for continuing.</p>	
<p>7.</p>	<p>Mr. Sultan Mahmood. Sub-Engineer C&W Division Hangu.</p>	<p>Charge No.I You made payment to contractor amounting to Rs.1,922,616 million in advance, which were not executed at site, thus you rendered yourself liable to be proceeded against on account of referred advance payment</p>	<p>Reply to Charge No.I That he has been posted in C&W Division Hangu as Sub-Engineer on 01/04/2011 while the work was in progress and 60% completed. The payment of Rs.1,922,616 Million has not been made to the contractor but when he took over charge of the Building 1 he exercised the checking of running payment and recovered/adjusted all advance payment in the subsequent bill.</p>
	<p>Charge No.II You incurred irregular expenditure without TS of the sanctioning of scheme thus you violated Para 2.4 of B&S Code, GFR Para 178(ii) of GFR.</p>	<p>Reply to Charge No.II As explained in Para 1, the work was in progress before his incumbency and the Technical Sanction of the work for Rs.263,757 Million has been accorded on 02/10/2014 and the incurred expenditure regularized. Hence Para 2.4 of B&R Code, Para 178 (ii) of GFR fulfilled.</p>	
	<p>Charge No.III You allowed execution of sub standard work made and payments for the same</p>	<p>Reply Charge No.III No substandard work has been allowed by him and instead such work where noticed has been rectified through contractor at his risk and cost</p>	
<p>8.</p>	<p>Mr. Muhammad Faiz SDO (OPS), C&W Division Hangu.</p>	<p>Charge No.I You changed the design of outer parameter wall watch tower from wall bearing structure to frame structure. You have also changed the outer parameter wall thickness from 13.5" to 18" without addition of buttresses at interval.</p>	<p>Reply to Charge No.I The outer compound wall was completed before his tenure and no payment made by him.</p>
	<p>Charge No.II Initially the package 2 06 Nos</p>	<p>Reply to charge No.II 08 Nos barracks were completed and 03</p>	

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	for 60 prisoners each was thus to accommodate a total of 360 prisoners, in which 02 Nos Barracks have been constructed for 60 prisoners basis, whereas 08 Nos Barracks have been constructed for 20 Prisoners each and 04 Nos. Barracks for 20 prisoners yet to be constructed without approval, thus ultimately increased the quantities.	Nos were paid upto 7 ft (Door level) before his tenure, and duly included in approved Revised PC-I/Detailed cost Estimate and as well as in Technical sanction estimate.
	Charge No.III In PC-I, 7 Nos of type-V quarters have been approved whereas at site 08 Nos. type-V quarters have been constructed, such deviation from approved scope without approval from competent forum is irregular and against the contract documents clause-11 of CPW Code.	Reply to Charge No.III No payment made by him as already paid by others. However it is approved in Revised PC-I/Detailed Cost Estimate and as well as in Technical sanction estimate.
9	Mr. Shabir Ahmad, Sub-Engineer C&W Division Hangu. Charge No.I You changed the design of outer parameter wall watch towers from wall bearing structure to frame structure. You have also changed the parameter wall thickness from 13.5" to 18" with addition at buttresses at interval.	Reply to Charge No.I That he has been posted in C&W Division Hangu as Sub-Engineer during December 2010 and the project was remained on his charge only for two months and neither watch tower has been constructed under his supervision nor any payment made. The work of parameter wall was already completed 50% before his tenure. The parameter wall was in progress with 18" thickness as per attached drawing/design when the charge of Project was entrusted to him. It was not possible for him to come back to 13.5" thickness in view of Security problem. The thickness of the wall has been started/constructed as per approved drawing/design by the competent authority before taking over charge of the Project hence the responsibility of the same does not rest to him.
	Charge No.II Initially the package 2, 06 Nos for 60 prisoners each was thus to accommodate a total of 360 prisoners, in which 02 Nos Barracks have been constructed for 60 prisoners basis, whereas 08 Nos Barracks have been constructed for 20 Prisoners each and 04 Nos. Barracks for 20 prisoners yet to be constructed without approval, thus ultimately increased the quantities.	Reply to Charge No.II The barracks were already completed 95% when the charge of Project was again entrusted to him during November 2014 and remain in his charge for one Month only. Only finishing touches was made during his incumbency to these 3 Nos Barracks. Hence the charges leveled against him is not correct
	Charge No.III. In PC-I, 7 Nos of type-V quarters have been approved whereas at site 08 Nos. type-V	Reply to Charge No.III The Quarters (Type-V) have also not been started during his incumbency and completed before his tenure and no work

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	quarters have been constructed, such deviation from approved scope without approval from competent forum is irregular and against the contract documents clause-11 of CPW Code.	has been executed in the quarter in his supervision.
M Saeedullah Sub-Engineer C&W Division Hangu.	Charge No.I You changed the design of outer parameter wall watch towers from wall bearing structure to frame structure. You have also changed the parameter wall thickness from 13.5" to 18" with addition at buttresses at interval.	Reply to Charge No.I That I have been posted in C&W Division Hangu as Sub-Engineer during March 2011 and the watch tower has been constructed after my transfer/on detailment basis to C&W Division Kohat during May 2012. The undersigned neither execute the watch tower nor change the design of watch tower. During my incumbency I have completed the remaining some portion of under construction parameter wall by 5 to 6 feet and 8-1/2 feet and completed the work as per approved height and design with 18" thickness as previous work done was already carried out with the same thickness i.e. 18". The thickness of the wall has been started /constructed as per approved drawing/design before taking over charge of the project by the undersigned hence the responsibility of the same does not rest to me.
	Charge No.II Initially the package 2, 06 Nos for 60 prisoners each was thus to accommodate a total of 360 prisoners, in which 02 Nos Barracks have been constructed for 60 prisoners basis, whereas 08 Nos Barracks have been constructed for 20 Prisoners each and 04 Nos. Barracks for 20 prisoners yet to be constructed without approval, thus ultimately increased the quantities.	Reply to Charge No.II The barracks were not started during my incumbency. The 5 Nos Baraks (2 No for 60 prisoners and 3 Nos for 20 prisoners) were already completed 90% before my tenure. Only finishing touches was made during my incumbency to these 5 Nos Barracks. The remaining barracks have been constructed after my transfer from the C&W Division Hangu to C&W Division Kohat hence the charges leveled against me is not correct.
	Charge No.III In PC-I, 7 Nos of type-V quarters have been approved whereas at site 08 Nos. type-V quarters have been constructed, such deviation from approved scope without approval from competent forum is irregular and against the contract documents clause-11 of CPW Code.	Reply to Charge No.III. The quarters (Type V) have also not been started during my incumbency and completed before my tenure. Hence the charges of deviation from approved scope do not pertain to me.

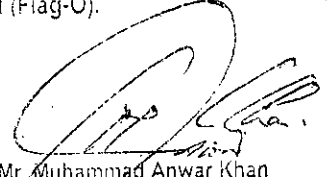
FINDINGS

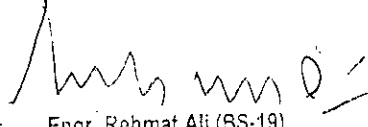
During the proceedings of the inquiry and while examining the charges leveled against the officers/officials and replies thereof of all the accused and their personal explanation during the personal hearing held before the inquiry committee and consequent upon the visit/inspection of the members of the inquiry committee to the project, it was found that the project under inquiry i.e. Construction of District Jail Hangu is still in progress and is on-going the so called irregularities are in general practice of the Works Department, all payments are considered as advance payments under CPW Code and GFR, the contractor is responsible for any

Deficiencies/shortcomings arised during the construction work, the supervising staff held responsible to ensure the quality/specification of the project work, which had been done to their entire efforts during execution of the project. The expenditure shown as advance payment without technical sanction has been regularized by obtaining technical sanction of the revised administrative approval cost of the project. The expenditure shown in advance mentioned in the charge sheet/statement of allegations had been regularized by the department in to-to. It is further mentioned that the CSW Department is the executing agency whereas the Client Department is prison department, any deviation during the construction from the approved PC-I are being made by the project in charge officer/officials as per requirement of the Client Department, which has been regularized through Revised Administrative Approval technical sanction OF estimated cost of the project. Lab tests were properly carried out through Engineering University.

CONCLUSION

The inquiry committee after ^{throughout} ~~read~~ examining the record of the divisional office, charges leveled in the charge sheet/statement of allegation against the accused officers/officials, replies thereof to the charge sheet/statement of allegations is of the considerable view that since technical sanction has been accorded by the competent authority, the work was executed as per requirement of the Client Department, being running project, any shortcomings/deficiencies can be removed by the supervisory staff of the project, before the completion of the project, resultanty the charges leveled against all the accused cannot be attributed to be proved against any one, as all advance payments in the running projects are considered as advance payments as per para 224 (b) CPWA Code Vol-III and 144, are required to be regularized by subsequent action to be taken in the on going scheme/Project (Flag-O).


Mr. Muhammad Anwar Khan
(PMS BS-19) Director Food Department
Member of Inquiry Committee


Engr. Rehmat Ali (BS-19)
Superintending Engineer
Public Health Engineering Department
Member of Inquiry Committee

Annex - III



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-20/2014
Dated Peshawar, the October 05, 2015

TO

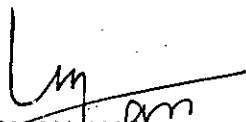
Engr. Aurangzeb
Assistant Engineer
Presently working in FATA
C/O CE FATA W&S Peshawar

Subject: INQUIRY INTO UNDER CONSTRUCTION DISTRICT JAIL HANGU

I am directed to refer to the subject noted above and to enclose herewith two copies of the show cause Notice containing tentative minor penalty of "withholding of one increment for two years" along-with inquiry report conducted by Mr. Muhammad Anwar Khan Director Food Department, Peshawar and Engr. Rehmat Ali Superintending Engineer PHE Department and to state that the 2ND copy of the show cause Notice may be returned to this Department after having signed as a token of receipt immediately.

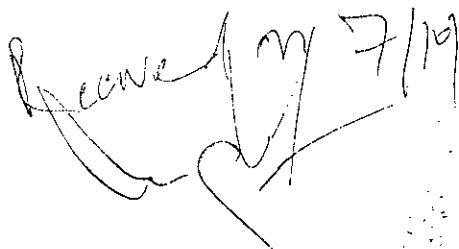
2. You are directed to submit your reply, if any, within 7 days of the delivery of this letter, otherwise, it will be presumed that you have nothing to put in your defence and ex-parte action will follow.

3. You are further directed to intimate whether you desire to be heard in person or otherwise.


(USMAN JAN)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar


7/11/15


SECTION OFFICER (Estb)

SHOW CAUSE NOTICE

I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Engr. Aurangzeb Assistant Engineer (BS-17) C&W Department; presently working as Assistant Design Engineer O/O CE (CDO) C&W Peshawar as follows.

1. (i) that consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing; and
- ii) On going through the conclusion of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee;

I am satisfied that you while posted as XEN (OPS) C&W Division Hangu, committed the following irregularities in the scheme "Construction of District Jail Hangu":

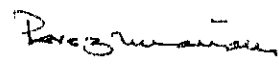
- i. You made payments to the contractor amounting to Rs.0.625815 million in advance, which were not executed at site, thus you rendered yourself liable to be proceeded against on account of referred advance payments.
- ii. You incurred irregular expenditure without technical sanction of the scheme thus you violated Para 2.4 of B&R Code, Para 178(ii) of General Financial Rules (GFR)
- iii. You allowed execution of substandard work and made payments for the same".

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of "Withholding of one increment for two years" under Rule 4 of the said rules.

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

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

5. A copy of the findings of the inquiry officer is enclosed.


(Pervez Khattak)
Chief Minister
Khyber Pakhtunkhwa
29/9/15
---/08/2015---

29/9/15
---/08/2015---

Annex-IV

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**BEFORE THE HONOURABLE CHIEF MINISTER,
KHYBER PAKHUNKHWA, PESHAWAR.**

Through: proper Channel

Subject: EXPLANATION TO THE SHOW CAUSE
NOTICE SERVED UPON THE
UNDERSIGNED VIDE SO (ESTB) NO
SO/E/C&W/8-20/2014 DATED
OCTOBER 05, 2015.

Sir,

A/S/SA/SO 17942
13/10/2015
ML 13/10
Qm/x

It is respectfully submitted as under:-

That the undersigned was posted as Executive Engineer, C&W Division Hangu for a short period and the work "Construction of District Jail" at Hangu, was already in progress. During that time terrorist activities at Hangu was a great terror for civil servants and terrorists even did not spare under construction Jail building and on 04/01/2013, exploded the same which is supported by FIR No 10, Dated 04/01/2013 u/s 3/4 Exp Sub Act/427 P.P.C/7 ATA, Police Station City Hangu. Copy of which is available on the enquiry report. The life of civil servants at Hangu was also not safe. However, I have worked as XEN Hangu honestly and fearlessly.

As regard the allegations mentioned in the show cause notice it is submitted that I have not committed any irregularity in the scheme, nor have made any advance payment.

SA
14/10



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It is also submitted that the last Para of the enquiry report is very clear and the inquiry committee has exonerated me of the charges.

As extract from the conclusion of enquiry report is as under:-

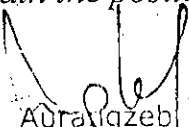
"That since technical sanction has been accorded by the competent authority, the work was executed as per requirement of client department (i.e. Jail Department) having running project any short comings deficiencies can be removed by the supervisory staff of the project before the completion of the project resultantly the charges levelled against all the accused cannot be attributed to be proved against any one".

It is therefore, humbly prayed that I may please be exonerated and the show cause notice may please be filed in the light of the finding of the enquiry committed and keeping in view my long services.

It is also submitted that the authorities have also submitted a certificate to that effect that the work was done according to quantity and quality.

It is also requested that I may please be given an opportunity of personal hearing to explain the position.

Dated:-


Aurangzeb 12/12/15
Assistant Engineer,
Now C/O CE FATA W&S
FATA.

Annex-V

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

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Dated Peshawar, the February 23, 2016

ORDER:

No. SOE/C&WD/8-20/2014: WHEREAS, the following officers/officials of C&W Department were proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the alleged irregularities in the scheme "Construction of District Jail Hangu":

- i. Engr. Kifayatullah XEN (BS-18) the then XEN C&W Division Hangu now working as Project Director PaRRSA/USAID Directorate, Swat
- ii. Engr. Aurangzeb SDO (BS-17) the then XEN (OPS) C&W Division Hangu now working in FATA
- iii. Engr. Khurshid Iqbal SDO (BS-17) the then XEN (OPS) C&W Division Hangu now working as Assistant Research Officer RR&MT Lab, Battagram
- iv. Mr. Sanaullah Sub Engineer (BS-16) the then SDO (OPS) C&W Sub Division Hangu now working in FATA
- v. Mr. Muhammad Abid SDO (BS-17) C&W Sub Division Hangu
- vi. Mr. Ejaz Rasool Sub Engineer (BS-11) the then Sub Engineer C&W Division Hangu now working as Sub Engineer O/O XEN C&W Division Abbottabad
- vii. Mr. Sultan Mahmood Sub Engineer (BS-11) O/O XEN C&W Division Hangu
- viii. Mr. Shabir Ahmad Sub Engineer (BS-11) O/O XEN C&W Division Hangu
- ix. Mr. Saeedullah Sub Engineer (BS-11) O/O XEN C&W Division Hangu

2. AND WHEREAS, for the said act of misconduct they were served charge sheets/statement of allegations.

3. AND WHEREAS, an inquiry committee comprising of Mr. Muhammad Anwar Khan Director Food Department, Peshawar and Engr. Rehmat Ali Superintending Engineer PHE Department was constituted, who submitted the inquiry report.

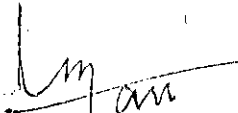
4. NOW THEREFORE, the Competent Authority after having considered the charges, material on record, inquiry report of the inquiry committee, explanation of the officers/officials concerned, in exercise of the powers under Rule-14(5)(ii) of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose the minor penalty of "Withholding of one increment for two years" upon the aforementioned officers/officials.


SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

End of even number and date

Copy is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Accountant General, PR (sub office) Peshawar
3. Secretary Admn, Infrastructure & Coord Deptt, FATA Sectt, Warsak Road, Peshawar
4. Chief Engineer FATA W&S Peshawar
5. Chief Engineer (Centre) C&W Peshawar
6. Chief Engineer (East) Abbottabad
7. Project Director PaRRSA/USAID Directorate Swat
8. Superintending Engineer C&W Circle Kohat/Battagram/Abbottabad
9. Executive Engineer C&W Division Hangu/Abbottabad
10. District Accounts Officer Hangu/Battagram/Swat/Abbottabad
11. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
12. PS to Secretary, C&W Peshawar
13. Officers/officials concerned
14. Office order File/Personal File


(USMAN JAN)
SECTION OFFICER (Estab)


23-2-16

6. *The inquiry committee had exonerated the appellant from the charges and authorities had to take final action in the light of finding and not on their own surmises~~d~~ and conjecture.*
7. *Incorrect. The explanation to show cause notice was in the light of the finding of the inquiry committee, which was not considered according to the facts on record.*
8. *That the said order of the authority has been challenged.*
9. *That the representation/review petition was not considered in the light of the recommendation of the committee and rejected which is against the law.*
10. *As in appeal.*

Grounds:-

- A. *Incorrect. Penalty order is based on surmises and is against principles of natural justice.*
- B-D *Incorrect, Paras "B", "C" & "D" of appeal are correct.*

E. *Incorrect. The respondents have not considered the inquiry report thoroughly and the penalty order is against law and facts on record and principles of natural justice.*

F. *As in appeal.*

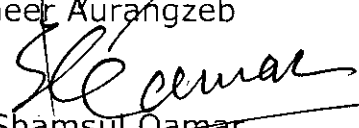
It is, requested that the appeal may please be accepted as prayed for.

Dated:-

11/17

Through:-


Appellant
Engineer Aurangzeb


Haji Shamsul Qamar,
Advocate High Court,
Peshawar.

Cell No:- 0301-8806554

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 637 /ST

Dated 29 - 3 - /2019

To

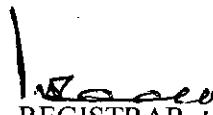
The Secretary C&W Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 557/2016. MR. AURANG ZEB.

I am directed to forward herewith a certified copy of Judgement dated 31.01.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

FORM OF ORDER SHEET

Execution Petition No. 438/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	7.12.2018	<p>The Execution Petition of Syed Umar Shah submitted to-day by Mr. Muhammad Arif Jan Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;">REGISTRAR</p> <p>This Execution Petition be put up before S. Bench on</p> <p style="text-align: right;">CHAIRMAN</p>
2-		