

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 142/2023.

Muhammad Afzal .....(Appellant)

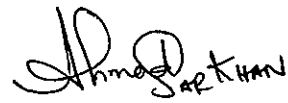
VS

Secretary to Government of Khyber Pakhtunkhwa Population Welfare Department & Others .....

(Respondents)

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**DEPONENT**

Ahmad Yar Khan  
Assistant Director (Lit)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL****PESHAWAR**Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No. 142/2023.

Diary No. 7459

Muhammad Afzal .....(Appellant) Dated 13/07/23

VS

Secretary to Government of Khyber Pakhtunkhwa Population Welfare Department &amp; Others .....

(Respondents)

**PARA-WISE REPLY/COMMENTS ON BEHALF OF THE RESPONDENTS NO. 01 to 03****Respectfully Sheweth,****PRELIMINARY OBJECTIONS.**

1. That the Appellant has got no locus standi to file the instant Service Appeal.
2. That no discrimination / injustice has been done to the Appellant.
3. That the instant Service Appeal is bad in the eye of law.
4. That the Appellant has not come to the court with clean hands.
5. The Appeal is based on distortion of facts and is not tenable in eye of law.
6. That the Appellant has been estopped by his own conduct to file the Service Appeal.
7. The present Service Appeal is based upon malicious/vexations and frivolous grounds.
8. That the Service Appeal is based on conjecture and surmises.
9. That the Service Appeal is bad due to mis-joinder and non-joinder of the parties.
10. That the Appellant has filed the present Service Appeal contrary to Law and facts.
11. That the Appellant has concealed material facts from this court.
12. That the service appeal of the appellant is **Time Barred.**
13. That the appellant has not moved an application for the condonation of delay under section 5 of the Limitation Act and thus this instant appeal being time barred warrants immediate dismissal.
14. That the appellant has not mentioned any ground in his service appeal upon which grounds he rely or moving his service appeal to the Service Tribunal therefore, it warrants dismissal.


**ON FACTS.**

1. Para 1 of the Service Appeal pertains to record.
2. Para 2 of the Service Appeal is Incorrect. The entire para is based on false allegation. Nothing is available on record which suggests such inference. However the appellant character in its self is very doubtful. He has previously been subject to censured pay




deduction and stoppage of one year increment. (Copy of office order is attached as **(Annex-A)**). He had been to judicial lock for the offence of involving in wine dealing in the year 2006 but Acquitted to due to strict criteria of proving mode of allegations in Criminal court. Similarly again he had been charged for the same offence and Acquitted in the year 2009.

3. Para 3 of the Service Appeal is Incorrect. Detail reply is given above in para-2 of facts.
4. Para 4 of the Service Appeal is Correct.
5. Para 5 of the Service Appeal is Incorrect. As per inquiry report he was rightly held responsible for certain allegations. (Copy of inquiry is attached as **(Annex-B)**).
6. Para 6 of the Service Appeal is Incorrect. Entire para is based on misinformation.
7. Para 7 of the Service Appeal is Incorrect. He was proceeded against the E & D rules 2011. Proper show-cause and passed order on inquiry report and reply of basis of show-cause notice. (Copy of Removal Oder is attached as **(Annex-C)**).
8. Para 8 of the Service Appeal is Incorrect. Nothing is available on record which shows any personal feeling against the appellant. Entire proceeding done against the appellant in a transparent manner and according to law.
9. Para 9 of the Service Appeal is Incorrect. Nothing is mentioned in this para except bare allegations.
10. Para 10 of the Service Appeal is Correct to extent that the appellate authority converted his removal into reinstatement with leave without pay keeping in view the discrepancies/ conflict between the statement of allegation and show cause notice/ removal order. (Copy of statement of allegation and show cause is attached as **(Annex-D & E)**). The different stance taken in show cause notice was against the law and fact. From the inquiry report it is very clear that the appellant was involved in various activities that were beyond his job duty and made interference in the official matters of the staff. Therefore, the appellate authority converted his removal from service to reinstated into service and the intervening period is treated as leave without pay. (Copy of Reinstatement Order is attached as **(Annex-F)**).
11. Para 11 of the Service Appeal has no relevancy to the current case. Needs no comments.
12. Para 12 of the Service Appeal pertains to record.
13. Para 13 of the Service Appeal pertains to record.
14. Para 14 of the Service Appeal pertains to record.
15. Para 15 of the Service Appeal is Incorrect. Nothing available on record which suggest that he remained unemployed during the removal period.
16. Para 16 of the Service Appeal is time barred as the appellate authority passed order on his Departmental Appeal on 08-04-2022.
17. Para 17 of the Service Appeal needs no comments.



**PRAYER:**

It is, therefore, most humbly prayed that on acceptance of the instant reply, the Service Appeal of the appellant may kindly be dismissed with cost.

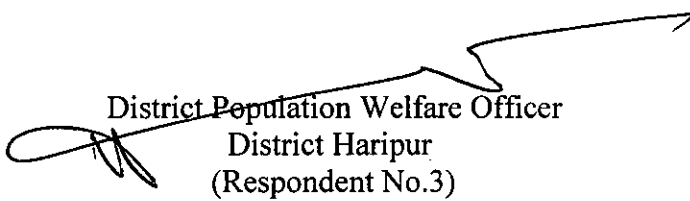
 04.09.23

Secretary to Govt. of Khyber Pakhtunkhwa  
Population Welfare Department  
(Respondent No.1)



Director General  
Population Welfare Khyber Pakhtunkhwa  
(Respondent No.2)

Director General  
Population Welfare Deptt:  
Govt. of Khyber Pakhtunkhwa  
Peshawar.



District Population Welfare Officer  
District Haripur  
(Respondent No.3)

4  
**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 142/2023.

Muhammad Afzal .....(Appellant)

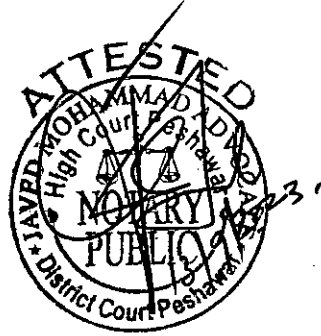
VS

Secretary to Government of Khyber Pakhtunkhwa Population Welfare Department & Others .....

(Respondents)

**AFFIDAVIT**

I Mr. Ahmad Yar Khan, Assistant Director (Litigation) Directorate General of Population Welfare, do solemnly affirm and declare that the contents of Para-wise comments are true and correct to the best of my knowledge and belief and that nothing has been concealed therein from this Honorable Court. It is further stated on oath that in this appeal the answering respondents have neither been placed ex-parte nor their defense has been struck off.



*Ahmad Yar Khan*  
SAC Khan

**DEPONENT**

CNIC: 17301-1165852-9

Cell No.0345-9023308

5 Annex-A  
OFFICE OF THE  
RIOT POPULATION WELFARE OFFICER  
HARIPUR.

OFFICE ORDER

Having been found guilty of Mis-conduct under 3(1) Removal from service (Special Powers) ordinance 2000, Mr. Muhammad Afzal Chowkidar BPS-1 FWO Khanpur/nor in FWO Sikandarpur is awarded following Penalties under section 3 of above said ordinance:-

1. Stoppage of increment for a period of one year due on 1.12.2004.
2. Extra Ordinary leave without pay w.e.f 29.9.2003 to 30.10.2003 ( 32 days ).
3. Censure.

Sd/-  
DPO Haripur.

F.No.FP/2004/Admn / 1230 Dated Haripur the 22/9/2004

Copy to:-

1. DAO Haripur for necessary action please.
2. Accounts Assistant (Local) for information and necessary action.
3. Muhammad Afzal Chowkidar for information.

( Muhammad Awar Qureshi )  
District Population Welfare Officer  
Haripur.

ATTESTED

o/c

Assistant Director (HR)  
Population Welfare Department  
Khyber Pakhtunkhwa

INQUIRY REPORT

This very inquiry was initiated vide letter F.No. 2(1)/2019-20/Admn, dated: 18<sup>th</sup> November, 2021 under the Protection of women against harassment in the workplace Act 2010 on the complaint of Mst: Zahida Shehzad, Aya/Helper, BPS-03 of FWC Sikandarpur against misconduct of Mr. Muhammad Afzal, Chowkidar BPS-03 of FWC Sikandarpur.

INQUIRY PROCEEDINGS

Inquiry proceedings were carried out by a 3-member Inquiry Committee on Protection of women against harassment at the workplace Act 2010, constituting;

Dr Sadia Shahid	(Chairman)
Shagufta Kanwal	(Member/Secretary)
Shakeel Ahmad	(Member)

The initial hearing of the inquiry was held at District Office Haripur on 19-11-2021. The following attended;

Mr. Muhammad Afzal	(The accused)
Mst. Aamira Bibi	(Incharge of the center)
Mst. Zahida Shehzad	(The Complainant)

They were inquired separately regarding the complaints and then the statement of allegation was served to the accused Mr. Muhammad Afzal, Chowkidar, BPS-03, FWC Sikandarpur. It is worth mentioning here that the accused was clearly intimated about the statement of allegation and the time period to submit a written reply to these allegations but he failed to do so. In fact the accused submit his written reply on 10<sup>th</sup> December, 2021 without having any reasonable cause for the delay. Furthermore, while going through the reply, it was noticed that the accused has falsely stated something in connection to the inquiry committee that he was served with statement of allegation on 09<sup>th</sup> December, 2021, whereas, the same was served to the accused on 19<sup>th</sup> November, 2021. Copy of the statement of allegation along with receiving of the accused is enclosed as ready reference. The inquiry committee show great concern on the false statement made by the accused and because of having no reasonable cause

ATTESTED

*Tauqeer*  
 Assistant Director (HR)  
 Population Welfare Department  
 Muz: Pakhtunkhwa

(119)

For delaying the reply to the statement of allegation, the committee unanimously decided that the said reply from the accused cannot be entertained and thus proceed for the ex-parte;

### WITNESSES

The following staff was called for appearance before the inquiry committee as witnesses. Their statements are enclosed herewith.


Mst. Khatoon Bibi	FWA (Female), BPS-07, FWC Sikanderpur
Rubina Kosar	Aya/Helper, BPS-03, Ex-staff of FWC Sikanderpur
Hameed Ahmad	FWA (Male), BPS-07, Ex-staff of FWC Sikanderpur

The above said officials were asked about the allegations made against the accused. They replied in verbal as well as in written statement. The statements of these officials are duly flagged and enclosed herewith the inquiry report.

### FINDINGS:

Based on facts observed during the course of hearing and the statements of witnesses, the committee is of the opinion that following allegations are hereby proved against Mr. Muhammad Afzal, Chowkidar, BPS-03, FWC Sikanderpur.

1. That instead of being present at the gate, he keeps on sitting beside the incharge of the center, making female clients uncomfortable and hesitant to visit the center, thus hampering the work performance of the FWC.
2. That due to his presence in the incharge room and his interference in the official matters of staff members, staff of FWC Sikanderpur including the complainant, feel uncomfortable in performing their duties.
3. That during an episode of heated arguments between the complainant and the accused in the center, personal comments were by the accused against the complainant. This particular behavior of the accused was also admitted by all the Ex-staff members of the FWC. Thus they also made complaints about misconduct of Mr. Afzal and requested to transfer them to any other center.

ATTESTED  
  
 Assistant Director (HR)  
 Population Welfare Department  
 Khyber Pakhtunkhwa



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The committee disposes off the following allegations

- a. The witness Mst. Khatoon Bibi denied the allegation of threats from the accused and incharge to the complainant. Thus she was not aware of any such case of bringing in a pistol to the center. Hence, this invalidates any incident relating to threats from the incharge and the accused.
- b. The inquiry committee could not charge the accused against sexual harassment as elaborated in the ibid act, due to Absence of evidence.

**RECOMMENDATION:**

In view of all the facts and figures, verbal and written statements, observance and findings of the inquiry and mis-leading the inquiry committee by submitting a false statement in respect of the inquiry committee, it is recommended that the accused may be granted strict punishment under the ibid act, please.

**Shagufta Kanwal**  
(Member/Secretary)

**Dr. Sadia Shahid**  
(Chairman)

**Shakeel Ahmad**  
(Member)

ATTESTED

Assistant Director (HR)  
Population Welfare Department  
Khyber Pakhtunkhwa

9 / Annex - C



**Government of Khyber Pakhtunkhwa  
POPULATION WELFARE DEPARTMENT  
DISTRICT POPULATION WELFARE OFFICE HARIPUR**



MohallahKund CNG Adda Abbottabad D-Stop Haripur, Ph: 0995-627019

District Population Welfare Haripur District Population Welfare Haripur dpwoharipur03@gmail.com

F.No. 2(1)/2022-23/Admn /4901-4906  
Dated Haripur the 04/01/2022

**OFFICE ORDER**

I Mr. Bakhtiar Khan being Competent Authority served you, (Mr.Muhammad Afzal, Chowkidar, BPS-04) a Show Cause Notice vide Office order F.No. 2 (1)/2019-20/Admn dated 27/12/2021 wherein you was charged that you remained in Jail w.e.f 09/04/2019 to 11/05/2019 in case FIR No 389 under Section 452/34 and this office has no information about your absence and there is also no Proof of any inquiry nor your application, So, you were found guilty for the said charge i.e. "Absenteeism" as guilty of habitually absenting himself from duty without prior approval of leave under rule 3 (d) of E&D Rules 2011 Government of Khyber Pakhtunkhwa.

2. AND WHEREAS you were charged that you interfered in the FWC Matters and all the staff i.e FWA (M & F) and Helper feel insecure from your presence in the center and as well as your immoral activities in the center and charges proved against you vide inquiry conducted against you upon the complaints of Mst.Zahida Shehzad, Helper, and you have been found "Guilty of Misconduct" under Rule 3 (b) of E&D Rules 2011 Government of Khyber Pakhtunkhwa.

3. AND WHEREAS your reply received on the above charges, but there is no signed by you, so, the undersigned cannot understand that this is your reply or a Fake Reply.

4. AND WHEREAS you were also given the opportunity to be heard in person, but you did not avail the same.

5. On the basis of the above facts, the undersigned being the Competent Authority is convinced that you are an Immoral Person and all the staff is hesitating from your presence in the center and in the Incharge office and also in insertion room. So, the undersigned exercise his power under rule 4(b)(iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline Rules 2011) and has been pleased to impose major penalty of "Removal from Service" upon you i.e you Mr.Muhammad Afzal, Chowkidar, BPS-04, District Population Welfare Office Haripur with immediate effect.

Mr.Muhammad Afzal S/O Mir Afzal  
Resident of Mohallah Chowki Police, Haripur  
Tehsil and District Haripur.

District Population Welfare Officer  
Haripur

Copy to the:-

1. District Account Officer Haripur for information please.
2. Account Assistant for necessary action and compliance please.
3. PS to Director General, PWD Peshawar for information please.
4. PS to Deputy Commissioner Haripur for information please.
- ✓ 5. Personal File.

ATTESTED

*[Signature]*  
Assistant Director (HR)  
Population Welfare Department  
Khyber Pakhtunkhwa

*[Signature]*  
**BAKHTIAR KHAN**  
District Population Welfare Officer  
Haripur

Annex-D  
10

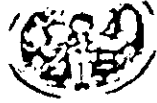


**POPULATION WELFARE DEPARTMENT  
DISTRICT POPULATION WELFARE OFFICE HARIPUR**

Mohallah Kund CNG Adda Abbottabad D-Stop Haripur, Ph: 0995-627019

District Population Welfare Haripur District Population Welfare Haripur dpwoharipur03@gmail.com

Dated Haripur the 19/11/2021



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**DISCIPLINARY ACTION**

I, Dr. Sadia, Woman Medical Officer, Haripur, Population Welfare, Khyber Pakhtunkhwa, as Chairman, Inquiry committee on protection against harassment of women at workplace, being the Competent Authority am of the opinion that Mr. Muhammad Afzal, Chowkidar, BPS-03, FWC Sikandarpur has rendered himself liable to be proceeded under protection against harassment of women at workplace act, 2010, as he committed the following acts within the meaning of the Act ibid.

**STATEMENT OF ALLEGTION**

1. That you have been charged for harassing the zahida shehzad, Aya/Helper, the complainant, at the centre in one form or another.
2. That most of the time you are found inside the centre, sitting beside the incharge, due to which Female clients are hesitant to visit the centre.
3. That you are trying to interfere in the personal life of the complainant in one form or another.
4. That you and incharge of the centre are making threats to the complainant in one form or another.
5. That the complainant is not feeling safe with you being at workplace.

For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry committee, comprising of the following, is constituted under rule (3) of the ibid rules:

- |   |                  |
|---|------------------|
| 1. Dr. Sadia Shahid WMO (BPS-17),       | Chairman         |
| 2. Shagufta Kanwal, DDPWO (NT), BPS-17, | Member/Secretary |
| 3. Shakeel Ahmed, Assistant, BPS-16,    | Member           |

6. The inquiry committee shall, in accordance with the provisions of ibid rules, provide reasonable opportunity of hearing the accused, record its findings and make, within 07 days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

Dr. Sadia Shahid  
WMO/Chairman.

Copy to the:-

1. Shagufta Kanwal, DDPWO (NT), BPS-17 for information and compliance please.
2. Shakeel Ahmed, Assistant, BPS-16 for information and compliance please.
3. Personal file for record.

ATTESTED

Assistant Director (HR)  
Population Welfare Department  
Khyber Pakhtunkhwa

Dr. Sadia Shahid  
WMO/Chairman

Annex - E

11

SHOW CAUSE NOTICE

I, BAKHTIAR KHAN, District Population Welfare Officer Haripur, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve upon you, Mr. Muhammad Afzal, Chowkidar FWC Sikandarpur, DPW-Office, Haripur as follows:-

- (i) That you remained in Central Jail under F.I.R No. 389 dated 09/04/2019 as from the date of F.I.R you have not performed official duties up to 11/05/2019 without any information or application, So, the absenteeism is proved.
- (ii) That you are History Sheeter in various Police Stations of Haripur that you was a "Sharab" Supplier vide F.I.R No 704 & 70.
- (iii) That you have been found guilty and the charges Proved vide inquiry conducted on the complaints of Mst. Zahida Shehzad, that you are enter-fairing in the FWC matters in unauthorized manners and you sit in the center all of the working time and all the female staff except In-charge are not feeling secure by your immoral activities.

I am satisfied that you have committed the following acts of commission specified in rule-3 (d) and 3(b) of the said rules:

- (i) Guilty of habitually absenting himself from duty without prior approval of leave.
- (ii) Guilty of misconduct.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the Major Penalty "Removal from service" under Rule-4 of the Khyber Pakhtunkhwa, Govt Servant (Efficiency & Disiplinary) Rule 2011.

3. You are, therefore, 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.

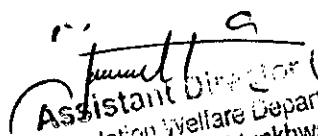
4. If no reply to this notice is received within seven (07) days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.



(BAKHTIAR KHAN)  
District population welfare officer  
Haripur

Mr. Muhammad Afzal,  
Chowkidar, (BPS-04)  
FWC Sikandarpur.  
Dated 27/12/2021

ATTESTED

  
Assistant Director (HR)  
Population Welfare Department  
Khyber Pakhtunkhwa

Annex-F

12

GOVERNMENT OF KHYBER PAKHTUNKHWA  
DIRECTORATE GENERAL POPULATION WELFARE

Dated Peshawar the 28/04/2022

OFFICE ORDER

/3185-91

No.4(21)/2021/Admn: After going through the appeal of Mr. Muhammad Afzal, Chowkidar (BPS-04) against DPWO Harripur office order No. 2(1)/2022-23/Admn dated 04/01/2022 and case record, the following is observed against each charge headings in the removal from service order:

- Habitual absenteeism:** A single episode of absence cannot be termed as habitual absenteeism. Besides, the defence provided by the accused regarding leave request and acquittal in criminal cases was not taken into account.
- Being a habitual offender in police record in police stations:** No evidence was found under this heading.
- Complaint of Ms. Zahida Shehzad:** The Inquiry Committee under chairperschon ship of Dr. Sadia Shahid could not charge the accused against female harassment and Inquiry by the office of DC found no evidence of harassment by the accused. The same was not taken into account.
- Direct Show Cause notice was issued without an inquiry under headings A&B. Nor an order of dispensing a formal inquiry, as required under the rules was issued.

In view of the above it is observed that the case has not be handled according to law. The order in appeal is therefore set aside and accused re-instated in serviced w.e.f the date of removal from service. The intervening period is treated as leave without pay.

Sd/-

(Mrs. Ayesha Ihsan)

Director General/Appellate Authority  
Population Welfare, Khyber Pakhtunkhwa

Copy to the:-

- District Population Welfare Officer, Harripur, for information and further necessary action under intimation to this office.
- District Accounts Officer, Harripur.
- Section Officer (Estt) Population Welfare Department, Khyber Pakhtunkhwa, Peshawar for information.
- PS to Director General, Population Welfare Khyber Pakhtunkhwa.
- Muhammad Afzal, Chowkidar, (BPS-04), District Popualtion Welfare Office, Harripur.
- P.F. of the official concerned.
- Master File Admn Section.

ATTESTED  
11/04/22  
ASST. Sd/-  
Population Welfare  
Khyber Pakhtunkhwa



Deputy Director (Admn)

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 142/2023.

Muhammad Afzal .....(Appellant)

VS

Secretary to Government of Khyber Pakhtunkhwa Population Welfare Department & Others .....

(Respondents)

**AUTHORITY LETTER**

Mr. Ahmad Yar Khan Assistant Director (Litigation), Directorate General Population Welfare Khyber Pakhtunkhawa is hereby authorized / nominated on behalf of respondent to submit comment/reply in the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar.



Director General  
Population Welfare Department  
Khyber Pakhtunkhwa  
(Respondent No. 1)

Director General  
Population Welfare Deptt:  
Govt: of Khyber Pakhtunkhwa  
Peshawar.