BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 1659/2022

Mr. Abid Zaman.....**Appellant.**

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. The Secretary, (LG&RD) Department, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
4. The Director General, Local Government & Rural Development Department, Khyber Pakhtunkhwa, Peshawar.

.....**Respondents.**

INDEX

S #	Description of Documents	Annexure	Page #
1	Joint Parawise reply	-	1-3
2	Affidavit	-	4
3	Show cause Notice	A	5
4	Reply of Show cause	B	6-7
5	PIT Inquiry Report	C	8-31
6	Authority letter	-	32

Respondents

Through

Assistant Director (Litigation)
LG&RDD

5. Incorrect, the appellant being one of the most important functionary of the executing agency is facing allegations of misconduct, inefficiency, slackness and indifferent/casual approach towards his duties, which resulted not only in loss to public exchequer, but also deprived general public of the benefits of scheme in question.

   As explicitly and rightly mentioned in the detailed Inquiry Report of Provincial Inspection Team, it was the job of technical branch of the executing agency to have identified the sites timely, obtained technical sanctions, carried out/ completed work according to approved specification and kept files/record of the schemes in safe custody.

   In the instant case, the appellant badly failed to perform his legitimate functions, hence faced the consequences rightly and justly without discrimination.

6. Correct as explained above.

7. Pertains to record.

8. No comments.

ON GROUNDS:

A. Incorrect, denied in light of above.

B. As replied in Para 5 of facts.

C. As replied in preceding paras.

D. Incorrect, a high-level committee of Provincial Inspection Team conducted the inquiry and upon its recommendation, penalty was awarded after fulfilling codal formalities.

E. Incorrect, the appellant was given full opportunity of defense before award of penalty as sufficient material was available, which could not be legally denied by the appellant.

F. Incorrect as explained above, there were other various functions, which the appellant failed to perform.

G. Denied, detailed reply has been given above.

H. No comments.

It is, therefore, humbly prayed that the instant Service Appeal being devoid of merit may be dismissed with cost please.

Director General LG&RD
Khyber Pakhtunkhwa
Respondent No. 4

Secretary Finance Department
Khyber Pakhtunkhwa
Respondent No. 3

Secretary LG,E&RDD,
Khyber Pakhtunkhwa
Respondent No. 2

Chief Secretary
Government of Khyber Pakhtunkhwa
Respondent No. 1

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 1659/2022

Mr. Abid Zaman.....**Appellant.**

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. The Secretary, (LG&RD) Department, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
4. The Director General, Local Government & Rural Development Department, Khyber Pakhtunkhwa, Peshawar.

.....**Respondents.**

AFFIDAVIT

I,**Azaz-ul-Hassan** Assistant Director BPS-17 (Litigation) in Directorate General Local Government & Rural Development, Peshawar solemnly affirm and declare on oath that Joint Para wise reply in **Appeal. No. 1659/2022 Mr Abid Zaman VS Government of Khyber Pakhtunkhwa etc** are true and correct to the best of my knowledge & belief and nothing has been intentionally concealed from this Honorable Tribunal. 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.

Deponent
CNIC #. **17301-2416976-9**
Cell #.**0336-9170959**

Identified By

Advocate General
Khyber Pakhtunkhwa

ATTESTED
Muhammad Mustafa Advocate
NOTARY PUBLIC
Reg No
Date
District Court Peshawar

(5)

SHOW CAUSE NOTICE

I, Dr. Shahzad Khan Bangash, Chief Secretary, Khyber Pakthunkhwa, Peshawar in exercise of the powers under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve upon you, Mr. Abid Zaman, Assistant Director (BS-17), Local Govt. & Rural Dev: Hangu, as follows:-

(i) That consequent upon the completion of enquiry conducted against you by the Enquiry Officer Mr. Smal Ullah, Additional Deputy Commissioner (F&P) Kohat on the basis of fact finding Inquiry of Deputy Commissioner, Hangu and Provincial Inspection Team on account of charges of not properly processing files for payment, misuse of government cheques, submitting of works and misplacement of works files in the Developmental Schemes namely " WSS Ganderi Dallan" and WSS Karbogha Sharif" under 10% Oil and Gas Royalty Fund 2014-15, for which you were given opportunity of hearing and

(ii) On going through the findings and recommendations of the Enquiry Officer, the material on record and other connected papers including your defense before the said Enquiry Officer;

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

a. Mis-conduct
b. In-efficiency.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Reduction to a lower stage for one year 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 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case exparte action shall be taken against you.

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

(Dr. Shahzad Khan Bangash)
Chief Secretary

Mr. Abid Zaman
Assistant Director (BS-17),
Local Govt. & Rural Dev: Hangu.

Attested

(6)

BEFORE THE ENQUIRY OFFICER /ADDITIONAL DEPUTY COMMISSIONER KOHAT

REPLIES TO THE ALLEGATIONS LEVELED IN THE CHARGE SHEET

Para wise replies to the allegations leveled against the undersigned Mr. Abid Zaman, Assistant Director, LG & RDD, Hangu are submitted a under:-

S.No	Allegations	Replies
i.	You are responsible for missing of original file/ record of the schemes namely Sanitation scheme at Mishto Banda Bagato and WSS Karbogha which was not available in the LG & RDD Office Hangu to know the factual position pertaining to forgery / fraudulent signature of Assistant Director LG & RDD Hangu;	The issue of missing of original file / record of the schemes relates to the tenure of Mr. Dilawar Khan, the then Assistant Director as he was the sitting officer. Transfer order of u/s to Bannu Anex A Transfer order of u/s to Hangu Anex B Misc correspondence of Mr. Dilawar Khan regarding misplaced files. Anex C, D, E, F
ii.	As per available record, 1st running bill to the tune of Rs. 1.20 Million was paid during the Financial Year 2014-15 and after that no fund was utilized. In Financial Year 2019-20, Rs. 7.750/- Million was sanctioned by DC Hangu on the recommendation of AD LG & RDD Hangu but later on, on his request, the issued cheque was dishonoured and was deposited in Govt; Treasury by AD LG & RDD Hangu vide Challan No. 23, dated 23.07.2020 due to non-pursuit of the case;	As mentioned in para No 1, the subject case was pursued by Mr. Dilawar Khan, the then sitting A.D Hangu. Correspondence made in that connection is attached as Annexures G, H, I, J, K, L, M, N.
iii.	Record shows that numerous applications have been submitted by the Contractor to the AD LG Office for payment of the said 2nd running bill and timely completion of balance work according;	No such applications were submitted by the contractor concerned. The factors /reasons for delay / non –payment of 2nd running bill prepared by Mr. Sajid Ali, Sub Engineer / Assistant Engineer & forwarded to DC Hangu for payment, during tenure of undersigned, in the month of June, 2019 are as under:- Measurement Book Annexure O Court cases Annexure P Time Extension Annexure Q Technical Sanction Revised identification list by DC / MPA Hangu submitted at end of FY 2018-19 Annexure R
iv	Cross-examination (questions with Mr. Abid Zaman (AD in the FY 2018-19) and Mr. Dilawar Khan (AD in FY 2019-20) show that you are even unaware of the site engineer of this mega on-going project despite being heads of the said executing agency;	The site engineer of the subject scheme was Mr. Sajid Ali. Annexure S
v.	Neither Mr. Abid Zaman nor Mr. Dilawar Khan (being heads of the executing agency) has randomly visited any sites of the said on-going project in their posting periods.	It is pointed out that Technical staff is responsible to supervise over ongoing schemes. However, general supervision is the responsibility of Assistant Director, Local Government to check the ground reality of the scheme at final stage/ payment, being non-technical hand.

Attested

(7)

vi.	The record shows that funds to the tune of Rs. 0.959193/- Million has been utilized in the Financial year 2018-19 and Rs. 4.598101/- Million in the FY 2019-20 till January 2020. File of the said schemes along-with the schemes mentioned has been misplaced in the office of the AD LG Hangu.	Already explained in para 1.
vii.	The said site is located at walking distance from the AD LG Hangu office but no significant progress has been achieved in the last 02 financial years as evident from the above utilization statement. Record shows that funds were available during the last 02 financial years;	The site located at walking distance from office of LG & RDD Hangu, namely, Sanitation scheme at Mishto Banda Bagatoo, was completed in the year 2019-20 on the work done basis by the Technical staff. The remaining amount was declared / considered as saving in the tenure of Ex AD, Hangu.
viii.	Available record shows that the Deputy Commissioner Hangu office has time and again strictly directed you during your posting period to complete the scheme at all costs but you ignored the directions each time;	Already explained in para 3.
ix	The record reveals that despite being responsible you never raised any issue in the scheme to high-ups nor any notice for completion of the said work has been given to the contractor but the scheme is still due to be completed;	The job of Assistant Engineer is to issue work orders of the developmental schemes and fully responsible for timely completion / issuance of notices in case of delay and bring issues / disputes into the notice of Assistant Director / High ups to resolve the issues, if any.

Attested

Keeping in view of above, it is requested that the allegation leveled against the undersigned may please be dropped and exonerated of the charge levelled.

Furthermore, it is stated that the case under reference relates to the tenure of Ex Assistant Director, LG&RD Hangu namely, Mr. Dilawar Khan (sitting AD D.I.Khan). As the files of schemes are missing before assumption of my charge as Assistant Director, LG& RDD, Hangu. The undersigned may please be exempted / exonerated of charges leveled in the charge sheet.

(ABID ZAMAN)
ASSISTANT DIRECTOR
LG & RDD HANGU

(8)

CONFIDENTIAL

GOVERNMENT OF KHYBER PAKHTUNKHWA

PROVINCIAL INSPECTION TEAM

INQUIRY REPORT

INQUIRY AGAINST OFFICERS/OFFICIALS OF LOCAL GOVT. OFFICE, HANGU FOR MISMANAGEMENT & MALADMINISTRATION IN UTILIZATION OF 10% OIL & GAS ROYALTY FUND FOR DISTRICT HANGU (COMPLAINT NO. 116).

(9)

CONFIDENTIAL

PROVINCIAL INSPECTION TEAM, KHYBER PAKHTUNKHWA

INQUIRY REPORT

Subject: **INQUIRY AGAINST OFFICERS/OFFICIALS OF LOCAL GOVT. OFFICE, HANGU FOR MISMANAGEMENT & MALADMINISTRATION IN. UTILIZATION OF 10% OIL & GAS ROYALTY FUND FOR DISTRICT HANGU (COMPLAINT NO. 116).**

1- ORDER OF INQUIRY.

Orders of the Competent Authority to conduct an inquiry into the case in hand were communicated to the Provincial Inspection Team (PIT) vide Section Officer, Chief Minister's Complaint and Redressal Cell, Peshawar letter No. SO(C&RC)/CMS/KP/1-59/V-1/Noor Awaz Adv./App-116/288 dated 25.03.2021, received to PIT on 01.04.2021 (Annex: A).

2- COMPLAINT:

a- Mr. Noor Awaz (Advocate), District President, Pakistan Tehrik-e-Insaf submitted a written complaint to Chief Minister, Khyber Pakhtunkhwa on 12.11.2020 wherein the following allegations were mentioned (Annex: B);

i. That, on the request of the applicant, the Chief Minister, Khyber Pakhtunkhwa in 2014-15 approved development funds to the tune of Rs. 30.00 million

(10)

(3)

from the Oil & Gas Royalty Fund for district Hangu. But, due to negligence, inefficiency and incompetency of the officers/officials of the Local Govt. Office, Hangu the scheme could not be completed till date. In connection with the said matter the applicant alongwith other respectables of the area submitted complaints to various fora. In the complaint, it was mentioned that the Secretary, Local Government Election & Rural Development Department (LGE&RDD) constituted an inquiry committee on his application in July, 2020 but, no outcome of the same had been seen. Similarly, on the directions of the Secretary, LGE&RDD another inquiry was held in August, 2019 but no action was taken till date. The above situation showed that the said department neither did any investigation nor took any action against the defaulters, thus, not only depriving the general public from their rights, but, also created bad name for the government.

Attested

ii. *That, on repeated complaints and demands of the general public, the Deputy Commissioner, District Hangu constituted an inquiry committee which conducted an impartial inquiry and finalized its inquiry report of eleven (11) pages in four (04) months. In the said report action for Mismanagement and Maladministration against two (02) Assistant Director, One Assistant Engineer and One Sub-Engineer, LGE&RDD, Hangu, was recommended(Annex: C).*

iii. *That the above inquiry report was sent to the higher ups of the Local Government Department for action*

against the responsible. But, it was feared that it would meet the same fate.

3- **INQUIRY PROCEEDINGS:**

a. Consequent upon receipt of orders of inquiry, the Provincial Inspection Team (PIT) requested Mr. Noor Awaz (Advocate), the complainant for attending and recording statement in PIT vide letter dated 02.04.2021 followed by reminder dated 05.04.2021(**Annex: D**). He submitted his denial of complaint on affidavit to PIT vide his letter dated 08.04.2021 (**Annex: E**).

b. The Secretary, Local Government Department, Peshawar was requested to provide their departmental comments to PIT vide letters dated 02.04.2021 followed by reminders dated 12.04.2021, 16.04.2021 and 21.04.2021 (**Annex: F**). PIT did not receive the reply of the Secretary, LGE&RDD, Peshawar till finalization of the inquiry report.

c. The Assistant Director, LGE&RDD, Hangu was requested to inform all the concerned staff to attend PIT alongwith a detailed brief and all the relevant record on 06.04.2021 vide PIT letter dated 02.04.2021 (**Annex: G**). Mr. Abid Zaman, Assistant Director, LGE&RDD, Hangu attended PIT on 06.04.2021 and recorded his statement (Annex: H). The following officers/officials of LGE&RDD, Hangu office also attended PIT on 07.04.2021 and recorded their statements;

S.No.	Name	Designation	Annex
1.	Mr. Dilawar Khan	The then Assistant Director, LGE&RDD, Hangu	I
2.	Mr. Shahzad Husain	The then Junior Clerk, LGE&RDD Office, Hangu	J
3.	Mr. Karim Saifullah	The then Sub-Engineer, LGE&RDD, Hangu	K

In the above statements, the officers/officials promised to provide the requisite record and attend PIT again for recording their statements. Therefore, on 09.04.2021 the following officers/officials of LGE&RDD, Hangu office attended PIT and recorded their statements;

S.No.	Name	Designation	Annex:
1.	Mr. Dilawar Khan	The then Assistant Director, LGE&RDD, Hangu	L
2.	Mr. Irfan Ullah	Assistant Engineer, LGE&RDD, Hangu	M
3.	Mr. Karim Saifullah	The then Sub-Engineer, LGE&RDD, Hangu	N
4.	Mr. Sajjad Ali	The then Sub-Engineer, LGE&RDD, Hangu	O

d. The Secretary, Finance Department, Peshawar was requested vide letter dated 12.04.2021 to provide details of allocation, releases and expenditure of the schemes under inquiry to PIT on 13.04.2021 (Annex: P), which was received by PIT on 15.04.2021 (Annex: Q). The District Account Officer, Hangu was also requested for the said information vide letter dated 12.04.2021 (Annex: R). The District Account Officer, Hangu submitted their reply to PIT on 13.04.2021 (Annex: S).

e. The Director General, LGE&RDD, Peshawar was also requested vide letter dated 12.04.2021 to provide the job responsibility of various officer of LGE&RD Department to PIT on 13.04.2021 (Annex: T). In response, the Director (Technical), LGE&RDD, Peshawar submitted

(13)

only the Job Responsibility of Assistant Director, LGE&RD Department vide their letter dated 13.04.2021 (Annex: U).

f. The Assistant Director, LGE&RDD, Hangu was requested to attend office of the PIT alongwith a detailed brief and record mentioned in the letter on 13.04.2021 vide PIT letter dated 12.04.2021 (Annex: V). He attended PIT on 14.04.2021 and submitted his brief (Annex: W), as well as recorded his statement(Annex: X).

g. The Deputy Commissioner, Tribal District Khyber was requested to furnish a detailed reply stating the actual position of the file, the sanctioning of amount of Rs. 6,495,000/- of the said scheme supported by all the relevant documents to PIT within two days vide PIT letter dated 12.04.2021 (Annex: Y). The Deputy Commissioner, Tribal District Hangu submitted his reply on 15.04.2021 (Annex: Z).

Attested

OBSERVATIONS.

After scrutiny of the available record, detailed discussions and written statement/reply of the concerned staff of LGE&RD Department, observations of the PIT are as under;

a. Perusal of the available record shows that the District Development Committee (DDC) has accorded its approval to the following schemes in its meeting held on 17.10.2014 (Annex: AA). Accordingly, the Deputy Commissioner, Hangu had issued Administrative Approval of the above schemes on 30.10.2014 (Annex: BB).

(14)

S.No	Name of the scheme with amount
1.	Water Supply Scheme (Installation of Pressure Pumps/Hand Pumps at Gandari Dallan, District Hangu, Costing Rs. 10.00 million.
2.	Water Supply Scheme (Installation of Pressure Pumps/Hand Pumps at Gandari Dallan, District Hangu, Costing Rs. 10.00 million.
3.	Construction of Sanitation Scheme at Mashti Banda Bagatu Costing Rs. 10.00 million.

According to the brief of the Assistant Director, LGE&RDD, Hangu files/records of the scheme "WSS at Karbogha Sharif" and "WSS at Gundari Dallan" was missing before he assumed the charge on 06.04.2021. The file/record of "Sanitation scheme at Banda Bagatu" was provided only to PIT. As per work order dated 31.12.2015 the said scheme was awarded to M/S Malik Feroz Khan, Govt. Contractor at a bid cost of Rs. 9.999 million (**Annex: CC**). As per statement of Mr. Sajjad Ali, the then Sub-Engineer, LGE&RDD, Hangu the other two schemes were awarded to M/S Asmatullah Govt. Contractor.

I. <u>Delay in Progress/Mismanagement & Maladministration in Execution of the Schemes.</u>

b. According to the inquiry report of the committee constituted by Deputy Commissioner, Hangu that after completion of the tender process by the executing agency (LG Hangu), Mr. Akbar Gul and others (Govt. Contractors) filed a civil suit No. 3-1 of 2015 in the District Court Hangu on 17.02.2015 against the disqualification process of the contract, which was decided by the District Court on 29.01.2016 in favour of the executing agency(Local Govt. office Hangu) and thus the scheme remained suspended during the above period(**Annex: DD**).

It was further mentioned in the report that in financial year 2015-16, Ex-MPA PK-84 Thall (Mufti. Syed Janan) filed writ petition No 4264-p/2015 against the allocation funds under 10% Oil and Gas Royalty to MNA NA-33 Hangu and District President, PTI Hangu and being elected representative of PK-84 Thall. Therefore, the work was again stopped due to litigation and on 11.05.2016 the Honourable Peshawar High Court Peshawar decided the case in favour of the petitioner i.e. Mufti. Syed Janan. Again the petitioner approached the August Court for filing contempt of court (CoC) vide No. 448-p/2016 in WP No. 4264-p/2015 and on 13.04.2017, the Finance Department Peshawar intimated the court that judgment/order of the court has been fully implemented and Rs. 140.730 million had been released on 05.04.2017 (Annex: EE). Hence, physical work on the schemes remained suspended on account of the aforementioned court cases from 17.02.20115 till 05.04.2017.

c. Perusal of the record shows that Finance Department vide its letter No. SO(Dev-IV)FD/8-20/2018-19 dated 01.01.2019 has released an amount of Rs. 140.73 million for District Hangu out of the 10% Gas Royalty fund (Annex: FF). Further, Perusal of the record shows that the Deputy Commissioner, Hangu had sanctioned payments of Rs. 1.95 million for the scheme "WSS at Village Karbogha Sharif" on 27.02.2019 and Rs. 0.95 million for the scheme "Sanitation Scheme at Banda Bagatu" on 01.03.2019 (Annex: GG & HH). No payment was made in "WSS at Gandari Dallan" in financial year 2018-19. The physical progress and utilization of funds

was very low and funds to the tune of Rs. 25.839 million had been lapsed in the financial year 2018-19.

According to the written statement of Mr. Abid Zaman, Assistant Director, LGE&RDD, Hangu, he had remained the AD, LGE&RDD, Hangu for the period from 01.03.2016 to 12.12.2019 and again from 05.08.2020 till date (Annexed-X). He was asked to state the reasons for such low progress in his tenure. In his written response, he stated that the main reasons of slow implementation were court cases, one case was filed by contractors and one by Mufti. Syed Janan in Peshawar High Court Peshawar. Moreover, proper site identification was not received on time. A revised site identification list for the scheme "WSS at Karbogha Sharif" was provided in financial year 2018-19. Further, on ground of court cases, the DDC extended the completion period of the scheme from May, 2017 by four months till August, 2017. However, it was observed that the said Assistant Director, LGE&RDD, Hangu failed to complete the schemes after disposal of court cases during financial year 2018-19 despite the release of fund.

In response to the said question Mr. Sajjad Ali, the Assistant Engineer, LGE&RDD, Hangu for the period from 20.11.2018 to 13 09.2019 stated in his written statement that he performed duty as Sub-Engineer as well as the Assistant Engineer for financial year 2018-19. After the funds were released, he prepared a bill amounting to Rs. 2.00 million (Approximately) for the scheme "Sanitation Scheme at Mishto Banda Bagatu" which was duly processed and paid to the contractor. For the scheme "WSS at Karbogha Sharif" he alongwith

(17)

Mr. Karim Saifullah, the then Sub-Engineer, LGE&RDD, Hangu prepared and recommended a bill amounting to Rs. 3.712 million. But, the said bill was regretted by the Deputy Commissioner, Hangu due to non-availability of Technical Sanction for the scheme. A bill of Rs. 400,000/- (Approximately) for the scheme "WSS at Gandari Dallan" was also regretted by the Deputy Commissioner, Hangu for the reason mentioned above. He added that payments were to be made to the contractors on actual work done basis and the same had been recommended to the Assistant Director, LGE&RDD timely.

Attested

Mr. Karim Saifullah, the then Sub-Engineer, LGE&RDD, Hangu was also asked to state the reasons for non utilization of funds and delay in completion of the scheme. In response, he stated in his written statement that he had submitted bills of the work carried out by the contractor. He further mentioned that one reason for delay in work was that one previous bill of the contractor was not cleared from the DC, Hangu office due to which he was not willing to do further work. He also mentioned that financially the contractor was weak and wished to work on advance payment which could not be allowed.

d. Perusal of the record also showed that Finance Department vide letter No.SO(Dev-IV)FD/7-30/2018-19 dated 22.10.2019 had revived and released an amount of Rs. 28.420 million from 10% Oil & Gas Royalty for District Hangu (Annex: II). In the said financial year of 2019-20 funds to the following tune had been utilized by the LGE&RDD, Hangu.

(18)

S.No	Name of the Scheme	Bill No	Date	Amount (Rs. M)	Annex
1	Sanitation Scheme at Banda Bagatu	2nd	17.12.2019	2.187	JJ
2	---	3rd	27.02.2020	2.41	KK
3	Fund Utilized in FY 2019-20 in "WSS at Karbogha"	0	----	0	
4	Fund Utilized in FY 2019-20 in "WSS at GandariDallan"	0	----	0	
Total fund utilized in FY 2019-20.				4.597	

Thus, out of 28.732 million, the AD, LGE&RDD, Hangu had utilized only 4.597 million in financial year 2019-20.

Attested

Mr. Dilawar Khan, the then concerned Assistant Director, LGE&RDD, Hangu stated in his written statement that he had neither processed nor signed any bill in his tenure and that no progress was made in his tenure. No satisfactory answer and cogent reasons were given when asked about no progress of schemes in question.

Mr. IrfanUllah the concerned Assistant Engineer, LGE&RDD, Hangu stated in his written statement that the fund could not be utilized timely because of slow/no physical execution of work on site by the contractor in the scheme "WSS at GandariDallan". He further stated that there were issues in the scheme "WSS at Karbogha Sharif" as the work done by the contractor was carried out without verification/identification of the Sub-Engineer concerned. As a proof he provided letters dated 11.03.2020 and 12.05.2020 wherein he raised the issues regarding the site identification (Annex: LL&MM).

(19)

e. It was observed that after disposal of court cases on 05.04.2017, the Finance Department, Khyber Pakhtunkhwa had released twice the funds for LGE&RDD, Hangu office for the schemes under inquiry.Both times huge share of fund had been lapsed. In more than four (4) years they had achieved the following financial progress;

Name of the Scheme	Cost (Rs. M)	Released (Rs. M)	Expenditure (Rs. M)
WW (Installation of Hand/Pressure Pump) at Gandari Dallan.	10.00	10.00	1.250
WW (Installation of Hand/Pressure Pump) at Karbogha Sharif.	10.00	10.00	1.950
Sanitation Scheme at Mishtu Banda Bagato.	10.00	10.00	5.55
Total			8.75

As per notification of LGE&RDD it was the job description of the Assistant Director, LGE&RDD to have timely executed the schemes (Annexed-U). In almost three years they had taken no notice of the contractor progress. The concerned Assistant Directors, LGE&RDD presented the excuse that there was identification issues in the scheme, but have taken no step in this regard to resolve the said issue. The court cases were decided in financial year 2016-17 and funds were released for the schemes in financial year 2018-19. If they wanted, they could have resolved the issues of identification of schemes within that dormant period of 2016-17 to 2018-19. But they did not avail the said opportunity and till date they are arguing the issue of identification of site for installation of hand pumps/pressure pumps, which is not only negligence and inefficiency but also a grave misconduct on their part for which they must be held responsible.

As per rules, technical sanction for a scheme is obtained from the competent authority before the commencement of work. In the instant case, the LGE&RDD, Hangu office had failed to obtain the same till 2018-19 while the scheme was approved in 2014-15 resulting into regretting of bills from the office of DC, Hangu in financial year 2018-19. It also shows slackness on part of the LGE&RDD, Hangu office being the executing agency. In addition, as per procedure, District P&D office was required to conduct survey and identify schemes as per the needs of the general public. However, no such record was presented regarding survey or feasibility of the schemes resulted into delay in utilization of funds.

Attested

4. Misplacement of Record/Files of the Schemes "WSS at Gandari Dallan" and "WSS at Karbogha Sharif".

f. During the course of inquiry, the Assistant Director, LGE&RDD, Hangu in his brief dated 13.04.2021 informed PIT that files/record of two schemes "WSS at Gandari Dallan" and "WSS at Karbogha Sharif" were misplaced/missing. Therefore, the concerned officers/officials were asked as to how, when and where the record was misplaced?

In this connection Mr. Sajjad Ali, the then Sub-Engineer, LGE&RDD, Hangu stated in his written statement that files in questions were reportedly missing during the year 2020 and he relinquished the charge of Assistant Engineer, LGE&RDD, Hangu on 13.09.2019. He was the custodian of the "Sanitation Scheme at Mishtu Banda Bagatu" while the other two sites were looked after by

Mr. Karim Saifullah, the then Sub-Engineer and Mr. Irfan Ullah, Assistant Engineer, LGE&RDD, Hangu. Since, the schemes were not related to him therefore, neither he had seen thcse files nor touched them at the time of misplacement of the files.

Mr. Shahzad Hussain, Junior Clerk, LGE&RDD, Hangu stated in his written statement that he was posted as Junior Clerk in the LGE&RDD, Hangu office since September, 2015 and was performing the duty of Diary and Dispatch till March, 2020. On 03.03.2020, he was posted as Assistant, LGE&RDD, Hangu in his Own Pay Scale (OPS). He also mentioned that as far as the files/record of the scheme under inquiry is concerned, the same had never been handed over to him till 18.06.2020. He was handed over only the file/record of "Sanitation Scheme at Mishtu Banda Bagatu" on 18.06.2021 through proper handing taking which was still in his custody.

In this regard, Mr. Abid Zaman, AD, LGE&RDD, Hangu sated in his brief that those files were missing before his posting as AD, LGE&RDD, Hangu on 06.04.2021.

No such record was presented to reflect that any legal action i.e., FIR or Inquiry was conducted for ascertaining the responsible staff for missing files. This reason leads that the files were lost willfully by all the staff, particularly by the AD Local Govt. office Hangu. As a matter of fact, protecting the official record/file is the responsibility of every officer/official to whom the file is related. In the instant case, files/record of two schemes mentioned

(22)

above had been lost from the LGE&RDD, Hangu office for which the technical staff of LGE&RDD, Hangu as well as the Assistant Director were equally responsible and it also shows negligence on their part.

Doubtful/Fake Payment of Rs. 6.495 million in "WSS at Gandari Dallan".

g. Mr. IrfanUllah, Assistant Engineer, and Mr. Karim Saifullah, Sub-Engineer, LGE&RDD, Hangu stated in their joint written statement that Mr. Arshad Mansoor, the then Deputy Commissioner, Hangu and Mr. Dilawar Khan, the then Assistant Director, LGE&RDD, Hangu in connivance of each other had sanctioned 2nd/final bill amounting to Rs. 6.495 million for the contractor of "WSS at Gandari Dallan" in illegal manner in June, 2020 by bypassing the technical staff of LGE&RDD, Hangu (Annex: NN). The contractor had actually executed 24 hand/pressure pumps at site. Out of which 5 hand/pressure pumps were non-functional. The net payable amount of the contractor as per actual work done(after deduction of previous bill amount of Rs. 1.250 million and non-functional hand/pressure pumps,)was Rs. 55,507/. They mentioned that actual situation of the scheme "WSS at Gandari Dallan" as per report of technical staff was as under;

Description	Cost (Rs. M)	Remarks
Total Cost	10.00	The Scheme was approved in 2014-15 for total 100 No. of pressure pumps.

2.	Technical Sanction Cost	7.76	Approved by the competent authority
3.	1st R/Bill	1.250	Payment was made on supply of the items
4.	Actually executed work on site after verification	1.876	Joint committee report dated 23.05.2021 (Annex: I).
5.	Net cost of the work.	0.629	After deduction of 1st R/Bill
6.	Net payment of the contractor.	0.0557	After deduction of non-functional pumps

They further stated that on site only 19 hand/pressure pumps had been installed while the sanctioned fake bill was for 81 hand/pressure-pumps. The then Deputy Commissioner, Hangu first misplaced the file and then to hide his fault he levelled baseless allegations against the technical staff of LGE&RDD, Hangu. On 19th June, 2020 he transacted Rs. 6.495 million from the public exchequer and instead of transferring the said amount into the account of real contractor M/S Asmatullah Khattak,it was transferred to a fake account made on the name of M/S Asmatullah Khattak. The fake bill was signed by Retired Engr. Javid Iqbal which was completely unjustified. To hide his fault the Deputy Commissioner, Hangu conducted an inquiry. The technical staff submitted an application regarding the illegal transaction to the Director, Anti-Corruption Establishment, Khyber Pakthunkwa (**Anenx: OO**). After hearing about the Anti-Corruption Establishment, the DC, Hangu and AD, LGE&RDD, Hangu recovered the amount and deposited it in the government exchequer. They further stated that due to non-payment to the contractor, the contractor was levelling baseless allegations and also lodging different complaints through various fora against them just to tease them. In

the end, they raised the question that if files/record was missing as mentioned in Assistant Director, LGE&RDD, Hangu letter dated17.06.2017 then how sanction of Rs. 6.495 million for the abovementioned scheme was granted? They further stated that it implies that the record/files was not missing but was lying in the office of Assistant Director, LGE&RDD, Hangu.

Mr. Dilawar Khan, Assistant Director, LGE&RDD, Hangu stated that he came to know about the cheque and file after about 10 to 15 days after the issuance of the cheque. Before, that he was unaware that such malafide act had been done. The cheque was issued by the District Account Office, Hangu and they came to know about it after 10 to 15 days. When he was asked that whether payment of Rs. 6.495 million was made to the contractor? In response, he stated that cheque was submitted by the contractor in MCB, Hangu from where it was forwarded to MCB, Kohat. Mr. Ihsanullah, a petty contractor presented the said checque to a female Bank Manager where he was told by her that his account was a business account, while the cheque had been issued for account in the name of a contractor. Further, the cheque amount was Rs. 6.495 million while in his account there were only Rs. 2000/- and so she asked the contractor that his cheque was doubtful. Mr. Ihsanullah then started threatening her. However, the cheque was sent back to MCB, Hangu. Meanwhile, he came to know about the cheque then he wrote a letter to MCB, Hangu with a copy to Deputy Commissioner, Hangu and thus, the cheque could not be drawn and the amount was recovered.

The Deputy Commissioner, Hangu (Now Deputy Commissioner, Tribal District Khyber) in his letter No. 1462/DC(Khyber) dated 15.04.2021 stated that the file in question was processed by Assistant Director, LGE&RDD, Hangu recommending the bill of scheme amounting to Rs. 7.750 million on proper note-sheet (Annex: PP). Although AD, LGE&RDD, Hangu vide his letter No 285 dated 10.06.2020 had intimated that the said file had been missing, however, recommendation of the AD, LGE&RDD, Hangu and statement of the contractor duly undertaken on affidavit substantiate that the file was in the office custody of LGE&RDD, Hangu, which was processed for payment (Annex: QQ). It was astonishing that if the file was missing then how Assistant Engineer, LGE&RDD Hangu in his application dated 23.06.2020 write to Director Anti-Corruption, Khyber Pakhtunkhwa against Assistant Director LGE&RDD for alleged fraudulent payment. Content of the note sheet, affidavit and letter of Assistant Engineer of LGE&RDD Hangu of above reference indicate that the file was not missing rather it were maneuvering of office of LGE&RDD, Hangu (Annex:RR). He also mentioned that the file/record of the scheme "WSS at Dallan" was not missing but, the file/record of "WSS at Karbogha Sharif" was missing for recovery of which proper inquiry was conducted and reportedly the said file is still missing.

Regarding the sanctioning the bill amounting to Rs. 6.495 million the then concerned Deputy Commissioner, Hangu stated that file processed by AD, LGE&RDD Hangu was thoroughly checked and all the formalities

were found completed i.e. contractor bill, MB, TS and completion certificate etc.

The PIT also asked Mr. Dilawar Khan the then Assistant Director, LGE&RDD, Hangu vide letter dated 21.04.2021 to clarify whether the recommendations for the aforesaid payments was his own or otherwise (Annex: SS). But, he did not respond to PIT letter.

Attested

As per general procedure, the Sub-Engineer of a scheme initiate the file which after processing through Assistant Engineer and Assistant Director, LGE&RDD, the same is sent to the Deputy Commissioner of the concerned district for sanctioning the amount being utilized. In the instant case, Mr. Dilawar Khan, the then Assistant Director, LGE&RDD, Hangu had directly recommended the bill for approval of the Deputy Commissioner, Hangu. Mr. Arshad Mansoor, the then Deputy Commissioner, Hangu without looking for signature of the technical staff of LGE&RDD, Hangu on the note-sheet has sanctioned Rs. 6.495 million. Besides above mentioned negligence, the Deputy Commissioner also failed to confirm the actual work done before sanctioning fraudulent payment of Rs. 6.495 million in the name of fake person due to the reason that the bill was not signed/verified by the concerned Technical staff. Hence, both were equally involved in this fraudulent process of the bill for which they need to be held accountable.

The above situation reveals that files of the schemes "WSS at Gandari Dallan" and "WSS at Karbogha Sharif" had been deliberately misplaced having

(27) — 189

malafide intentions by the then Assistant Director, LG&RDD, and the then Deputy Commissioner, Hangu in order to avoid responsibility of the fraudulent payment.

NDINGS.

ed on the observations at Para-4 (a to g) of this report, findings as under;

ure of complaint

The complainant, Mr. Noor Awaz (Advocate), District President, Tehrik-e-Insaf, Hangu did not own the complaint. Hence, the complaint is pseudonymous. However, the contents were proven as true.

y in Implementation of the Schemes, Misplacement of Records and Attempt of Fraudulent Payment.

It was found that the execution of the schemes remained suspended due to a civil suit filed by Mr. Akbar Gul and other in District Court Hangu on 17.02.2015 against their disqualification, which was decided by the District Court on 29.01.2016 in favour of the executing agency. Similarly, another writ petition filed by the Ex-MPA PK-84 Thall (Mufti. Syed Janan) against the allocation of the schemes during the year 2015-16 which was decided in his favour on 11.05.2016 also caused delay in the process of execution. Hence, delay in execution for the aforementioned period being beyond control of the executing agency is justified.

c. After the disposal of the aforementioned court cases the following Assistant Directors Local Government Office Hangu being responsible for the execution and administration of the schemes failed to complete the schemes during their tenure despite release of Funds;

S.No	Name	Designation	Tenure
1	Mr. Abid Zaman	Assistant Director, LGE&RDD, Hangu	01.03.2016 to 12.12.2019
2	Mr. Dilawar Khan	Assistant Director, LGE&RDD, D.I.Khan	01.01.2020 to 05.08.2020

It was further transpired that the execution of schemes "WSS at Gandari Dallan" and "WSS at Karbogha Sharif" as been halted since june 2020 due to missing of Files f the said schemes after eruption of the issue of udulent payment attempt of Rs. 6.495 million in eme "Sanitation Scheme at Gandari Dallan" during e 2020. The said amount was processed in the name a fake person's account against no physical work. gh the amount was not paid due to interception of cheque by the concerned Bank Manager and the equer sustained no loss, yet it confirmed the fide and negligence on the part of those who were ved in payment process. The Assistant Director recommended the above payment and the Deputy missioner who gave sanction as Principal nting Officer without confirmation of physical ess and without checking the remarks/signatures concerned technical staff (Assistant Engineer and gineer) on the bill, are directly responsible for

the above fraudulent payment attempt and the resultant delay in execution of the schemes in question since june 2020.

e. The circumstances and emerging facts reveal that the Files of the two schemes i.e., "WSS at Gandari Dallan" and "WSS at Karbogha Sharif were deliberately misplaced in order to avoid the responsibility of processing the aforementioned fake/fraudulent payment.

f. The subordinate staff of the AD Local Govt. office i.e., the Assistant Engineer and the Sub-Engineer also failed to properly handle and protect the Files of their Schemes.

g. The PIT found that due to negligence and inefficiency, the technical sanction for the scheme "WSS at Ganderi Dallan" and "WSS at Karbogha Sharif" could not be issued till February, 2020, for which the Assistant Director, LGE&RDD (Mr. Abid Zaman) was responsible.

h. The Administrative Department (LGE&RDD) did not furnish its comments in the matter despite repeated requests, which is beyond comprehension.

i. No legal action regarding missing of record which manifests willful and malafide intentions of the concerned AD Local Govt. office Hangu.

j. The Public amount was not utilized due to inefficiency and ulterior motives. This delay may have escalated the cost of the schemes as result of their individual inefficiency.

(30)

RECOMMENDATIONS.

the basis of observations and findings of this report, mendations of Provincial Inspection Team are as under;

Strict Disciplinary action as per law may be taken against the following for their omissions/commissions referred to against each:

me	Designation	Omissions/commissions
id Zaman	The then AD LGE&RDD, Hangu	As mentioned in para-5(c)& 5(g)
ar Khan	The then AD LGE&RDD, Hangu	As mentioned in para-5(c), 5(d) 5(e)& 5(i)
Arshad or	The then Deputy Commissioner, Hangu	As mentioned in para-5(d) & 5(e)
Irfan	Assistant Engineer, LGE&RDD Hangu	As mentioned in para-5(f)
	Sub-Engineer LGE&RDD Hangu	As mentioned in para-5(f)

inistrative Department (LGE&RDD) may be directed its silence during the instant inquiry proceedings be further directed to complete the schemes in as per law without further delay and the resultant

escalation of the schemes may be recovered from the
ve as per their tenure.

AJEEB ULLAH
sistant Engineer
cial Inspection Team
ber Pakhtunkhwa

KHALID KHAN
Member
Provincial Inspection Team
Khyber Pakhtunkhwa

T ALI MOHMAND
mber (Inquiries)
ial Inspection Team
ber Pakhtunkhwa

SALAHUDDIN
Member (General)
Provincial Inspection Team
Khyber Pakhtunkhwa

Attested

FARRAKH SAIR
Chairman
Provincial Inspection Team
Khyber Pakhtunkhwa

(32)

DIRECTORATE GENERAL
LOCAL GOVERNMENT AND RURAL DEVELOPMENT
DEPARTMENT KHYBER PAKHTUNKHWA

AUTHORITY LETTER

Mr. Azaz-Ul-Hassan, Assistant Director Litigation (BPS-17) in Directorate General Local Government & Rural Development Department, Khyber Pakhtunkhwa, is hereby authorized to submit the Joint Parawise Comments/Reply in **Appeal No. 1659/2022 Mr. Abid Zaman VS Government of Khyber Pakhtunkhwa & others** on behalf of Respondent No. 1,2, 3 & 4.

Deputy Director (Litigation)
LG&RDD, Khyber Pakhtunkhwa

Deputy Director (Litigation)
Directorate General Local Govt: &RDD
Khyber Pakhtunkhwa