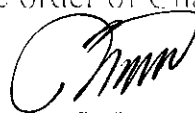


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Appeal No.** 1850/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/09/2023	<p>The appeal of Mr. Ameer Muhammad Durrani presented today by Mr. Muhammad Zaffar Tahir Kheli Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

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

Service Appeal No. 1850 /2023

Ameer Muhammad Durrani

Versus

Govt. of KP.

**I N D E X**

S.No	Particulars	Annexure	Pages
1	Memo of Petition		1-4
2	Affidavit		5
3	Departmental Appeal 15-05-2023	"A"	6-7
4	Dismissal Order 26-06-2010	"B"	8
5	Service appeal No. 1381 / 2010	"C"	9-21
6	Service appeals No. 1606 / 2010	"D"	22-26
7	Service appeals No. 1379 / 2010	"E"	27-38
8	Judgment & Order dated 29-03-2022	"F"	39-43
9	Petition No. 318 / 2022	"G"	44-46
10	Order dated 03-05-2023	"H"	47
11	Notification dated 03-07-2023.	"I"&"J"	48-49
12	<i>Address of father</i>		50
12	Vakalatnama		51

Peshawar, dated  
12<sup>th</sup> September, 2022

*Muhammad Zafar Khan*  
Muhammad Zafar Khan (Tahirkheli)  
A.S.C.

87, Alfarah Street, Cantt Colony,  
Peshawar.  
0300-9597670

①

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

Service Appeal No. 1835 /2023

Ameer Muhammad Durrani s/o Khan Muhammad Durrani,  
r/o Nowshera Kalan, Nowshera.  
Ex-Section Officer (Transport) Administration  
Department, Civil Secretariat, Peshawar.

.....Appellant

**Versus**

1. Secretary, Govt. of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
2. Chief Minister, Govt. of Khyber Pakhtunkhwa, Peshawar through Chief Secretary, Govt. of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
3. Secretary, Govt. of Khyber Pakhtunkhwa, Administration Department, Peshawar.

.....Respondents

=====

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT 1974, FOR THE GRANT OF PENSION BENEFITS TO THE APPELLANT IN THE SAME MANNER AS WAS ALLOWED TO MR. BALQIAS KHAN, & MR. EJAZ HUSSAIN, ASSISTANTS (BPS-16) VIDE NOTIFICATIONS DATED 03-07-2023 AND THE APPELLANT WAS IGNORED FOR THE SAME BENEFIT INSPITE OF BEING SIMILARLY PLACED AND POSITIONED AND HIS DEPARTMENTAL APPEAL DATED 15-05-2023 (COPY ANNEXED MARKED "A"), WAS NOT DECIDED WITHIN THE STATUTORY PERIOD OF LIMITATION.**

=====

**PRAYER IN APPEAL:**

- a) By accepting this appeal and directing the respondent department to allow the pension benefit to the appellant on the analogy of Mr. Balqias Khan and Ejaz Hussain, Assistants (BPS-16), who were allowed pension benefit vide notifications dated 03-07-2023, being similarly placed and positioned in view of judgments reported as 1996 SCMR 1185 and 2009 SCMR 1.

=====

**RESPECTFULLY SHEWETH;**

1. The appellant is Ex-Section Officer (BPS-17) (Transport) Administration Department Civil Secretariat Peshawar, who was dismissed on service vide order dated 26-06-2010. (Copy annexed marked "B")

- (2)
2. That the appellant submitted a service appeal No. 1381 / 2010 before the worthy Khyber Pakhtunkhwa Service Tribunal with the request as under;

Appeal against the office order No. SO(E-II)(ED)3(719)/2007 dated 18-05-2010 of respondent No. 1, whereby penalty of "Dismissal from Service" and "Recovery of Rs. 1,26,16,435/-" was imposed upon appellant or officer order No. SOE-II(ED)3(719)/2007, dated 29-06-2010 of respondent No. 2 whereby departmental appeal of appellant was rejected for no legal reason.

(Copy annexed marked "C")

3. That two other service appeals No. 1606 / 2010 and 1379 / 2010 were also filed by Mr. Balqias & Mr. Ijaz Hussain on the similar grounds, having same background and cause of action. All the afore mentioned appellants were charge in the same reference before the National Accountability Court, Peshawar. They approached the Hon'ble Tribunal at the same time.

(Copies annexed marked "D" & "E")

4. That the service appeal No. 1606 / 2010 titled, "Balqias Khan Vs Govt." was accepted vide judgment and order dated 29-03-2022; wherein the Hon'ble Tribunal had held as under;

8. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service for the purpose of de-novo inquiry with the direction to the respondents to conduct de-novo inquiry strictly in accordance with the relevant law within a period of 60 days of receipt of copy of this judgment. Needless to mention that the appellant shall be associated with the inquiry proceedings and fair opportunity be provided to him to defend himself. The issue of back benefits shall be subject to outcome of de-novo inquiry. Parties are left to bear their own costs. Filed be consigned to the record room.

Announced  
29-03-2022

Member (Judicial)  
Member (Judicial)

Similar treatment was accorded to Ijaz Hussain in respect of his service appeal No. 1379 / 2010. (Copy annexed marked "F")

5. That the appellant requested the worthy authority that being similarly placed and positioned and being at par with both Balqias Khan & Ijaz Hussain the appellant should also be extended the similar benefit and treatment in view of case law reported as 1996 SCMR 1185 and 2009 SCMR pg. 1.

(Copy annexed marked "G")

- (3)
6. That the worthy Tribunal vide its order dated 03-05-2023 accepted the plea of the appellant and observed as under;

3<sup>rd</sup> May, 2023

2. Learned counsel for the applicant submitted that he would advise the applicant to make an application to the concerned Authority for similar treatment in compliance with judgments of august Supreme Court of Pakistan reported as 1996 SCMR 1185 and 2009 SCMR page 1 and others for extending similar treatment to the similarly placed persons, as he says that the appeals of Balqias Khan Service appeal No. 1606 / 2010 and Ijaz Hussain etc have been accepted vide judgment for conducting de-novo inquiry within a period of 60 days. In view of request of. Needless to say that the applicant is at liberty to make any application / representation under any law seeking any remedy before any Authority which if made has to be dealt with in accordance with law. Consign.

(Copy annexed marked "H")

7. That the worthy department initiated de-novo inquiry proceedings in view of the judgment of the worthy Tribunal dated 29-03-2022 against Mr. Balqias Khan and Ijaz Hussain.
8. That as result of findings of Inquiry Committee and providing opportunity of personal hearing, Mr. Balqias Khan, Assistant (BPS-16) was retired form service along with recovery under rule 22 of Khyber Pakhtunkhwa Civil Servants Pension Rules, 2021.

Similarly, Mr. Ijaz Hussain, Assistant (BPS-16) in view of the findings of the committee and providing opportunity of personal hearing was compulsory retired from service along with recovery under rule 4(i)(b)(ii) read with sub rule-5 of rule-4 of the E&D rules 2021. (Copies annexed marked "I" & "J")

9. That the appellant submitted his departmental appeal dated 15-05-2023 (annex "A"), which was not decided within the statutory period of limitation.

Feeling aggrieved and finding no other appropriate remedy, the appellant has been constrained to approach the Hon'ble Service Tribunal for the redress of his grievance inter-alia on the following;

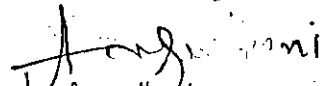
### Grounds

- a. That the impugned omission of the authority to decide the departmental appeal of the appellant is illegal and void ab-initio and hence liable to be set right by this Hon'ble Tribunal.
- b. That since the appellant, Ijaz Hussain and Balqias Khan who were charged for the samilar offences, have been allowed the concession of pension benefits, therefore the appellant is also entitled to the similar relief as the constitution extended protection to his rights and his case could not be treated differently.

- (4)
- c. That according to the mandate of Article 25 of Constitution of Pakistan, the appellant being equally and similarly placed as the other officials and earlier litigants is also entitled to the same relief extended to others.
- d. That to claim a relief at par with Ejaz Hussain and Balqias Khan is a fundamental right and the constitution extends protection to such right as similarly placed cannot be treated differently. The scale of justice has to be balanced on the same pattern. (1996 SCMR 1185, 2005 SCMR 499, 2009 SCMR 1, 2014 SCMR 1336 & 2021 SCMR 1313)
- e. That the appellant has not been treated fairly, which is not acceptable under any circumstances and declining the relief would amount to discrimination.
- f. That impugned omission to consider the appellant for the purpose of allowing pension benefits is thus illegal, unlawful, against the principles of equity, law, justice and propriety calling for interference by the Hon'ble Khyber Pakhtunkhwa Service Tribunal.

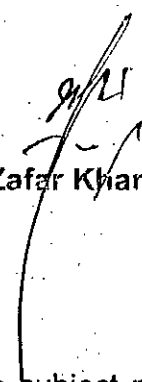
In view of the above, it is most humbly requested that by accepting this appeal the respondents be directed to allow the pension benefit to the appellant on the analogy of Mr. Balqias Khan and Ejaz Hussain, Assistants (BPS-16), who were granted pension benefit vide notifications dated 03-07-2023, being similarly placed and positioned in view of judgments reported as 1996 SCMR 1185 and 2009 SCMR.

Any other relief deemed appropriate may also be granted in addition to the relief prayed above.

  
Appellant

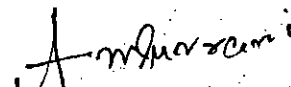
Through,

Peshawar, dated  
12<sup>th</sup> September, 2023

  
Muhammad Zafar Khan (Tahirkheli)  
A S C

**Certificate:**

It is certified that no other appeal on the same subject matter has been filed to the instant appeal.

  
Appellant

(5)

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

Service Appeal No. \_\_\_\_\_/2023

Ameer Muhammad Durrani

**Versus**

Govt. of KP.

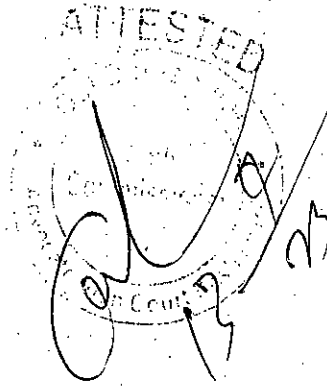
**Affidavit**

I, the appellant, Ameer Muhammad Durrani s/o Khan Muhammad Durrani, Ex-Chief Instructor, do hereby state on Oath that the contents of the accompanying appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Hon'ble Tribunal.

*A. Durrani*  
DEPONENT

CNIC No. 17301-4415926-9

Date:- 12<sup>th</sup> Sept-2023



D.No: - 1930

Dated: 28-5-23

To SS Officer Estab to E-II

PS/Secy E&AD KP

Diary No. 3623/22

FTS No.

Date 15-5-23

The Secretary Establishment,  
Khyber Pakhtunkhwa,  
Peshawar.

*S*  
SS-23

(6)

Subject: DEPARTMENTAL APPEAL / REPRESENTATION / MERCY PETITION

Ameer Muhammad Durrani s/o Khan Muhammad Durrani, Ex-Section Officer (Transport) Administration Department Civil Secretariat Peshawar, the appellant, submits most respectfully the following for your kind consideration and favour of acceptance.

7. That the appellant had submitted a service appeal No. 1381 / 2010 before the worthy Khyber Pakhtunkhwa Service Tribunal with the request as under;

Appeal against the office order No. SO(E-II)(ED)3(719)/2007 dated 18-05-2010 of respondent No. 1, whereby penalty of "Dismissal from Service" and "Recovery of Rs. 1,26,16,435/-" was imposed upon appellant or officer order No. SOE-II(ED)3(719)/2007, dated 29-06-2010 of respondent No. 2 whereby departmental appeal of appellant was rejected for no legal reason.

8. That two other service appeals No. 1606 / 2010 and 1378 / 2010 were also filed by Mr. Balqias & Mr. Ijaz Hussain on the similar grounds, having same background and cause of action. All the afore mentioned 03 appeals were pending adjudication before the Hon'ble Tribunal at the same time.

9. That the service appeal No. 1606 / 2010 titled, "Balqias Khan Vs Govt." was accepted vide judgment and order dated 29-03-2022, wherein the Hon'ble Tribunal had held as under;

8. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service for the purpose of de-novo inquiry with the direction to the respondents to conduct de-novo inquiry strictly in accordance with the relevant law within a period of 60 days of receipt of copy of this judgment. Needless to mention that the appellant shall be associated with the inquiry proceedings and fair opportunity be provided to him to defend himself. The issue of back benefits shall be subject to outcome of de-novo inquiry. Parties are left to bear their own costs. Filed be consigned to the record room.

Announced  
29-03-2022

(Salah ud Din)  
Member (Judicial)

(Rozina Rehman)  
Member (Judicial)

Similar treatment was accorded to Ijaz Hussain in respect of his service appeal No. 1379 / 2010. (Copy annexed)

10. That the appellant requested the worthy authority that being similarly placed and positioned and being at par with both Balqias Khan & Ijaz Hussain the appellant should also be extended the similar benefit and treatment in view of case law reported as 1996 SCMR 1185 and 2009 SCMR pg. 1.



7

11. That the worthy Tribunal, vide its order dated 03-05-2023 accepted the plea of the appellant and observed as under;

3<sup>rd</sup> May, 2023

2. Learned counsel for the applicant submitted that he would advise the applicant to make an application to the concerned Authority for similar treatment in compliance with judgments of august Supreme Court of Pakistan reported as 1996 SCMR 1185 and 2009 SCMR page 1 and others for extending similar treatment to the similarly placed persons, as he says that the appeals of Balqias Khan Service appeal No. 1606 / 2010 and Ijaz Hussain etc have been accepted vide judgment for conducting de-novo inquiry within a period of 60 days. In view of request of. Needless to say that the applicant is at liberty to make any application / representation under any law seeking any remedy before any Authority which if made has to be dealt with in accordance with law. Consign.

(Copy annexed)

12. That the worthy department has initiated de-novo inquiry proceedings in view of the judgment of the worthy Tribunal dated 29-03-2022 against Mr. Balqias Khan and Ijaz Hussain.

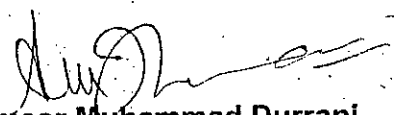
That the appellant requests the worthy authority to accord the similar treatment to him in terms of the judgments of Superior Courts as cited above and the order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal dated 03-05-2023 and associate the appellant with the departmental proceedings, while allowing him the benefit to submit his written reply and opportunity to be heard in person.

In view of the above it is most humbly requested by accepting this departmental appeal, the worthy authority may kindly be pleased to accord the similar treatment to the appellant vide order of the worthy KP Service Tribunal dated 03-05-2023 passed in Service Appeal No. 1381 / 2010 being similarly placed and positioned along with Mr. Balqias Khan and Ijaz Hussain.

Dated: 15<sup>th</sup> May, 2023



TRUE COPY

  
Ameer Muhammad Durrani  
Ex-Section Officer (Transport)  
Administration Department Civil  
Secretariat, Peshawar.  
CNIC: 17301-4415926-9  
Cell No. 0336-9165744

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

Dated Peshawar the 18.05.2010

8

**ORDER**

**NO.SOE-(II) ED 3(719)2007:-**

**WHEREAS**, Mr. Amir Muhammad Durrani, Superintendent (BS-16) working as Section Officer on current charge basis, ST&IT Department was proceeded against under the Khyber Pakhtunkhwa Removal From Service (Special Powers) Ordinance, 2000 for the charges mentioned in the Charge Sheet and Statement of Allegations.

**AND WHEREAS**, the competent authority constituted an Enquiry Committee to conduct inquiry against the said officer for the charges leveled against him, in accordance with the law/rules;

**AND WHEREAS**, the Inquiry Committee, after having examined the charges, evidence on record and explanation of the accused officer, submitted its report, whereby the charges leveled against the accused officer stand proved.

**NOW THEREFORE**, the Competent Authority, after having considered the charges, evidence on record, the explanation of the accused officer, findings of the Inquiry Committee, providing opportunity of personal hearing to the accused and exercising his powers under Section 3 read with Section 8 of the Khyber Pakhtunkhwa Removal From Service (Special Powers) Ordinance, 2000 has been pleased to impose the penalty of "Dismissal from service" and recovery of Rs. 126,164,35/- upon Mr. Amir Muhammad Durrani, Superintendent (BS-16) working as Section Officer on current charge basis, ST&IT Department, with immediate effect.

**SECRETARY ESTABLISHMENT**

**ENDST. NO. AND DATE EVEN.**

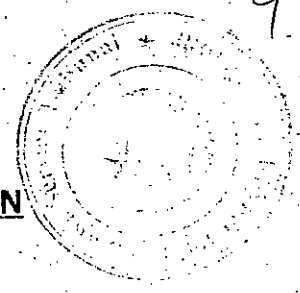
- A copy is forwarded to :-
1. Secretary to Govt of Khyber Pakhtunkhwa, ST&IT Department.
  2. Secretary to Govt of Khyber Pakhtunkhwa, Administration Department.
  3. Accountant General, Khyber Pakhtunkhwa, Peshawar.
  4. PS to Chief Secretary, Khyber Pakhtunkhwa.
  5. PS to Secretary (Establishment).
  6. SO(Secret)/SO(Admn)/SO(E-IV)/E.O/Librarian, E&AD.
  7. Officer concerned.
  8. PA to AS(E)/DS(E) Estab. Dept.
  9. Bill Assistant E&A Dept.
  10. Office order file.
  11. Personal file.

( KALIMULLAH )  
Section Officer(E-II)

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Amir  
S

ANNEXURE C  
9



**BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTUN**  
**KHWA, PESHAWAR**

Service Tribunal  
Registry No. 1491  
Date 26/07/10

Service Appeal No. 1381 /2010

Amir Muhammad Durrani S/O Khan Muhammad Durrani  
R/O Nowshera Kalan, Nowshera.  
Ex-Section Officer (Transport) Administration  
Department Civil Secretariat, Peshawar. . . . . Appellant

Versus

1. Secretary, Govt. of Khyber Pukhtun Khwa, Establishment Department, Peshawar.
2. Chief Minister, Govt. of Khyber Pukhtun Khwa, Peshawar through Chief Secretary, Govt. of Khyber Pukhtun Khwa Civil Secretariat, Peshawar.
3. Secretary, Govt. of Khyber Pukhtun Khwa, Administration Department, Peshawar . . . . . Respondents

<=><=><=><=><=><=><=><=>

**APPEAL AGAINST THE OFFICE ORDER NO.SO(E-II)(ED)3(719)/2007 DATED 18.05.2010 OF RESPONDENT NO.1, WHEREBY PENALTY OF "DISMISSAL FROM SERVICE" AND "RECOVERY OF RS.1,26,16,435/-" WAS IMPOSED UPON APPELLANT OR OFFICE ORDER NO.SOE-II(ED)3(719)/2007, DATED 29.06.2010 OF RESPONDENT NO.2 WHEREBY DEPARTMENTAL APPEAL OF APPELLANT WAS REJECTED FOR NO LEGAL REASON.**

Filed to the  
26/7/10

ATTESTED



(10)

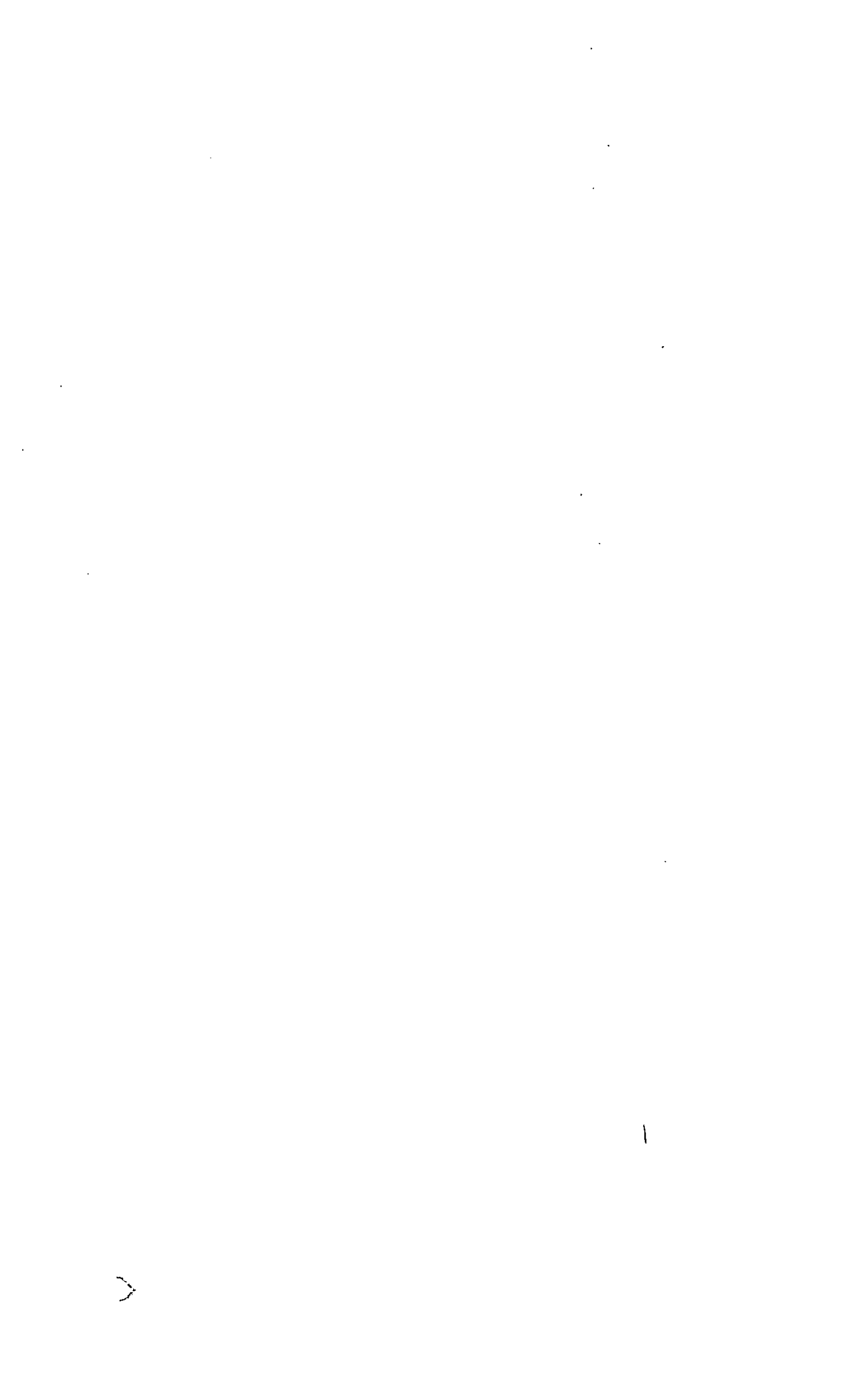
(5)

**Respectfully Sheweth:**

1. That appellant was appointed as Junior Clerk in Civil Secretariat, Peshawar on 19.01.1973.
2. That on the recommendations of Provincial Selection Board, appellant was promoted from the post of Superintendent (BPS-16) to the post of Section Officer on current charge basis and posted as Section Officer (Transport) on 11.12.2007. He was performing his official duties to the best of his abilities and to the entire satisfaction of his superiors and no complaint was never made against him in this respect. His service record spread over decades was neat and clean and rendered meritorious services for the last thirty-eight years to the Departments.
3. That charge sheet was issued by respondent No.2 and not the I.O, containing charges of various types. In the statement of allegation, an Enquiry Committee was constituted to probe into the allegations. After the receipt of the charge sheet, reply was submitted and denied the same with cogent reasons. Reply to the charge sheet and statement of allegations be also considered as integral part of this representation. (Copies as annex "A" & "B" respectively).
4. That serious charges were leveled against appellant in the charge sheet and the Enquiry Committee was legally bound to probe into the charges as per the mandate of

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ATTESTED  
EXAMINER  
SHYAM SINGH  
SUPERVISOR, TRANSPORT  
PESHAWAR



(11)  
(6)

Ordinance/ Law but the Committee did not prosecute appellant in accordance with law and no statement of any witness was recorded in his presence nor he was afforded opportunity of cross-examination.

5. That the Enquiry Committee prepared self made report and submitted the same to the authority for onward action.
6. That on 11.05.2010, appellant was served with show cause notice reiterating the charges of the charge sheet, which was replied by him on 17.05.2010. (Copies as annex "C" & "D" respectively).
7. That appellant was directed on 11.05.2010 to come up for personal hearing in office of respondent No.2, alongwith written reply to the show cause notice on 18.05.2010 at 09:00 AM. Instead of competent authority, personal hearing was conducted by PSO to respondent No.2 (a BPS-17 Officer), which is against the norms of the Ordinance.
8. That on 18.05.2010, respondent No.1 issued office order bearing No.SO(E-II)ED/3(719)/2007, wherein penalty of dismissal from service and recovery of Rs.1,26,16,435/- (without providing breakup of the recovery amount) was imposed upon appellant. (Copy as annex "E").
9. That on 21.05.2010, appellant submitted comprehensive departmental appeal by threshing out all documentary evidence but no heed was paid to the same by the

ATTESTED

WITNESSES  
Name of the witness  
Signature of the witness



(12)

(7)

authority and then on 29.06.2/010, the same was rejected by respondent No.2 without support of any reason. (Copies of departmental appeal alongwith annexures and rejection order as annex "F" & "G" respectively).

Hence this appeal, inter alia, on the following grounds;

**GROUND S:**

A. That the impugned orders are against law, facts and record on the following reasons;

a. That on 22.01.2010, appellant was served with charge sheet and statement of allegations and the proceedings of the enquiry were culminated into the impugned order dated 18.05.2010 i.e. for about four months, whereas the Ordinance as well as Para-2 of the statement of allegations duly signed by the competent authority, stipulates 25 days for completion of enquiry proceedings (Annexure-I). Being mandatory, no one is legally allowed to deviate from 25 days. Apart from this, no reason for extension of the enquiry proceedings by the Committee was ever given.

b. That as stated earlier, the Committee did not conduct the enquiry as per the mandate of law. It

ATTESTED

EXAMINER  
 Number of sheets  
 Serial No. of sheet  
 Date

was incumbent upon the Committee to record

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(2)

statement(s) of witness(es) in presence of appellant, however, no such evidence could be seen from the whole proceedings. On this score alone, the impugned action has no legal value.

- c. That as and when the incumbent is served by the final show cause notice, it becomes mandatory for the Committee/ Authority to provide all the proceedings to the servant to enable him to submit comprehensive representation but no enquiry proceedings, as is evident from the notice, was ever supplied to appellant. Such lacuna vitiates all the actions to be null and void.
- B. That the impugned order is legally liable to be set aside on the following grounds;
- i. That in Para-2 of the show cause notice, major penalty of "Dismissal from Service" was imposed upon appellant (Annexure-III), whereas in the order No.SO(E-II)ED-3(719)/2007, dated 18.05.2010, he has been awarded the penalty of "Dismissal from Service" and recovery of Rs.1,26,16,435/- (Annexure-VI). No one shall be awarded with double punishments for one and the same act as per law.
- ii. That the Enquiry Committee did not give any weight to a joint statement, duly signed by appellant and

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ATTESTED  
WITNESSES  
[Signature]  
[Signature]

two Ex-Cashiers (Transport) of Administration Department (Annexure-VII), wherein the factual position was brought into the notice of Enquiry Committee but no weight was given, which is injustice and based on malafide intention.

- iii. That in the above statement, it was clearly mentioned that some of the payments were made to Ex-Additional Secretary (Admn), Administration Department directly or through his P.A (Syed Irfan Shah), as the undersigned was asked by immediate boss to arrange payments for the repair and POL charges for the vehicles provided to some Political Personnel, Guests/ Officers of the Chief Minister's Secretariat, Khyber Pukhtun Khwa. As Additional Secretary is the next higher authority in the Department after Administrative Secretary, appellant was bound to obey the orders of immediate boss and did not want to make any hurdles in running of official business. However, the Enquiry Committee instead of considering the above-mentioned facts, directly held responsible him for all this situation by showing the amount in the total amount of recovery amounting to Rs.1,26,16,435/- in the order issued by respondent No.1, which is highly condemnable and request for justice.

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ATTESTED  
SECRETARY  
Khyber Pukhtun Khwa  
Government

(15)

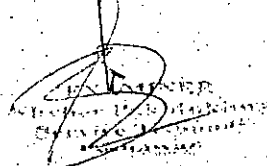
(15)

IV. That the charge of mis-appropriation/ embezzlement of auction money amounting to Rs.72,07,742/- was also leveled against the appellant in the charge sheet and statement of allegations issued on 22.01.2010. In this regard, a comprehensive reply was submitted to the Enquiry committee on 30.01.2010 (Annexure-II) wherein it was mentioned that as per Rule-7(1) of Treasury Rules Vol-I & II, the amount so generated as revenue must, without undue delay, be paid in full into a treasury or bank and shall not be re-appropriated to meet departmental expenditure (Annexure-VIII).

Similarly, Para-26 under heading "Chapter-3. - Revenue & Receipts" of the GFR is also crystal clear on the subject matter (Annexure-IX). The embezzlement/ misappropriation of Government funds was brought into the notice of the Enquiry Committee, which was committed by the DDO of that period i.e. Mr. Shahid Sohail, Ex-Section Officer (Transport), Administration Department. On promotion as Deputy Secretary, he succeeded to post himself as Deputy Secretary (Admn), Administration Department and remained there for about 4-5 months. During his tenure as Section Officer (Transport) as well as Deputy Secretary

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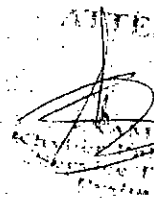




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(Admn) had not deposited the amount of auction, instead he and his Cashier (Mr. Ejaz Hussain) handed over vouchers of repairs and POL to Mr. Mustafa Kamal, Cashier, which was clear violation of the aforesaid Financial Rules. But the Committee even did not bother to call him to explain as why the amount of auction money was not deposited in the Government Treasury inspite of clear-cut rules, but the blunder and irregularity committed by Mr. Shahid Sohail Khan was put on the shoulders of the appellant and the amount was added in the total of recovery against him and the person who violated the aforesaid Treasury & Financial Rules committed embezzlement/ mis-appropriation of the amount fetched through auction of 32<sup>nd</sup> phase held on 11.07.2008 (despite the fact that a huge amount was released by the Finance Department for running the official business of Transport Section, Administration Department), was exempted from disciplinary action by the enquiry Committee. However, appellant was made scapegoat right at the time when he reached at the age of superannuation on 19.05.2010. This is merely injustice and one-sided disciplinary action and violation of the said Ordinance, as no opportunity was given to him for cross-examination of the witness(es). However,



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GOVERNMENT OF PUNJAB



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undue favour was extended to Mr. Shahid Sohail, Ex-Deputy Secretary (Admn)/ Ex-Section Officer (Transport) and let him free, which is against the judgments of superior courts that all shall be dealt equally and fairly.

- v. That in the charge sheet, one charge on account of hiring charges was also leveled against appellant. In this regard, it is submitted that due to non-availability of vehicles in good condition with the Administration Department, vehicles were hired by the Transport Section on the direction of Honourable Chief Minister, Khyber Pukhtun Khwa, conveyed through Ex-Additional Secretary (Admn), Administration Department as is evident from his note dated 13.05.2009 (Annexure-X). The Ex-Additional Secretary (Admn), Administration Department posted Mr. Aman Khan Hoti as Caretaker-II in the Transport Section, Administration Department and assigned him duty of hiring of vehicles for protocol duties. Mr. Aman Khan Hoti and Mr. Khalid Pervaiz, Assistant Caretaker (Transport) were authorized by Ex-Additional Secretary (Admn) to prepare and process the bills on account of hiring charges. As far as payment of the hiring charges is concerned, in this regard it submitted that it was

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responsibility of the Administration Section of Administration Department to send the bills to A.G Office for pre-audit, as expenditure on account of hiring charges are met out from the head of Account "01-General Public Service, 015-General Services, 051-Personal Services, 051501-Establishment Services General Administration, PR-4017-Establishment Department, AO-3919-Payment to others for Services Rendered" (Annexure-XI), which relates to Administration Section of Administration Department. This fact can also be confirmed from the note of Ex-Deputy Secretary (Admn) of Administration Department (copy enclosed at Annexure-XII). Thus the charge on account of hiring charges, as mentioned in the charge sheet, was totally incorrect and based on biased and malafide intention. As such, the amount of hiring charges added to the total amount of recovery is incorrect and malafide and the question of recovery on account of hiring charges does not arise in this case.

- vi. That according to Khyber Pukhtun Khwa Removal from Service Ordinance, 2000, the pension rules shall not be disturbed in any manner and kept intact in the Ordinance promulgated by a Dictator ruled for many years on Islamic Republic of Pakistan to crush

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*[Signature]*  
 Director, Establishment  
 Ministry of National  
 Health Services



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the Government servants through it and to make them jobless, which is totally contrast with the E&D Rules and against the spirit of justice. The said Ordinance has been revoked by the National Assembly of Islamic Republic of Pakistan, through a Bill but the same is still in vogue in the Province of Khyber Pukhtun Khwa. Appellant expect that the Democratic Government of Khyber Pukhtun Khwa would waive of the major penalty of "Dismissal from Service" and recovery of Rs.1,26,16,435/- and do justice to the low paid and poor Government servants.

vii. That the impugned order has not been signed by the competent authority, so has no legal value.

viii. That the charge sheet dated 19.01.2010 issued to appellant by the authority was on the basis of minutes of DAC meeting held on 18<sup>th</sup>, 19<sup>th</sup> and 22<sup>nd</sup> December, 2009 regarding Advance Paras on the accounts of Transport Section, Administration Department (Annexure-XIII). However, as per Para-2(G) of Government of Khyber Pukhtun Khwa, Finance Department letter No.SO(A/Cs)/FD/1-6/1997, dated 17.12.1997, the Department concerned should complete action on the decision of the DAC as quickly as possible well before the PAC.

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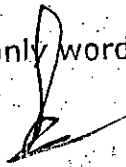
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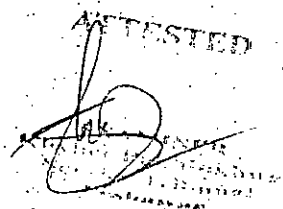
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meeting (Annexure-XIV). As such PAC is the competent forum for initiation disciplinary proceedings, if any, against the officers/ officials on the basis of Audit Paras. But it is astonishing to point out that the competent authority imposed the major penalty/ recovery in millions without fulfilling the requirements of Audit Paras.

- ix. That the competent authority has not ever provided breakup of amount of Rs.1,26,16,435/- from which the appellant would be able to ascertain the Head of account of expenditure and defend it properly.
- x. That no benefit of 38 years rendered service was ever extended to appellant as appellant was due for retirement on the very next day.
- xi. That the impugned orders dated 18.05.2010 or 29.06.2010 are based on malafide and therefore, are improper, unjust, arbitrary, discriminatory, without lawful authority and of no legal effect.

C. That the appellate order is not based on legal footing as the same was rejected without the support of any reason. The Apex Supreme Court of Pakistan in plethora of the judgments has held that order of rejection of appeal shall be supported by cogent reason, while in the rejection order dated 29.06.2010 only word "reject" is used.



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D. That appellant has pointed out not only to the Enquiry Committed but also to the appellate authority that some other officers/ official save sole responsibilities in the subject matter for hiring of vehicles to the dignities of the Chief Executive and deposit auction money in the Government Treasury but both the authorities (Enquiry Committee & Appellate Authority) split over and did not take any notice on their behalf, so all were not equally and fairly dealt within the subject matter, thus discriminated.

It is, therefore, most humbly prayed that on acceptance of this appeal, order dated 18.05.2010 of respondent No.1 or 29.06.2010 of respondent No.2 be set aside and appellant be re-instated in service with all back benefits since 18.05.2010, with such other relief as may be deemed appropriate.

*Au Omar*  
Appellant

Through

*Saadullah Khan*

**Saadullah Khan Marwat**  
Advocate,

Dated: 19.07.2010

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application: 01-06-22  
Number of Words: 5600  
Crossing Fee: 58/-  
Stamp: 31/-  
Total: 62/-  
Date of Issuance of Copy: 01-06-22  
Date of Delivery of Copy: 01-06-22

ANNEXURE 5

29

**BEFORE THE SERVICE TRIBUNAL, KHYBER PUKHTUN  
KHWA, PESHAWAR**

A. W. Y. Province  
Service Tribunal  
Diary No. 1768  
Date 17/8/10

Service Appeal No. 1606 /2010

Balqiaz Khan S/O Falak Sher  
R/O Marghazar Colony, Swati Pattock, Peshawar.  
Ex-Assistant, Administration Department,  
Civil Secretariat Peshawar. . . . . Appellant

Versus

1. Secretary, Government of Khyber Pukhtun Khwa, Establishment Department, Peshawar.
2. Chief Secretary, Government of Khyber Pukhtun Khwa Civil Secretariat, Peshawar. . . . . Respondents

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**APPEAL AGAINST OFFICE ORDER NO.SOE-IV(E&AD)2(321)/98, DATED 12.07.2010 OF RESPONDENT NO.1, WHEREBY APPELLANT WAS DISMISSED FROM SERVICE AND RECOVERY OF RS.1.895 MILLION WAS ALSO IMPOSED BY HIM FOR NO LEGAL REASON.**

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**Respectfully Sheweth:**


1. That appellant was appointed Junior Clerk in the year 1989 and was promoted to the post of Senior Clerk in the year 1996. He was further promoted to the post of Assistant in the year 1998. He was performing his duties in the Administration Department as Assistant when on

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*Signature*

03.08.2009, he was assigned the charge of Cashier in Transport Wing of the E&A Department, in addition to his own duties till further orders vide order dated 03.08.2009. (Copy as annex "A").

2. That on the same day, i.e. 03.08.2009, Section Officer (Transport) wrote letter to Finance Department to release of withheld funds under head "Repair of Transport". (Copy as annex "B").
3. That the Finance Department, in response to the aforesaid letter, released the funds on the same day, i.e. 03.08.2009. (Copy as annex "C").
4. That on 03.08.2009, Section Officer (Transport) wrote letter to Accountant General, Peshawar that the money incurred upon the repair of the vehicles by the Incharge/ Drivers from their own pockets be exempted the vender and issued the cheque in the name of DDO which was allowed by the A.G office on 04.08.2009. (Copy as annex "D").
5. That appellant was served with charge sheet and statement of allegation on 23.04.2010 alleging therein, preparation of false bills on factious vouchers for payment to firms which did not exist, withdrew amount of Rs.38,82,705/- and embezzles the same by fabricating record of payments to factitious Firms repaired and initiated false repair bills of Rs.33,65,299/- in favour of Firms and facilitated draw and payment of Rs.1,695,172/- from public ex-chequer, in June 2008.

  
Section Officer (Transport)  
Peshawar

(24)

The charge sheet was replied on 05.05.2010 by denying all the charges in toto as he has not prepared any bill nor drawn any money at his own level, nor the same was paid by him to fictitious Firms etc as he was no authority to do so in this respect at his own level. (Copies as annex "E" & "F" respectively).

6. That in the charge sheet and statement of allegation, Enquiry Committee, comprising of Adil Siddique, Additional Secretary (B.F.C) and Khalid Ilyas, Deputy Secretary, Establishment Department to probe into the charges and the Committee prepared self made report without supplying the same to the appellant and thereafter, he was served with show cause notice on 15.06.2010 (2006) which was replied by him on 22.06.2010. (Copies as annex "G" & "H" respectively).
7. That on 29.06.2010, appellant was called for personal hearing in the office of respondent No.1 but no hearing was made infact. (Copy as annex "I").
8. That on 12.07.2010, appellant was dismissed from service by respondent No.1 and recovery of Rs.1.895 Million was also imposed by him. (Copy as annex "J").
9. That on 21.07.2010, appellant submitted representation before respondent No.2 which was rejected on 10.08.2010 by him. (Copies as annex "K" & "L" respectively).



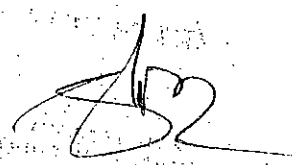
10/08/2010

10. That here it would be not out of place to mention that all the transactions have been made by the predecessor of appellant, all the bills, vouchers, etc have been sanctioned/ approved by the authorities as is evident from the documents and appellant had no role in the same. (Copy as annex "M").

Hence this appeal, inter alia, on the following grounds;

**GROUND S:**

- A. That all the transactions have been carried out by the predecessor of appellant and he was not responsible for the false bills, vouchers, etc which were approved/ sanctioned by the authorities.
- B. That appellant is no authority to make enquiry in respect of any bill, voucher, etc as to whether the same is fake or bogus. It was the duty of authorities and not of appellant.
- C. That the enquiry was not conducted as per the mandate of law/ ordinance as no statement of any witness was recorded in presence of appellant nor he was afforded opportunity of cross examination.
- D. That before issuing final show cause notice to an incumbent, it was mandatory for the authority to supply all the proceedings to the defaulter but only findings of enquiry annexed which too bore no punishment for imposition upon appellant.



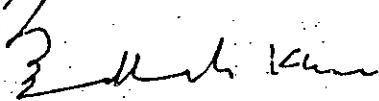
- E. That real culprits, being high-ups, were left free and low paid employees were dealt with severely which punishment does not commensurate with.
- F. That in the impugned order, appellant was awarded with double punishments, dismissal from service and recovery of amount while under the law, no one can be awarded with double punishments.
- G. That the impugned order is based on malafide and is against the norms of natural justice.

It is, therefore, most humbly prayed that on acceptance of this appeal, order dated 12.07.2010 of respondent No.1 be set aside and appellant be re-instated in service with all back benefits.

**INTERIM RELIEF:**


By keeping in view the above facts and circumstances of the case no recovery shall be effected till the decision of the case.

Baly  
Appellant  
Through

  
Saadullah Khan Marwat  
Advocate,

Dated: 13.08.2010

Sanitized by batur.aziz

  
Saadullah Khan Marwat  
Advocate



ANNEXURE 'E'

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

27

Service Appeal No: 1379 / 2010.

**EJAZ HUSSAIN**  
Ex. Assistant / Caretaker-I  
Transport Section,  
Admin Department,  
Government of KPK, Peshawar.

1486  
23/07/10

..... APPELLANT

VERSUS

1. **Government of KPK**  
Through Chief Secretary  
KPK Peshawar.
2. **Secretary**  
Establishment Department,  
Government of KPK Peshawar.

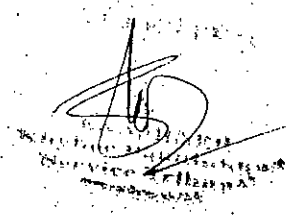
..... Respondents

S.S.  
23/7/10

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974 READ WITH SECTION 10 OF THE REMOVAL FROM SERVICE (SPECIAL POWERS) ORDINANCE, 2000 AGAINST ORDER NO.SOE-(III)ED-III (719) 2007 DATED 18.05.2010 WHEREBY PENALTY OF DISMISSAL FROM SERVICE AND RECOVERY OF RS.108,375,48/- HAS BEEN IMPOSED AND DEPARTMENTAL APPEAL HAS BEEN REJECTED BY THE APPELLATE AUTHORITY VIDE IMPUGNED APPELLATE ORDER DATED 09.06.2010

Prayer:

That on acceptance of this Service Appeal the Impugned Dismissal and recovery Order be set aside and Appellant be reinstated in service with full back benefits and wages with such other relief as may deem fit in the circumstances of the case may also be granted.



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*fully Sheweth,*

short facts giving rise to present Service Appeal, are as under:

That, Appellant while posted as Assistant, Transport Section, Administration Department received a Charge Sheet coupled with Statement of Allegations pertaining to the allegations / irregularities while posted as Caretaker in Transport Section.

2. That, the Allegations leveled in the Charge Sheet / Statement of Allegations are :-

- i) Illegal retention of auction money amounting to Rs.72,07,742/- of 32<sup>nd</sup> phase of auction held on 11.07.2007.
- ii) Fictious, un-authorized and doubtful expenditure of 1,41,27,928/- on account of hiring charges, POL and repairs of vehicles during the year 2008-09.
- iii) Whereabout/loss of vehicle No.A-1041 KT.
- iv) Un-authorized expenditure of Rs.97,474/- on account of POL of vehicle NO.A-1033 during July, 2009 to October, 2009.
- v) Non-provision of Number Plates of official vehicles.
- vi) Most of the proper handing / taking over profarmas have not been signed / countersigned by the Section Officer (Transport) and Deputy Secretary (Admn) and allotted Government vehicles to un-authorized persons.

Copy of the Charge Sheet and Statement of Allegations are attached as Annexure-A & B.

3. That, as the charges mentioned in the Charge Sheet and Statement of Allegations were totally false, incorrect and misleading one, therefore, Appellant submitted his detail Reply wherein he clarified his position and denied the Charges, the same may kindly read as integral part of this Appeal, copy of the same is attached as Annexure-C alongwith covering Letter.
4. That, an illegal, unlawful, manufactured and improper Inquiry was conducted and subsequently Appellant received a Show Cause Notice alongwith 4 lines of un-signed finding of Inquiry, copy of the Show Cause is attached as Annexure-D and finding of the Inquiry is attached as Annexure-E.

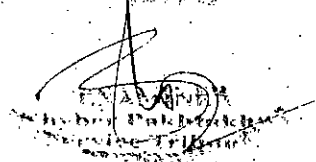
  
Service Appeal Authority

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5. That, on 18.05.2010, the Impugned Dismissal from service and recovery Order was issued, copy of the same is attached as Annexure-F.
  6. That, as per Law and procedure Appellant submitted his Departmental Appeal before the Appellate Authority on 31.05.2010, copy of the same is attached as Annexure-G.
  7. That, the Appellate Authority rejected the Appeal on 29.06.2010 without any speaking Order, copy of the Appellate Order is attached as Annexure-H. Hence, this Service Appeal on the following amongst other grounds:

GROUND:

- A. That, the Impugned Orders of Dismissal and Recovery are illegal, unlawful, against the Rules, void and ineffective.
- B. That, the same are against the principles of Natural Justice, also.
- C. That, the Allegations as leveled against the Appellant are totally false, fabricated and misleading one, hence, the same are denied as were denied before the Departmental Authorities.
- D. That, the Inquiry as conducted was totally against the settled principles because a Questioner was issued to the Appellant to which he was asked to submit the Reply / Answers, which he did.
- E. That, during the Inquiry proceedings non of the other quo accused was examined before the Appellant nor Appellant was provided the chance / opportunity of cross examination, neither Appellant was confronted with any record pertaining to the Allegations.
- F. That, the 4 lines Inquiry findings (Annexure-E) was supplied alongwith the Show Cause Notice, therefore, Appellant requested for the complete Inquiry Report before filing his Departmental Appeal but the same was not provided to him and as such Appellant was handicap while submitting his Departmental Appeal as well as the present Service Appeal. The said Application for the supply of Inquiry Report with Diary No.4664 dated 21.05.2010 is attached as Annexure-J.
- G. That, according to the 4 lines Inquiry Findings supplied to the Appellant, it appears that the Inquiry Officer has held the Appellant guilty of inefficiency and carelessness only and has not to any misappropriation against him, therefore,

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(4) (10)

keeping in view this 4 line Findings the punishment as Imposed is too harsh.

- H. That, Appellant was posted / appointed as Assistant in the Year 1996 and was posted as Cashier in October 2006 and subsequently was appointed as Caretaker vide Order dated 18.04.2008, copy of the same is attached as Annexure-K. Appellant remained posted as Caretaker, till November 2009, whereas one Mustafa Kamal was posted as Cashier w.e.f. 18.04.2008 in place of Appellant.
- I. That, the Appellate Authority has not given any reasons for rejecting the Departmental Appeal and as such it is non speaking order, which is not maintainable under Section 24 - A of General Clauses Act.
- J. That, as a Cashier and Caretaker Appellant was subordinate of the Section Officer (Transport) namely Amir Muhammad Durani and he was fully Incharge of all the affairs and Appellant is made a escape goat in the instant case. What ever was done, the same was done by the said Section Officer, who remained Section Officer from December 2007 to October 2009.
- K. That, although the Appellant denied the Allegations point wise in response to Statement of Allegations and his Departmental Appeal, however, the same is further clarified point wise as under: -

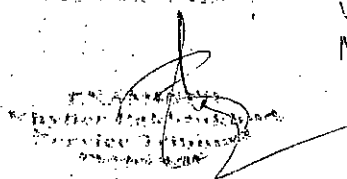
**Allegation - 1**

Illegal retention of auction money amounting to Rs.72,07,742/- of 32<sup>nd</sup> Phase of auction held on 11.07.2007

**Grounds**

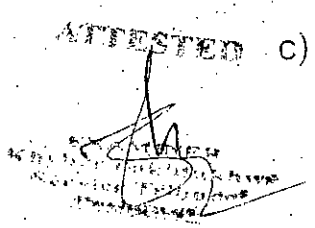
- i) In the transport section, the Appellant served in the capacities of cashier and caretaker, transport, during the tenure of the Appellant on both posts, he always served his duty with dedication and honesty.
- a) When the Appellant was transferred from the post of Cashier on 18.04.2008, he was handed over all the records and vouchers / cash maintained by him minutely vide Annexure-L to the new Cashier (Mr. Mustafa Kamal) and it is an established fact from the records that funds were available and these vouchers were cashed by the new cashier and Mr. Amir Muhammad Durrani, Ex.S.O.

ATTACHED



Transport, out of which they admitted to Secretary Admn vide Letter No.SOT (AD) Auction of Govt. Vehs. 2009, Dated 01.09.2009, (Annexure-M) that the liabilities to the tune of Rs.47,85,215/- have been cleared by them, while they kept rest of the amount of the reasons best known to them. On the acknowledgment of the cashier (Mr.Mustafa Kamal) and Mr.Amir Muhammad Durrani) the Ex.S.O. Transport regarding receipts of vouchers, its encashment and payment of half liabilities, Mr.Arbab Shahrukh then Secretary Administration has ordered the Additional Secretary (Admn) to submit a detailed case for initiating disciplinary proceedings against those who are responsible for illegal retention of sale proceeds of the auction Money vide sub para (i) of Para 7 of his note dated 07.10.2009 vide Annexure-N, in which he has also pointed out in para 5 of the said note that "While handing over the charge of the post of Cashier transport by Mr.Ejaz Hussain to Mr.Mustafa Kamal, Vouchers in shape of liabilities to the tune of Rs.1,17,22,272/- were also transferred, he further stated that some portion to the tune of Rs.47,85,215/- of the aforesaid liabilities was cleared by Mr.Mustafa Kamal where as an amount of Rs.85,52,067/- is still pending.

b) It is evident that after 18<sup>th</sup> April 2008 the Appellant was not Cashier and so did not received any sum of amount from A.G. Office against any vouchers / bills from which embezzlement / corruption could be made. It is also brought into the notice of this Honourable Tribunal that after cashing all the amount from the A.G. Office, Mr.Amir Muhammad Durrani Ex.S.O. Transport and Mr.Mustafa Kamal, Ex.Cahsier destroyed all the records files of their prescribed period till June 2008, so as to confuse and complicate the actual facts, and to make the Appellant a escape got.

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c) The Appellant feels that he was transferred by design by Ex.SO Transport from the post of cashier at a critical point when the financial

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year was closing to hush up the government money, which Appellant time and again brought this fact into the notice of Competent Authority as well as the Ex. Section Officer Transport vide Annexure-N/1 to N/3.

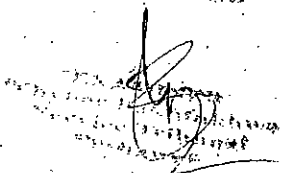
- d) Most importantly it is submitted that the Appellant has not been provided full opportunity for explain of certain facts contained in Letter dated 19.04.2010, Annexure-N/4, neither he was asked about the same which the Appellant thinks necessary to be brought into your kind notice and is attached vide the said Annexure. (The same was presented to the Enquiry Committee on 20.04.2010 which was received by the enquiry committee, receiving signature can be seen on the said Annexure, however, the same was returned to Appellant on grounds that the Enquiry report had been submitted to the Competent Authority). These facts vide the said Annexure, have not been taken into consideration, neither probed into, while concluding the facts / findings of the Enquiry Committee, which are submitted for perusal of this Honourable Tribunal.

In addition to this on orders of Mr. Amir Muhammad Durrani, Ex.S.O (Transport) a total payment, Rs.79,543/- were made to various drivers of transport section against the vouchers which were duly entered in the Log Books of the official vehicles and signed by POL Assistant. However, Ex SO (T) kept the same vouchers with him for the reasons best known to him and were then returned to the Appellant that the same would be processed on an appropriate occasion, after which the Appellant was transferred. These vouchers duly signed by the POL Assistant Mr. Mustafa Kamal are attached herewith vide Annexure-N/5. The receipts of these amounts can also be confirmed from each driver.

PAYMENT OF 8 NOS OF RENT VEHICLES RS.47,152/-

- ii) On the order of the Ex.SO (T), the Appellant as Caretaker, transport [although it was not his duty

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but he was forced on ground that the Cashier does not have any money with him and Appellant obtained loan on private basis] paid advance Rs.47152/- to the M/S Jan Rent a Car, Peshawar for hiring 8 Nos of vehicles (Toyota Corolla cars) which was done by Mr.Amir Muhammad Durrani, Ex:SO Transport on the visit of Acting President of Pakistan on 14.09.2008, copy of approval of the competent authority i.e. Secretary Administration is enclosed vide Annexure-N/6, but the above mentioned payment was not reimbursed to the Appellant.

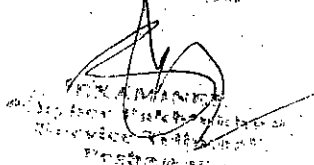
ADVANCE FOR BUSES NET RS:23000/-

- iii) Mr.Amir Muhammad Durrani, Ex.SO (T), was taken <sup>Rs.23</sup> Rs.23,000/- from Appellant for pairing on three official buses during the tenure of caretaker-transport of the Appellant. However, the above mentioned amount was not returned to the Appellant till now. The Ex.SO (T) kept the vouchers with him against which the payment was made vide Annexure-N/7. Signature of Ex.SO (T) are there on the Annexure.

It is in particular brought into of this Honourable Tribunal that all the expenditure mentioned above was done on the orders of the Mr.Amir Muhammad Durrani, Ex-SO (T) / DDO Incharge, and it is in addition to the expenditure that the Appellant was ordered to do in the repair and POL / CNG Heads from the auction money on the orders of Ex-SO (T). as Cash

- iv) It is also submitted that payment of Rs.28,66,465/- to the officials / Drivers made by Mr.Mustafa, the then cashier as mentioned in sub Para (ii) F of Para 2 of letter already Annexure. Appellant has time and again requested to Mr.Mustafa, the then Cashier to show him the hand written chits of the Appellant but all in vain, because in the opinion of the Appellant this amount is much less then Rs.28,66,465/- in this regard, it is requested that Mr.Mustafa may be directed that he may show all the hand written chits to this Honourable Tribunal to ascertain the factual amount for Appellant satisfaction, because payment of the chits have been made in absence of the Appellant, so Appellant want to calculate the all

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chits against which payments have been claimed to have been made by the then cashier.

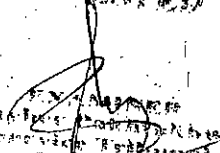
v) In addition to this, Rs.284146/- + Rs. 20000/- are also still outstanding against Mr.Mustafa, the then cashier which he took from the Appellant, but never gave the bills against them, nor returned the money to the Appellant. The details of these amounts taken from Appellant by Mr.Mustafa and his signatures may kindly be seen vide Annexure-N/8. Moreover, POL vouchers of officials vehicles of Rs.187596/- have been received by him from the Appellant, during the occasion of handing/taking over but not mentioned in the handing / taking register on the ground that he would enter the same amount of above mentioned POL vouchers later on, upon getting entries in the log books which was then done but did not then enter it in the handing/taking register, reference to these vouchers in the handing/taking register is there which may be seen vide Annexure-N/9. These vouchers were later on passed from the AG's office and payment received by him yet not added in the handing/taking over figures. So total amount outstanding against Mr.Mustafa comes to:

Received in cash form:	Rs.284146/-
Received in cash form:	Rs.20000/-
Received in form of POL vouchers	Rs.187596/-
<b>Total</b>	<b>Rs.491742/-</b>

Hence, the total amount outstanding against Mr.Amir Muhammad Durrani, Ex.SO Transport and Cashier Mr.Mustafa Kamal comes to:

Amount against Mr.Amir Muhammad Durrani:	Rs.284146/-
Amount against Mr.Mustafa Kamal:	Rs.491742/-
<b>Total</b>	<b>Rs.1586816/-</b>

On the occasion of handing/taking, Appellant have already time and again requested to Ex.SO(T) and Mr.Mustafa, Cashier to return the amounts to the Appellant which they have already got from him on different occasion. Besides, Appellant have time and again requested to the Ex-SO (T) to get recover the amounts from the other officials which have been taken as ~~cash~~ advances on his orders. So that Appellant may clear the remaining liabilities etc. but all in vain.

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[Illegible text]



(1)

(35)

It is on brought on record into the notice of this Honourable Tribunal that upon completion of auction proceedings and collection of money in January 2008; vide Annexure-N/10, against the auction vehicles, the Appellant had requested to the Ex. SO (T) to move a case to the Competent Authority for convening a meeting to obtain approval and deposit the money which was then available in complete form and ready for depositing however, the Ex. SO (T) on grounds that since the budget is exhausted, the auction money therefore, is needed for smooth running of the transport section and that the auction money would be deposited on release of the Revised Budget from the Finance Department and passing the bills from the AG's Office (against which payments had already been made in advance). The Appellant was then transferred by Ex. SO (T) in the month of April, 2008 and all the bills against which advance payment were made on the direction of Mr. Amir Muhammad Durrani, Ex-SO (T) were encashed by Ex. SO (T) and Mr. Mustafa Kamal the then cashier which can be confirmed (and it is an established fact) from the record of the AG Officer, but not deposited in government treasury.

Allegation - 2

FICTITIOUS, UN-AUTHORIZED AND DOUBTFUL  
EXPENDITURE OF RS.14127928/- ON ACCOUNT OF  
HIRING CHARGE, POL AND REPAIRS OF VEHICLES  
DURING THE YEAR 2008-2009

a) As far as the expenditure of the above mentioned amount on account of hiring charges, POL and repairs of vehicles during the year 2008-09 is concerned, it is submitted that the Appellant was entrusted only the following duties as Caretaker-I transport by the Ex-SO Transport:-

- i. Collection of vehicles to the various departments on the orders of Ex-SO Transport.
- ii. Handing over of vehicles to the various departments on the orders of Ex-SO Transport.
- iii. To deal with the matter of drivers i.e. positing / transfer, complaints against drivers, Emergency duties etc.

b) As far as hiring of vehicles are concerned this matter was dealt by Mr. Khalid Pervez, Assistant Caretaker transport. In the entire tenure of the caretaker transport the Appellant never move any

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*[Signature]*

*[Stamp]*

10/26

case for hiring of any vehicle, which can be verified from the record of the transport section.

- c) As far as the expenditures on POL are concerned, this was the subject of POL Assistant, and not the Appellant. Only POL Assistant issues the POL to the official vehicles. The Appellant only used to verify the POL consumed by the Pool Vehicles in official duties which used to be very limited in number and limited official trips on the orders of Ex-SO Transport.
- d) As far as the repairs of the vehicles are concerned the Appellant as caretaker was never allowed by Ex-SO Transport to inspect any vehicle or its identification for repair of any vehicle nor was the Appellant authorized to visit any workshop. The Appellant was always kept at side for all repairs issues, except for the first three or four weeks after his posting as Caretaker transport, in which period i.e. May, 2008, Appellant was never allowed by the Ex-SO Transport to be part of any issue relating to repair of vehicles what so ever.

#### Allegation – 3

##### WHERE ABOUT / LOSS OF VEHICLE NO.A-1041/KT

As per Appellant information confirmed from Ex.SO (T) the vehicle No.A-1041/KT was placed at the disposal of Mr.Afsar Khan, BPS-20 (OSD) by the Ex.SO (T) himself, regarding which the Appellant had not been informed neither he had handed over the said vehicle. The fact can be confirmed from the Ex.SO (T) as well as the officer to whom the vehicle has been handed over.

#### Allegation – 4

##### UN-AUTHORIZED EXPENDITURE OF RS.97474/- ON ACCOUNT OF POL OF VEHICLE NO.A-1033 DURING JULY, 2009 TO OCTOBER, 2009.

The vehicle No.A-1033 was a pool vehicle meant for local duties due to its poor condition. The said vehicle was used by all the staff of transport section for local duties / emergency duties during July 2009 to October 2009. Being a caretaker transport the Appellant has also used this vehicle occasionally for official duties such as collection of vehicles from various departments and to

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ACCOMPLISHED BY  
[Signature]  
[Stamp]

(11)  
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chain purpose etc. Besides the vehicle also used to monitor the availability of other vehicles during the protocol duties.

**Allegation – 5**

**NON-PROVISION OF NUMBER PLATES OF OFFICIAL VEHICLES**

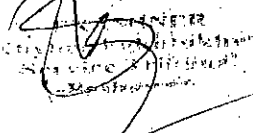
The Appellant as caretaker transport has handed over all the official vehicles and motorcycles, all record of the vehicles, stock register, official registration, original handing / taking over proformas of all previous and of the tenure of the Appellant, invoices of the vehicles and all the official number plates of vehicles to Mr. Shah Zeb Durrani, the present caretaker of transport. In this regard copy of the handing / taking over between the present caretaker transport and the Appellant is attached here with Vide Annexure-N/11, which was then officially submitted to the Additional Secretary Admn Department on a proper file containing all said record and details, copy of the Note Part upon which Dairy No. are there and was seen by the Additional Secretary Admn may kindly be seen vide Annexure-B/12.

**Allegation – 6**

**MOST OF THE PROPER HANDING / TAKING OVER PROFARMAS HAVE NOT BEEN SIGNED / COUNTERESIGNED BY THE SO TRANSPORT AND DEPUTY SECRETARY (ADMN) AND ALLOTTED GOVERNMENT VEHICLES TO UN-AUTHORIZED PERSONS.**

- i) As far as the countersigning of handing / taking over profarmas by the Ex-SO (T) are concerned it is submitted that the Appellant during the tenure of caretaker had handed over some vehicles to the various officers / departments only on the direction of Mr. Amir Muhammad Durrani, Ex-SO (T) being an officer Incharge of the Appellant and not on my own. It may also kindly be noted that the Appellant was not the only caretaker and two other officials by the name of Mr. Aman Hoti (Caretaker-II) and Mr. Khalid Pervez, Assistant Caretaker were also entrusted with the task of distribution of official vehicles. In this regard, it is also submitted that regarding the vehicles which were distributed by the Appellant, on directives of the Ex-SO

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CHIEF  
SECRETARY  
ADMINISTRATIVE  
DEPARTMENT

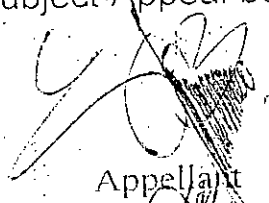
Transport, the Appellant formally and officially submitted the case/proformas of handing/taking to the Ex-SO Transport for signature / countersignature but the same have not been countersigned for the reasons best known to him. It may be noted that if Appellant had distributed the vehicles on ~~his~~ own will, he would have made observations on the case submitted to him, copy of the note sheet/case submitted Ex-SO Transport may kindly perused vide Annexure-N/13.

ii) It is also submitted that the Appellant also moved the case to the Ex-SO Transport for corrective measures as frequently the vehicles were distributed without proper procedure and ~~his~~ information, copy of the note sheet / case submitted may kindly be perused vide Annexure-N/14.


L. That, there is nothing on record to connect Appellant with any offense / misconduct, inefficiency or embezzlement but despite that he has been awarded major punishment of Dismissal from Service.

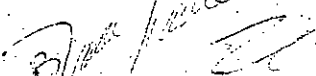
M. That, Appellant was not given any meaning full / proper personal hearing, either before the Enquiry Officer / Committee nor by the Competent Authority neither by the Appellate Authority.

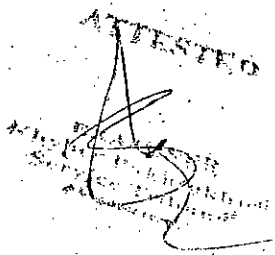
It is, therefore, requested that subject Appeal be accepted as prayed for.

  
Appellant

Through:

  
**WAQAR AHMAD SETH**  
(Advocate, Peshawar)

  
**Bilal Ahmad Kakaizai**  
(Advocate, Peshawar)



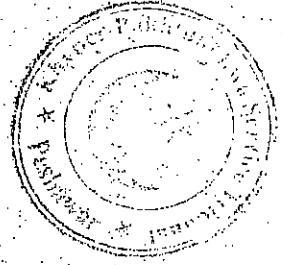
ANNA KHAN  
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**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL  
PESHAWAR.**

Service Appeal No. 1606/2010

Date of Institution ... 17.08.2010

Date of Decision ... 29.03.2022



Balqiaz Khan S/O Falak Sher, R/O Marghazar Colony, Swati Patoock, Peshawar. Ex-Assistant, Administration Department, Civil Secretariat Peshawar. ... (Appellant)

**VERSUS**

Secretary, Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar and another. ... (Respondents)

MR. ARBAB SAIF-UL-KAMAL,  
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,  
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN  
MR. ROZINA REHMAN

--- MEMBER (JUDICIAL)  
--- MEMBER (JUDICIAL)

**JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Brief facts giving rise to filing of the instant service appeal are that the appellant while posted as Cashier, Machinery and Equipment in the Administration Department, Government of Khyber Pakhtunkhwa, was proceeded against under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 on the charges mentioned as below:-

- [Handwritten signature]*
- i. You prepared and en-cashed false bills on fictitious vouchers for payment to firms which did not exist and for repairs, of official vehicles, which were never carried out;

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*[Handwritten signature]*  
Secretary, Government of Khyber Pakhtunkhwa, Peshawar

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- ii. You drew an amount of Rs. 38,82,705/- as Cashier and embezzled the same by fabricating record of payments to fictitious firms namely Inayat Auto Workshop, New Toyota Auto Workshop, and Mercedes Auto Workshop, Peshawar;
- iii. You prepared and initiated for payment false repair bills amounting to Rs. 33,65,299/- in favour of M/S Mercedes Auto Workshop, University Road, M/S Inayat Auto Workshop, Tehkal Road and M/S New Toyota Workshop Bara Road, Peshawar; and
- iv. You Facilitated drawal and payment of Rs. 1,695,172/- from public exchequer, in June 2009, for purported payment to M/S Sajid Enterprises, 3<sup>rd</sup> Floor, Aaly Plaza, Fazal-e-Haq Road, Blue Area, Islamabad on account of providing twenty T-Prado for seven days in Shandur Festival, 2008 @ of Rs. 9,500/- day and their POL Charges of Rs. 4,73,374/- despite the fact that you knew that the bill was inflated against the actual payment of Rs. 5,31,000/-.

On conclusion of the inquiry, the appellant was awarded penalty of dismissal from service and recovery of Rs. 1.895 Million vide order dated 12<sup>th</sup> July 2010 passed by the competent Authority. The departmental appeal of the appellant was also rejected by the appellate Authority vide order dated 10.08.2010, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has argued that the allegations against the appellant are totally false, fabricated and misleading, which were not at all proved during the inquiry; that all the transactions were being carried out by the predecessor of the appellant and the appellant has been falsely roped in the matter; that the inquiry proceedings were conducted in utter violation of the relevant law and the appellant was not at all provided any opportunity to cross-examine the witnesses as well as co-accused examined during the inquiry; that the appellant was not provided copy of complete inquiry report, which has caused prejudice to the appellant as he was not in a position to properly defend himself; that the appellate

ATTESTED

EXAMINER  
 Khayr ul Mulk  
 Service Tribunal  
 Peshawar

(41)

Authority has not given any reasons for rejecting the departmental appeal of the appellant and as such the same was a non-speaking order, which is not maintainable in view of Section 24-A of General Clauses Act; that Syed Irfan Shah, the then Personal Assistant to Additional Secretary (Admn), Administration Department was also awarded major penalty of dismissal from service, however he has been exonerated by the appellate Authority vide Notification dated 9<sup>th</sup> July 2012. In the last he requested that the impugned orders may be set-aside and the appellant may be reinstated in service with all back benefits.

4. Conversely, learned Additional Advocate General for the respondents has contended that a regular inquiry was conducted against the appellant by complying the mandatory provisions of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000; that the appellant was provided ample opportunity of defending himself, however he was unable to put forward any plausible reason in his defense; that final show-cause notice was issued to the appellant and he was also provided findings of the inquiry; that opportunity of personal hearing was also provided to the appellant by the competent Authority; that the appellant in connivance with the then Section Officer Transport as well as other officials had embezzled huge amount and the charges against him stood proved in a regular inquiry conducted in the matter; that the appellant has also been convicted by judge Accountability Court-II Peshawar and his conviction was upheld up to august Supreme Court of Pakistan. In the last he requested that the impugned orders may be kept intact and the appeal in hand may be dismissed with cost.

5. Arguments have already been heard and record perused.

6. A perusal of the record would show that disciplinary action was taken against the appellant under Khyber Pakhtunkhwa Khyber Pakhtunkhwa Removal from Service

*[Handwritten signature]*  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR  
*[Handwritten signature]*

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(Special Powers) Ordinance, 2000. In view of para-1 (c) of Section-5 of the said Ordinance, the inquiry committee was bound to have provided opportunity to the appellant to cross-examine the witnesses produced against him in the inquiry. The appellant has specifically alleged in his appeal that neither the witnesses were examined in his presence nor opportunity of cross-examination of the witnesses was provided to him but even then the respondents did not bother to refute the aforementioned assertion of the appellant by way of submitting statements of the witnesses alongwith the comments submitted by the respondents. Moreover, the burden to prove the allegations against the appellant was lying upon the shoulders of the respondents, however nothing is available on the record, which could show that the appellant has not been confronted with the incriminating material during the course of evidence recorded by the inquiry officer. Similarly, it is evident from perusal of the show-cause notice that the appellant was provided only copy of the finding of the inquiry committee. Competent Authority was required to have provided copy of complete inquiry report to the appellant so as to enable him to properly defend himself. August Supreme Court of Pakistan in its judgment reported as PLD 1981 SC-176 has graciously held that rules devoid of provision of final show cause notice along with inquiry report were not valid rules. Non-supply of copy of the inquiry report to the appellant has caused miscarriage of justice as in such a situation, the appellant was not in a position to properly defend himself in respect of the allegations leveled against him.

7. According to the judgment dated 25.11.2017 passed by Judge Accountability Court-II Peshawar, the appellant has been held liable to have embezzled an amount of Rs. 13,06,518/- but on the other hand the competent Authority vide impugned order dated 12<sup>th</sup> July 2010, has ordered recovery of an amount of Rs. 1.895 Million from the appellant. In view of material dents in the inquiry

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proceedings, conducting of de-novo inquiry in the matter has become inevitable.

8. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service for the purpose of de-novo inquiry with the direction to the respondents to conduct de-novo inquiry strictly in accordance with the relevant law within a period of 60 days of receipt of copy of this judgment. Needless to mention that the appellant shall be associated with the inquiry proceedings and fair opportunity be provided to him to defend himself. The issue of back benefits shall be subject to outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
29.03.2022

(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

  
(ROZINA REHMAN)  
MEMBER (JUDICIAL)

Certified  
Service Journal  
2022

Date of Transmission of Copy \_\_\_\_\_ 24/5/22  
Number of Volumes \_\_\_\_\_ 2000  
Caption No. \_\_\_\_\_ 221  
Report \_\_\_\_\_ 4/5  
Total \_\_\_\_\_ 26/-  
Date of Delivery of Copy \_\_\_\_\_ 24/5/22  
Date of Delivery of Copy \_\_\_\_\_ 24/5/22

ANNEXURE 4  
4

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

(44)

C. M. NO. 218/2022  
In  
Service Appeal No. 1381 / 2010

Ameer Muhammad Durrani

Versus

Govt. of KP.

=====  
**I N D E X**  
=====

S.No	Particulars	Dated	Pages
1	Memo of Petition & Affidavit		1-2
2	Order	20-11-2018	3
3	Service Appeal No. 1381/2010		4-16
4	Order	02-06-2021	17-18
5	CM 126 / 2020		19-20
6	Judgment	29-03-2022	21-26
7	Wakalatnama		27

Peshawar, dated  
1<sup>st</sup> June-2022

(Muhammad Zafar Tahirkheli)  
ASC

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(45)

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

C. M. NO. 318 / 2022  
In  
Service Appeal No. 1381 / 2010

Ameer Muhammad Durrani

Versus


Govt. of KP.

=====  
**APPLICATION FOR THE RESTORATION OF SUBJECT APPEAL  
DISMISSED FOR NON-PROSECUTION VIDE ORDER DATED  
20-11-2018**  
=====

**RESPECTFULLY SHEWETH**

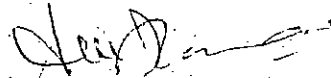
1. That the above titled appeal was pending before the Hon'ble Tribunal along with two other connected appeals No. 1606 / 2010 titled Balqiaz Khan vs Govt. and 1379 / 2010 titled Ijaz Hussain Vs Govt.
2. That the present applicant along with two others Ejaz Hussain and Balqiaz Khan were arrested by NAB, ref. No. 02 / 15 on 10-12-2014 and remained in lockup up to 25-11-2014.
3. That the cases of the appellant ad Balqiaz were dismissed and default on 20-11-2018, whereas the case of Ejaz Hussain service appeal No. 1378 / 2010 remained pending before the Hon'ble Tribunal. Balqiaz khan filed an application for restoration through CM No. 126 / 2020, which was accepted vide order dated 02-06-2021.
4. That the connected appeal No. 1606 / 2010 has been accepted vide judgment and order dated 29-03-2022 by this Hon'ble Tribunal, wherein the impugned order has been set aside and the case has been reminded to the department to conduct de-novo Inquiry within a period of 60 days.  

The applicant being similarly placed and positioned is entitled to similar relief has allowed to Balqiaz Khan vide afore mentioned proceeding.
5. That in view of the dictum laid down by the august Supreme Court of Pakistan 1996 SCMR 1185, the applicant is also entitled to the same benefit, as allowed to the others in connected service appeals by this Hon'ble Tribunal.
6. That initially due to arrest and detention of applicant and later on due to his old age and ailment he was unable to approach this Hon'ble Tribunal within statutory period of limitation. The absence was not intentional as the applicant believed that his case is being pursued by his counsel along with other connected service appeals.

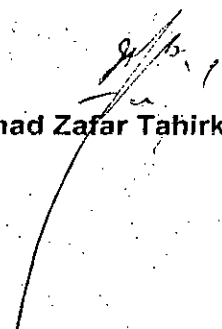
  
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In view of the above, it is therefore requested that by accepting this application, the service appeal No. 1381/2010 may kindly be restored for its disposal in view of judgment and order dated 29-03-2022 passed in service appeal No. 1606 / 2010.

  
Applicant,

Through,

  
(Muhammad Zafar Tahirkheli)  
ASC

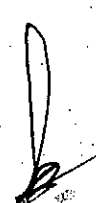
Peshawar, dated  
01<sup>st</sup> June, 2022.

**Affidavit**

I, Ameer Muhammad Durrani s/o Khan Muhammad Durrani, the applicant, do hereby state on oath that the contents of the above application are true and correct and nothing has been withheld or concealed from this Hon'ble Court.

  
Deponent



  
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Appeal No. 1381/20

ANNEXURE 'H'

Ameer Muhammad Durrani vs Govt

(17)

03<sup>rd</sup> May, 2023



1. Learned counsel for the applicant present. Mr. Muhammad Azhar Khan, Section Officer alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

2. Learned counsel for the applicant submitted that he would advice the applicant to make an application to the concerned Authority for similar treatment in compliance with the judgments of august Supreme Court of Pakistan reported as 1996 SCMR 1185 and 2009 SCMR page 1 and others for extending similar treatment to the similarly placed persons, as he says that the appeals of Balqiaz Khan Service Appeal No. 1606/2010 and Ijaz Hussain etc have been accepted vide judgment dated 29.03.2022, remitting the matter to the department for conducting de-novo inquiry within a period of 60 days. In view of request of learned counsel for the applicant this application is disposed of. Needless to say that the applicant is at liberty to make any application/representation under any law seeking any remedy before any Authority which if made has to be dealt with in accordance with law. Consign.

3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 03<sup>rd</sup> day of May, 2023.

(Safah-ud-Din)  
Member (Judicial)

(Kalim Arshad Khan)  
Chairman

\*Naeem Amin\*

Certified to be true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 05-05-2023  
Number of Words Page 1  
Copying Fee 5/-  
Urgent 5/-  
Total 10/-  
Name of Copyist  
Date of Completion of Copy 05-05-2023  
Date of Delivery of Copy 05-05-2023



ANNEXURE I  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(Establishment Wing)

(48)

Dated Peshawar, the July 3<sup>rd</sup>, 2023

**NOTIFICATION**

**No. SO E-IV (ED)/2(321)/1998:-** WHEREAS, in pursuance of the Judgment of the Khyber Pakhtunkhwa Service Tribunal dated 29.03.2022 passed in Service Appeal No.1608/2010, the competent authority (Chief Secretary Khyber Pakhtunkhwa) ordered de-novo inquiry against Mr. Balqiaz Khan, Assistant (BS-16) for the charges mentioned in the charge sheet and statement of allegation.

2. AND WHEREAS, Mr. Balqiaz Khan, Ex-Assistant was conditionally reinstated into service for the purpose of de-novo inquiry.

3. AND WHEREAS, a Committee comprised of Mr. Noor ul Amin (PMS BS-19) Additional Secretary (HRD), Establishment Department, Muhammad Yousaf Khan, Deputy Secretary (PMS BS-18) Finance Department and Mr. Laeeq Ahmad, Section Officer (Admn) Administration Department was constituted vide notification dated 26.08.2022 to probe into the charges levelled against the said official and to submit findings/recommendations.

4. AND WHEREAS, the Inquiry Committee, after having examined the charges, evidence produced before them and explanation of the accused official, whereby the charges against the accused have been proved.

5. AND WHEREAS, Mr. Irshad Jadoon (PMS BS-18), Deputy Secretary, Local Government Department was appointed as Hearing Officer to afford an opportunity of personal hearing to the accused on behalf of the competent authority.

6. NOW, THEREFORE, Chief Secretary Khyber Pakhtunkhwa, being competent authority, after having considered evidence on record and findings of the committee, providing opportunity of personal hearing to the accused and exercising powers conferred upon him under Rule-14(3) of the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011, has been pleased to retire Mr. Balqiaz Khan, Assistant (BS-16) w.e.f 01.04.2023 (as his date of birth is 02.04.1963) from government service under Rule-22 of the Khyber Pakhtunkhwa Civil Servants Pension Rules, 2021 alongwith recovery of Rs.1,306,518/-.

CHIEF SECRETARY  
KHYBERPAKHTUNKHWA

Copy of the above is forwarded to:-

1. Accountant General, Khyber Pakhtunkhwa (with the request to affect recovery of the amount from his pension).
2. PS to Chief Secretary, Khyber Pakhtunkhwa.
3. Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
4. Section Officer (Admn), Administration Department.
5. Section Officer (Lit-I) Establishment Department.
6. P.S to Secretary, Establishment Department.
7. P.S to Special Secretary (E), Establishment Department.
8. PA to Addl. Secretary (E), Establishment Department.
9. PA to Dy. Secretary (E), Establishment Department.
10. The official concerned.

SECTION OFFICER (E-IV)



ANNEXURE 5  
49

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(Establishment Wing)

Dated Peshawar, the July 3<sup>rd</sup>, 2023

**NOTIFICATION**

**No. SO E-IV (ED)/2(321)/1998:** - WHEREAS, In pursuance of the Judgment of the Khyber Pakhtunkhwa Service Tribunal dated 29.03.2022 passed in Service Appeal No 1370/2010, the competent authority (Chief Secretary Khyber Pakhtunkhwa) ordered de-novo inquiry against Mr. Ejaz Hussain, Assistant (BS-16) for the charges mentioned in the Charge Sheet and Statement of Allegations.

2. AND WHEREAS, Mr. Ejaz Hussain, Ex-Assistant was conditionally reinstated into service for the purpose of de-novo inquiry.

3. AND WHEREAS, a Committee comprised of Mr. Noor ul Amin (PMS BS-10) Additional Secretary (HRD), Establishment Department, Muhammad Yousaf Khan, Deputy Secretary (PMS BS-18) Finance Department and Mr. Laeeq Ahmad, Section Officer (Admn) Administration Department was constituted vide notification dated 26.08.2022 to probe into the charges levelled against the said official and to submit findings/recommendations.

4. AND WHEREAS, the Inquiry Committee, after having examined the charges, evidence produced before them and explanation of the accused official, whereby the charges against the accused have been proved.

5. AND WHEREAS, Mr. Irshad Jadoon (PMS BS-18), Deputy Secretary, Local Government Department was appointed as Hearing Officer to afford an opportunity of personal hearing to the accused on behalf of the competent authority.

6. NOW, THEREFORE, Chief Secretary Khyber Pakhtunkhwa, being competent authority, after having considered evidence on record and findings of the committee, providing opportunity of personal hearing to the accused and exercising powers conferred upon him under Rule-14(3) of the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011, has been pleased to impose the major penalty of Compulsory Retirement alongwith recovery of Rs.3,979,034/- upon Mr. Ejaz Hussain, Assistant (BS-16) under Rule-4(I)(b)(II) read with sub rule-5 of rule-4 of the rules Ibid.

CHIEF SECRETARY  
KHYBERPAKHTUNKHWA

Copy of the above is forwarded to: -

1. Accountant General, Khyber Pakhtunkhwa (with the request to affect recovery of the amount from his pension).
2. PS to Chief Secretary, Khyber Pakhtunkhwa.
3. Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
4. Section Officer (Admn), Administration Department.
5. Section Officer (Lit-I) Establishment Department.
6. P.S to Secretary, Establishment Department.
7. P.S to Special Secretary (E), Establishment Department.
8. PA to Addl. Secretary (E), Establishment Department.
9. PA to Dy. Secretary (E), Establishment Department.
10. The official concerned.

TRUE COPY

SECTION OFFICER (E-IV)

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

Service Appeal No. \_\_\_\_\_/2023

Ameer Muhammad Durrani..... **Appellant**

Versus

Secretary Govt. of KPK & others..... **Respondents**

**ADDRESSES OF PARTIES**

**APPELLANT**

Ameer Muhammad Durrani Son of Khan Muhammad Durrani,  
R/O Nowshera Kalan, Nowshera,  
Ex-Section Officer (Transport) Administration  
Department, Civil Secretariat, Peshawar

**RESPONDENTS**

1. Secretary, Govt. of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
2. Chief Minister, Govt. of Khyber Pakhtunkhwa, Peshawar through Chief Secretary, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
3. Secretary, Govt. of Khyber Pakhtunkhwa, Administration Department, Peshawar

  
Muhammad Zafar Khan (Tahir Khan)

A.S.C



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# VAKALATNAMA

In the Court of **Khyber Pakhtunkhwa Service Tribunal, Peshawar**

Service Appeal No. \_\_\_\_ / 2023

ID No.	B.C- 10-7764
Advocate	M. Zafar
Cell No.	0300-9597670
CNIC	17301-1639615-3

Petitioner  
Plaintiff  
Applicant  
Appellant  
Complainant

**Ameer Muhammad Durrani**

Decree-Holder

**V**ERSUS

Respondent  
Defendant  
Opponent  
Accused

**Govt of Khyber Pakhtunkhwa etc.**

Judgment-Debtor

I / We **Ameer Muhammad Durrani** the above noted appellant do hereby appointed and constitute, **Muhammad Zafar Khan Tahirkheli, Advocate Supreme Court of Pakistan**, to appear, plead, act, compromise, withdraw or refer to arbitration for me / us as my / our counsels / advocates in the above noted matter, without any liability for his default and with the authority to engage any other Advocate / Counsel at my / our cost.

The Client / Litigant will ensure his presence before the Court on each and every date of hearing and the counsel would not be responsible if the case is proceeded ex-parte or is dismissed in default of appearance. All cost awarded in favour shall be the right of Counsel or his nominee, and if awarded against shall be payable by me/us.

I / We authorize the said Advocates to withdraw and receive on my / our behalf all sums and amounts payable or deposited on my / our account in the above noted matter.

*Ameer Muhammad Durrani*

Client

**M. Zafar Khan Khan (Tahirkheli)**

Attested & Accepted (Advocates)

Dated. 12/09/2023

Office **ATIQ LAW ASSOCIATES,**  
87, Al-Falah Street, Besides State Life Building,  
Peshawar Cantt, Phone: 091-5279529  
E-mail : [zafartk.advocate@gmail.com](mailto:zafartk.advocate@gmail.com)