



12.09.2023

Learned counsel for the appellant present. Mr. Muhammad Sohrab, Lecturer alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

Learned Assistant Advocate General sought some time for preparation of arguments. Adjourned. To come up for arguments on 09.10.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
KIRAN
PESHAWAR


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

Naeem Amin

RECORDED
12/09/2023

6345/20

24.03.2023

Junior to counsel for the appellant present. Mr. Fazal Shah Mohmand, Addl. A.G for the respondents present.

The Worthy Chairman is on leave today, therefore, the bench is incomplete. The case is adjourned to 1.06.2023 for arguments before D.B alongwith connected appeal No. 5673/2020. Parcha Peshi given to the parties.

SCANNED
Peshi
war


(FAREEHA PAUL)
Member (E)


1st June, 2023

1. Learned counsel for appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.

2. Being not prepared, learned counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 12.09.2023 before D.B. P.P given to the parties.

SCANNED
Peshi
war


(Salah-Ud-Din)
Member (J)



(Kalim Arshad Khan)
Chairman


Mutazem Shah

3rd Nov. 2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Muhammad Ayaz Khan, Litigation Officer for the respondents present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 02.01.2023 before the D.B.

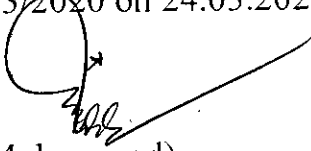

(Fareeha Paul)
Member (E)



(Kalim Arshad Khan),
Chairman

02.01.2023

Learned counsel for the appellant present. Mr. Qazi Ayaz, Litigation Officer alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment for preparation of arguments. Adjourned. To come up for arguments alongwith Service Appeal bearing No. 5673/2020 on 24.03.2023 before the D.B.


(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)


SCANNED
KPST
Peshawar


31.05.2022

Appellant present through counsel.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Kazi Ayaz Litigation Officer for respondents present.

At the very outset it was brought into the knowledge of this Bench that identical nature case of one Muhammad Hayat is fixed for hearing on 06.06.2022, therefore, it would be in fitness of things to adjourn the appeal in hand and to fix the same alongwith the connected case for arguments on 06.06.2022. Case is adjourned for arguments before D.B.


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

6th June, 2022


Proper D.B is not available. Therefore, case is adjourned to 23.08.2022 for the same as before.



Reader

23.08.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

To come up for arguments alongwith connected Service Appeal bearing No. 5673/2020 on 03.11.2022 before the D.B.


(Rozina Rehman)
Member (Judicial)


(Salah-Ud-Din)
Member (Judicial)

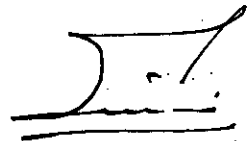
27.07.2021

Appellant alongwith clerk of his counsel present. Qazi Muhammad Ayaz, Litigation Officer alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Appellant submitted rejoinder, copy of which handed over to learned Additional Advocate General. Appellant requested for adjournment on the ground that his counsel is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments before the D.B on 03.11.2021.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

03.11.2021


Appellant present through counsel.

Noor Zaman Khan Khattak, learned District Attorney alongwith Atta ur Rehman Assistant for respondents present.

Former made a request for adjournment in order to prepare the brief; granted. To come up for arguments on 08.02.2022 before D.B.



(Rozina Rehman)
Member (J)



Chairman

8-2-2022

Due to retirement of the Honorable Chairman the case is adjourned to the come up for the same as before on 31-05-2022




Reader

08.12.2020

Appellant with counsel present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Qazi Ayaz Litigation Officer for respondents present.

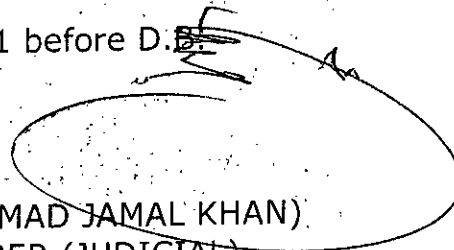
Written reply was not submitted on behalf of respondents. Representative of respondents made a request for adjournment. Opportunity is granted. To come up for written reply/comments on 28.01.2021 ~~08.12.2020~~ before S.B.


(Rozina Rehman)
Member (J)

28.01.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Albart, Assistant, for the respondents are also present.

Representative of the department submitted written reply on behalf of respondents which is placed on record: File come up for rejoinder and arguments on 13.04.2021 before D. ~~S.B.~~


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

13.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 27.07.2021 for the same as before.


READER

10.08.2020

Counsel for the appellant present.

Contends that the main accused namely Muhammad Hayat in same enquiry against the appellant was removed from service whose Service Appeal No. 5673 of 2020 has already been admitted by this Tribunal on 24.06.2020.

On the strength of admitting note recorded in the referred matter instant appeal is admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 19.10.2020 before S.B.

Appellant Deposited
Security & Process Fee

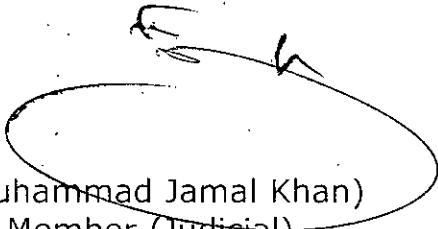
10/8/20


Chairman

19.10.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Akbar, Assistant, are also present.

Written reply on behalf of respondents not submitted. Representative of the department sought time for submission of written reply/comments. Time is allowed. Adjourned to 08.12.2020 on which date the requisite reply/comments shall be furnished before S.B.


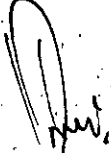

(Muhammad Jamal Khan)
Member (Judicial)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6345 /2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/07/2020 SCANNED KPST Peshawar	<p>The appeal of Mr. Rehmani Gul presented today by Mr. Khaled Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/08/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 6345/2020

Rahmani Gul Appellant

Versus

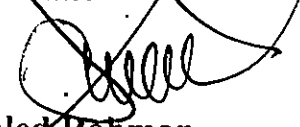
The Govt. of KPK through Chief Secretary & another Appellant

INDEX

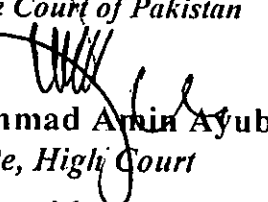
S#	Description of Documents	Date	Annex	Pages
1.	Memo of Service Appeal			1-8
2.	Minutes of the Meeting of Departmental Purchase Committee	12.02.2016	A	9-12
3.	Recommendations of the Committee		B	13
4.	Notification	03.11.2017	C	14
5.	Report of the Fact Finding Inquiry	08.12.2017	D	15-21
6.	Inquiry Report		D/1	22-42
7.	Charge Sheet and Statement of Allegations		E	43-44
8.	Reply to Charge Sheet	12.02.2018	F	45
9.	Bill submitted by MS Toyota Frontier Motors		G	46
10.	Letter	10.03.2015	H	47
11.	Comparative Statement regarding approval of rates of the Toyota Abbott Motors, Abbottabad by the Purchase Committee		I	48
12.	Letter thereby Finance Department accorded advance payment/sanction in the name of the Toyota Abbott Motors, Abbottabad	10.06.2016	J	49
13.	Pre-Receipt Bill		K	50-51
14.	Cheque		L	52
15.	Show Cause Notice		M	53
16.	Reply to Show Cause Notice		N	54-56
17.	Impugned Notification	11.03.2020	O	57
18.	Review Petition		P	58-59
19.	Statement of appellant		Q	60-62
20.	Wakalat Nama			

Through


Appellant


Khaled Rahman
Advocate,
Supreme Court of Pakistan

&


Muhammad Amin Ayub
Advocate, High Court

4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: ___/07/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 6345/2020

Rahmani Gul,
Section Officer (BPS-17),
Higher Education Department, Peshawar

...**Appellant**

Versus

1. **The Govt. of Khyber Pakhtunkhwa**
through Chief Secretary,
Civil Secretariat, Peshawar.

2. **The Secretary**
Govt. of Khyber Pakhtunkhwa
Higher Education Department,
Civil Secretariat, Peshawar.....

.....**Respondents**

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 READ WITH RULE-19 OF THE KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES-2011 AGAINST THE ORIGINAL IMPUGNED NOTIFICATION DATED 11.03.2020 WHEREBY PENALTIES OF CENSURE AND WITHHOLDING OF PROMOTION FOR 03 YEARS WAS IMPOSED UPON THE APPELLANT AGAINST WHICH HE PREFERRED DEPARTMENTAL REVIEW on 16.03.2020 BUT THE SAME WAS NOT REPLIED WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, impugned Notification dated 11.03.2020 may graciously be set aside by restoring the appellant to his position before the issuance of the impugned Notification with all consequential back benefits.

Respectfully Sheweth,

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

1. **That** initially appellant joined the office of the Respondents as Junior Scale Stenographer (Grade-II) on 31.01.1981. On the account of his meritorious service he was offered promotion from time to time and lastly promoted as Section Officer (BPS-17). At the moment appellant has at his credit an unblemished and outstanding service record spreading over a period of more than 38 years during which period he was not even once proceeded against for any matter of discipline or otherwise which is the undeniable evidence of veracity of the appellant.
2. **That** an ADP Scheme of transport facilities to the staff of Government Colleges, Khyber Pakhtunkhwa (Phase-II) (ADP 545/15005) was approved in the PDWP meeting held on 08.10.2015 at a total cost of Rupees 100.00 Million for the year 2015-16 under the Project 25-Government Colleges located in 17 Districts including 8 Girls Colleges.
3. **That** after observing the mandatory requirements i.e. quotation from Government authorized Dealers i.e. various Dealers of Toyota Motors, a Meeting of Departmental Purchase Committee was held on 12.02.2016 (*Annex:-A*) and a comparative statement was prepared and signed by the said Committee Members. The Committee unanimously recommended (*Annex:-B*) Toyota Motors being the lowest and with the shortest delivery. The Supply Order of the said vehicles was delivered to Managing Director Toyota Abbott Motors, Mansehra Road, Abbottabad and requested to provide Bill against the supply order for advance payment. An Agreement Deed was also signed with condition inter-alia of 25% security deposited in shape of CDR/Bank Guarantee. CDR amounting to Rs.9,450,000/- @25% was deposited in the Bank Al-Falah. Sanction of advance payment was delayed by the Finance Department, pursuant to which a Departmental Purchase Committee meeting was called upon on 27.04.2016 wherein it was decided that the CDR may be released as the case is not yet decided in Finance Department.
4. **That** Finance Department on 10.06.2016 agreed to accord concurrence for advance sanction/payment to MS Toyota Abbott Motors (Pvt.) Limited for

the supply of 25 Toyota Hiace Vehicles under the said Scheme. It is pertinent to mention here that after advance sanction/payment by the Finance Department and in light of the decision of the said Committee, Respondent Department made a Deed with sole Manufacturer Company and CDR @10% was deposited by the Company. It is further elaborated that on 24.06.2016 Department deposited a Cheque amounting Rs.91,287,000/- in Account No.0155-000583-01-5 (F/Y) of Toyota Abbott Motors. It is notable that after long span of time, Toyota Abbott Motors, Mansehra, Abbottabad, intimated the Respondent Department for withdrawal of quotations and stated that if someone claims to represent Toyota Abbott Motors, Mansehra, Abbottabad, they would bear no responsibility, therefore, the concerned brought the matter into the notice of the competent authority with further submissions that letter dated 01.05.2016 of Toyota Abbott Motors, Mansehra, Abbottabad was not yet received, therefore, requested to propose a meeting of Departmental Purchase Committee on urgent basis vide Paras 64 to 74. It is further submitted that the Mr. Imtiaz Accountant/Cashier vide Paras 117, 136 & 142 repeatedly requested to Deputy Secretary (Admin:) to bring the matter into the Notice of Special Secretary being the Chairman of the Purchase Committee to take a solid decision but he personally dealt with that case with both the parties.

5. That a Fact Finding Inquiry was conducted into matter by the Additional Secretary/Inquiry Officer, regarding delay of purchase of 25 Nos. of Hiaces under ADP Scheme 545/150025 for use in different Colleges of the Khyber Pakhtunkhwa vide Notification dated 03.11.2017 (*Annex:-C*) who submitted his Report on 08.12.2017 (*Annex:-D*) wherein strict action as per law was proposed to be taken against the dealing hands in the matter. Pursuant to which another inquiry into the matter was conducted by Syed Kamran Shah PCS-SG (BS-20) as Inquiry Officer who concluded (Inquiry Report *Annex:-D/1*) as under:-

B) Accused Rahmani Gul, the then SOG HED

- (i). *The accused official did not prepare the Cheque No.1352571 dated 24.06.2016 for Rs.9,12,87,000/- which was in fact issued, after requisite pre audit*

clearance of the bill submitted by the department, by the AG Khyber Pakhtunkhwa. However, he being the Drawing and Disbursing Officer of Higher Education Department did processed and signed the Bill for payment on account of the said procurement of 25 vehicles without ensuring conformity to the prescribed procedures/requirements etc. Charge No.1 stands partially proved.

- (ii) *No collusive Rule on the part of the accused Officer is detectable in this case, however, he did omit to exercise due diligence by not reflecting/ mentioning the full Nomenclature and Vender Number of the actual suppliers. Namely M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, in the Bill processed and signed by him as the DDO concerned. Charge No.2 stands partially proved.*

Thus, appellant was declared partially responsible without any justification muchless lawful and without applying a judicial mind to the case.

6. That pursuant to charges *ibid*, appellant was served with a Charge Sheet and Statement of Allegations (*Annex:-E*). Since the charges were ill-founded, baseless therefore, appellant submitted a detailed reply on 12.02.2018 (*Annex:-F*) wherein appellant refuted the charges and explained his position. The reply to the Charge Sheet and Statement of Allegations may be considered as integral part of this appeal. In response to the charges *ibid*, leveled against the appellant the comprehensive conspectus reply is as under:-

- i. Regarding Charge-i raised by the Respondents it is averred that the Cheque bearing No.1352571 dated 24.06.2016 which was issued in the name of Toyota Abbott Motors instead of Indus Motors is not the domain of appellant as per practice in vogue and assigned mandate of the post of the Section Officer. Moreover, appellant was not the decision taking authority in the whole episode rather he discharged his duty being Section Officer/Member of the Purchase Committee who approved the Bill and processed the same to the concerned quarter for pre-audit. Previously 50 Vehicles were purchased from MS Toyota Frontier Motors, the authorized Dealer of Indus Motors, Karachi and the Cheque was issued in the name of Indus Motors, Karachi under its Vender No.30009175 as requested in the Bill

submitted by MS Toyota Frontier Motors vide Bill (*Annex:-G*). It is apt to add that the Finance Department also accorded advance Payment/sanction in the name of the said Company which is evident from the letter dated 10.03.2015 (*Annex:-H*), while in the instant case though the Purchase Committee approved the rates of the Toyota Abbott Motors, Abbottabad vide Comparative Statement (*Annex:-I*), thereupon the Finance Department accorded advance payment/ sanction in the name of the said Company vide letter dated 10.06.2016 (*Annex:-J*) as well as Department also signed an Agreement Deed with the same Firm, the Firm also requested that payment must be made in favour of MS Toyota Abbott Motors, Abbottabad which is evident from the Pre-Receipt Bill (*Annex:-K*) thereby the Bill of the Vender was accordingly processed and Cheque (*Annex:-L*) was issued in favour of the same Firm.

- (ii) So far as Charge-ii *ibid* is concerned, it is explained that while processing the Bill a Vender Number was generated in the Accountant General Office by the Representative of the MS Toyota Abbott Motors, Abbottabad, which was recorded on the Bill as per procedure and submitted to AG Office for pre-audit. It is further apprised that Vender Number was verified by the AG Office through its SAP System, thereon Bill was scrutinized, passed and Cheque was issued in the name of the said Firm. However, when the said Firm transmitted a letter to Respondent Department wherein they denied the receipt of any payment or supply order, the concerned quarter repeatedly brought the entire situation into the Notice of Deputy Secretary (Admin) which is evident from the Para Nos.64 to 74 and 117, 136 & 142. It has already been mentioned in the said Paras regarding non-receiving of earlier withdrawal letter dated 01.05.2016 of the said Firm which fact was also corroborated by the Inquiry Officer. When the said Firm transmitted another letter to the concerned quarter, thereon the matter was brought into the Notice of the Special Secretary being the Chairman of the Purchase Committee to take a solid decision but he personally dealt with the case with

both the parties which fact was admitted by the inquiry officer.

7. That on conclusion of the inquiry, appellant was issued a Show Cause Notice (*Annex:-M*) to which appellant replied (*Annex:-N*) in quite detail explaining his position. The reply to the Show Cause Notice may also be considered as integral part of this appeal.
8. That without providing any meaningful opportunity of personal hearing by the competent authority vide impugned Notification dated 11.03.2020 (*Annex:-O*) appellant was imposed upon the minor penalty of censure and withholding of promotion for 03 years against which he availed the remedy of Rule-3 of the Khyber Pakhtunkhwa Appeals Rules, 1986 and preferred a Review Petition (*Annex:-P*) but the same was not replied.
9. That the appellant being mortally aggrieved from the impugned Notification dated 11.03.2020, files the instant service appeal on the following amongst other grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned Notification, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That as per Rule-4 of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 the Competent Authority in the case in hand is the Worthy Chief Minister, whereas from the very inception appellant was departmentally proceeded by the Respondent No.1 as competent authority and issued Charge Sheet and Statement of Allegations and issued impugned Notification as well who under the rules was not competent hence, the same squarely falls under the ambit of coram-non-judice, therefore, liable to set aside being void ab initio.

- C. **That** no regular enquiry as per the mandate of law was conducted. Neither any statement was recorded in presence of the appellant nor any documentary evidence was taken into possession in presence of the appellant nor the appellant was provided opportunity of cross examination or confrontation with the collected documents. Since the enquiry was not conducted according to law, therefore, the penalty imposed upon the appellant is illegal and thus not sustainable in the eye of law. The mode of inquiry in Questionnaire form is always deprecated by the Superior Fora.
- D. **That** as per Inquiry Report, both the charges were partially proved against the appellant and were forwarded to competent authority to decide the fate of the appellant. As per Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, a delinquent civil servant can be punished when charges are proved otherwise he will be exonerated. The Inquiry Officer admits that appellant has not issued the Cheque No.1352571 dated 24.06.2016 for Rs.9,12,87,000/- rather the concerned quarter intimated the high-ups regarding the matter and thus both charges stood partially proved. It may be added that it was the duty of the competent authority to determine the charges carefully and consider the reply of appellant to the Show Cause Notice wherein he capitulated a comprehensive explanation which was sufficient for exoneration of appellant but the competent authority outright failed to discharge his duty as per mandate of the Rule *ibid*, and without assigning any reason muchless lawful appellant was declared responsible for the said act, therefore, the impugned Notification has caused miscarriage of justice and is liable to be struck down.
- E. **That** keeping in view the above factual position, the charges leveled against the appellant were altogether misplaced, without any substance and therefore, the appellant should have been exonerated of the charges but inspite of the same, appellant was imposed upon the impugned penalties vide impugned Notification which is illegal and not sustainable under the law.

- F. That the Inquiry Officer as well as the competent authority were duty bound to record the statement of the concerned of the Accountant General Office as appellant has already mentioned in his reply to the Charge Sheet and Statement of Allegations as well as Reply to Show Cause Notice in order to ascertain the real facts of the matter because verification of the Vendor Number is/was the exclusive domain of the Accountant General Office but the very important aspect of the matter was ignored, therefore, clear violation of Article-10A of the Constitution of the Islamic Republic of Pakistan, 1973 has been committed, hence the impugned Notification is against the fundamental rights of the appellant.
- G. That the appellant has served the Department for a long time of more than 38 years. Due to the impugned penalty the promotion of the appellant to the next higher grade has unlawfully been withheld which in fact amounts to a major penalty.
- H. That appellant would like to offer some other additional grounds during the course of arguments when the stance of the Respondents is known to the appellant.

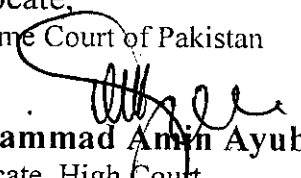
It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

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

Through

Appellant


Khaled Rahman,
Advocate,
Supreme Court of Pakistan

&

Muhammad Amin Ayub
Advocate, High Court

Dated: ___/07/2020



Answer A-9-

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT
BLOCK "A" CIVIL SECRETARIAT PESHAWAR.
PHONE # 091-9211672**

NO. SOG/HE/Procurement/2015-16
DATED 24/02/2016

To

The Managing Director,
Toyota Abbott Motors,
Mansehra Road, Abbottabad.

Subject:- **SUPPLY OF 25 NOS. OF TOYOTA HIACE DUAL AC (2.7L GASOLINE) LATEST MODEL**

I am directed to refer to the subject noted above and to state that this Department intends to purchase 25 Nos. of **TOYOTA HIACE**, competent Authority is pleased to approve vehicle **TOYOTA HIACE DUAL AC STD (2.7L Gasoline)**.

You are requested to provide bill against this supply order for advance payment, sign an agreement deed and submit 25% security in shape of CDR/Bank Guarantee to this Department.

Endst: No. & Date even:

[Signature]
(RAHMANI GUL)
SECTION OFFICER(GENERAL)

A copy of the above is forwarded for information to the:

1. P.S. to Secretary, Higher Education Department.
2. P.A to Deputy Secretary (Admn). Higher Education Department

[Signature]
(RAHMANI GUL)
SECTION OFFICER(GENERAL)

[Signature]
24/02/16.

A

-10-

MINUTES OF THE DEPARTMENTAL PURCHASE COMMITTEE MEETING HELD ON
2-02-2016 AT 1000 HOURS UNDER THE CHAIRMANSHIP OF SPECIAL SECRETARY,
HIGHER EDUCATION DEPARTMENT

The subject meeting was held on 12-02-2016 at 1000 hours under Chairmanship of the Special Secretary Higher Education Department in his office, in order to scrutinize different rates collected through quotations from various authorized dealers of the sole proprietor i.e. (Toyota Motors). List of the Participants is attached at **Annexure-I**.

2. The meeting started with the name of Almighty Allah and thereafter, on the direction of the chair, the Deputy Secretary (Admn) apprised the participants regarding the background of the subject matter by mentioning that fund are allocated in the ADP 2015-16 released for procurement of 25-Hiaces Van for provision of transport facilities to the staff of different colleges in Khyber Pakhtunkhwa, at the tune of Rs.100.00 million:

3. The Departmental Purchase Committee deliberated at length. The Director Archives and Libraries appreciated the Navigation System of the Hiace Van. The Additional Director Higher Education said that 100% advance payment for prompt delivery. The following decisions were made:-

- i. The Committee approved the lowest rate of the dealer "Toyota Abbott Motors" quoted per unit to the tune of Rs. 5780000/- on the following condition:-
 - (a) Pre-shipment inspection of vehicles will be made by the Committee.
 - (b) In case of any damage during shipment, the supplier will be bound to replace vehicle instead of repaired one.
- ii. Deputy Secretary (Admn) was directed by chair to confirm the following measures approved rate from concerned Supplier on telephone;
- iii. The Director Archives & Libraries and Director HEATA were directed by chair to constitute their respective Procurement Committees, decided in the Departmental Procurement Committee meeting held on 07-01-2016.

The meeting ended with the vote of thanks.

MINUTES OF THE DEPARTMENTAL PURCHASE COMMITTEE MEETING HELD ON 02-12-2016 AT 02-30 PM UNDER THE CHAIRMANSHIP OF DEPUTY SECRETARY (ADMN) HIGHER EDUCATION DEPARTMENT IN HIS OFFICE.

The subject meeting was held on 02-12-2016 at 02-30 am under the Chairmanship of Deputy Secretary (Admn:) Higher Education Department in his Office, in order to discuss the matter of withdrawal of quotations by M/S Toyota Abbott Motors, Mansehra Road Abbottabad, for supply of 25 Hiace Vehicles to Higher Education Department. The following attended the meeting:

- | | |
|--|----------|
| 1. Muhammad Hayat Khan, Deputy Secretary (Admn:) | On chair |
| 2. Muhammad Zaman, Chief Planning Officer. | Member |
| 3. Aziz Muhammad, Section Officer (Budget & Accounts) | Member |
| 4. Wajid Ali, Deputy Director (P&D), Directorate of HE | Member |
| 5. Muhammad Zaman, Assistant Director Archives | Member |
| 6. Dr. Fazlur Rahman, | Member |
| 7. Shakil Ahmad, Director General Commerce. | Member |

The meeting started with the Name of Allah and thereafter, Deputy Secretary (Admn) apprised the members of the committee regarding the background of the subject matter. Mr. Aziz Muhammad, Section Officer (Budget & Accounts), placed the sub-committee report before the members, which was constituted in previous meeting to visit Toyota Abbott Motors, Abbottabad and meet with the concerned authorities to resolve the matter. In his report, he said that both the parties want to settle the issue and want to appear before the committee.

Mr. Muhammad Zaman, Chief Planning Officer, after detail discussion, said that the committee should fix next meeting on 6th December at 02.00 PM and write a letter to the authorities of M/S Toyota Abbott Motors Abbottabad and to Mr. Jawad Ashraf, receiver of cheque, to appear before the committee during its meeting to settle the matter once for all. He further added that the amount received by Mr. Jawad Ashraf should be returned back and be given to Indus Motors Karachi, through Higher Education Department within five days, and new agreement may be made with Toyota Abbott Motors for the supply of vehicles as

per their offer given in their letter, failing which strict action should be taken against Mr. Jawad Ashraf. He further aided that Establishment of Digital Science Lab, may also be placed on the agenda of next meeting of Purchase committee to proceed further.

All members and chair agreed with the Chief Planning Officer suggestions unanimously.

The meeting ended with the vote of thanks.

COMPARATIVE TENDERS

S. No.	Name of the Firm	Specification	Quoted Price	Mode of payment	Delivery Time	Delivery Location	Remarks
1	Toyota Frontier Motors (Pvt) Ltd	RHD Toyota Hiace Van 15 Seaters with Dual A/C. -Engine Capacity: 2691 CC Gasoline -Transmission: 05 Speed M/T Standard Accessories: Air Conditioner, Power Steering, Heater, Cigarette Lighter, Front Seat Belts, etc. Japan Assembled. (Inclusive of All Taxes)	Rs. 3,850,000/- (Ex-Peshawar)	100% advance payment at the time of booking	06-08 months after receipt of confirmed supply order with 100% advance payment	Ex-Peshawar	
2	Toyota Central Motors	Toyota Hiace Std. Roof Dual A/C 2693/2TR-FE GASOLINE/CYLINDERS, L-TYPE Air conditioner, 15 Seater, Ashtray Fitted, Fuel Tank Capacity 70 liters. Latest model with all standard fittings and accessories. Warranty: 50,000 Km or 2-years what ever come first.	Rs. 3787000/- (Quote is valid for 3-days)	1 million in advance by pay order and bank draft in favour of Dealers.	04-05 months (after receipt of confirmed supply order with 100% advance payment)	03-Main Shalrah-e-Faisal, Karachi	
3	Toyota Rawal Motors (Pvt) Ltd.	Toyota Hiace Std Roof Dual A/C 2.7 Gasoline	Rs. 3809000/-	100% payment in advance at the time of booking	06-months	Islamabad	
4	Toyota Abbott Motors	Toyota Hi-ace Model 2015 Petrol Engine, Engine 2TR-FE, Type water cooling in line 4 cylinder, Engine size 2.7 (2691CC), fuel tank capacity, 70liters. rear brake drum, Front fog lights, Rear fog lights, Xenon head lights, Additional front headlights, Front/rear spoiler, Rear wiper, Navigation, audio CD-player, Dual A/C 14/15 Seats, White Color, Ash Tray fitted.	Rs. 3789000/-	75% advance payment.	03-months after placing 75% advance payment.	Ex-Peshawar	Bought the vehicle and delivered it to the concerned authorities.
5	Toyota Khyber Motors	Toyota Hi-ace Model 2015 RHD Toyota Hiace Standard Roof with Dual A/C Latest Model 2.7 L (Petrol). (Manual Transmission)	Rs. 3849615/-	100% Advance payment.	5 to 6 months after advance payment OR subject to confirmation by our Principals M/S Indus Motors Co. Ltd. Karachi	Ex-Peshawar	

Spl. Secretary
 DG Commerce
 Dir. Higher Edu.
 Dir. A&Libraries
 Dir. HETA
 DC.P.O.HED
 D.S(Admin)HED
 SO(B&A)HED
 SO(G)HED

Shameer B

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

NO.PA/AS/HED/Inquiry/2017
Dated 08-12-2017

To

The Section Officer (General),
Higher Education Department.

ANNEX C
- 14 -

Subject: **NOTIFICATION/FACT FINDING INQUIRY.**

Please refer to your Notification No. SOG/HE/ADP 545/150025/2015-16 dated 03-11-2017 on the subject noted above and find enclosed herewith Fact Finding Inquiry alongwith supporting documents, for further necessary action at your end please.

Encl: as above


2/12/17
Additional Secretary
Higher Education Department

ANNEX D 15-15-

SUBJECT: FACT FINDING ENQUIRY INTO THE DELAY OF PURCHASE OF 25 NOS. OF HIACES UNDER ADP SCHEME 545/150025 FOR DIFFERENT COLLEGES OF THE PROVINCE.

The undersigned was declared as enquiry officer to conduct fact finding enquiry into the delay of purchase of 25 Nos. of Hiaces under ADP Scheme 545/150025 for use in different colleges of Khyber Pakhtunkhwa, vide notification No. SOG/HE/ADP-545/150025/2015-2016, dated 03-11-2017 (Annex-A).

1. PROCEEDINGS

- A. SO (G) and Accountant were cross questioned verbally.
- B. Discussions were held with the presently posted DS (Admn)
- C. Record available in the file alongwith the notesheet was studied thoroughly.

2. FACTS

An ADP Scheme "Transport facility to the staff of Govt. Colleges" was approved by the PDWP forum on 08-10-2015 with the total cost of RS. 100.000 million for the year 2015-16 for the purchase of Toyota Hiaces. (Annex-B). The scheme aimed at providing transport/ pick and drop facilities to the teaching staff of the government colleges (male/ female) in order to provide them respectable and comfortable transport facility. Accordingly Finance department released the amount of 100.000 million on 12-02-2016 (Annex-C).

For initiating the process for procurement of vehicles, a Departmental Committee for Works and Services in the HED was notified vide notification evenly dated 04-01-2016. (Annex-D).

Quotations were called from different authorized dealers of Toyota brand and comparative statement was prepared (Annex-E). Meeting of the departmental committee was convened on 12-02-2016 under the chairmanship of Special Secretary HED. Comparative statements ^{were} signed by all the members. Minutes of the meeting are at Annex-F-1 wherein; it was decided that as the Toyota Abbott Motors has quoted less amount per unit i.e Rs 3780000/-, therefore, order shall be placed to them for delivery of vehicles. It has also been mentioned in Para 3(ii) of the minutes under reference that DS (Admn) was directed by chair to confirm the approved rates from the concerned supplier on telephone. Accordingly, supply order was placed for supply of 25 Toyota Hiaces in the name of MD, Toyota Abbott Motors, Mansehra Road, Abbottabad on 22-02-2016 (Annex-F).

An agreement was prepared which was signed by the DS (Admn) on behalf of HED and MD M/S Abbott Motors on 03-03-2016. This agreement is not traceable in the file. However copy of Note sheet is at Annex-G. Another agreement is available in the file

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which was signed on 02-07-2016 having serial NO. 9515 and issued from Rawalpindi (Annex-H).

In continuation to above, a letter was issued to Finance department on 4-03-2016 requesting therein providing sanction for 100% advance payment to the company (Annex-I). Finance department accorded sanction for advance payment to said firm vide letter No. SO (Dev-I)FD/3-1/HE/2015-16 dated 10-06-2016 (Annex-J). The sanction of Finance Department was processed on 14-06-2016 vide paras (58-62) of the note sheet and accordingly sanction order was issued bearing No. SOG/HE/ADP-545/150025/2015-16, dated nil (Annex-K). Letter was issued in the name of M/S Toyota Abbott Motors on 28-06-2016 containing the cheque No. 1352571 dated 24-06-2016 amounting to Rs. 91287000/- which was received by Mr. Jawad Ashraf on 28-06-2016 (Annex-L).

In the meanwhile a letter was received from Toyota Abbott Motors dated 26-09-2016, addressed to DS (Admn) HED, wherein they gave reference of their previous letter dated 01-05-2016, and claimed that they have not received any supply order and payment. They further reiterated that they have withdrawn their quotation, and does not bear any responsibility (Annex-M). Same letter was processed on the note sheet which transpires that the letter dated 01-05-2016 was not received in the HED and accordingly a meeting of Purchase Committee was convened on 20-10-2016 to discuss the issue. (note sheet bearing para nos from 64 to 83 is at Annex-N). A sub committee was constituted in this meeting to visit Abbott Motors, Abbottabad and enquire about the matter and submit their report in the next meeting (Annex-O). the committee comprised the following.

1. Mr. Hayat Khan, DS (Admn), HED
2. Mr. Aziz Muhammad, SO (B&A), HED
3. Mr. Wajid Ali, DD (P&D), Directorate of Higher Education.

The said committee visited Toyota Abbott motors on 20-10-2016 and met the Manager Finance Mr. Sajjad. He informed the committee members that Mr. Zia Nabi is the Director of firm and presently has gone to Karachi. The committee also met Mr. Jawad Ashraf, the one who received the cheque and to whose account the cheque was issued. He responded that he is partner of Zia Nabi and has purchased 25 Nos of Hiaces in Japan. However if there is any legal complication, he is ready to return back the money to the department. The committee also met Mr. Zia Nabi on 23-10-2016, upon his return from Karachi, and he confirmed that Mr. Jawad Ashraf was his friend. (Report of committee and other staff is at Annex-P)

In the meanwhile, another letter was received from Toyota Abbott Motors dated 13-10-2017 wherein they mentioned that HED deptt falls under PRA of Toyota Khyber Motors Peshawar, so they cannot entertain the request. They further informed

that they have already submitted letters of withdrawal on 17-03-2016 and 06-10-2016. They also attached supporting documents to prove their claim that they have already withdrawn their quotation (**Annex-Q**). While going through the attached letters, it can be observed that Toyota Abbott Motors vide letter dated 17-03-2016 had withdrawn their quotation on the plea that HED comes under the PRA of Toyota Khyber Peshawar; and further requested not to issue supply order or payment in favor of Toyota Abbott Motors.

Again another a letter was received from Toyota Abbott Motors dated 04-11-2016 wherein they gave reference of their previous letters and reiterated about withdrawal of quotations. They mentioned that payment has been done to Toyota Abbott Motors Rawalpindi which is fake company and is not an authorized 3S dealership of Toyota in Pakistan. The said company has fraudulently been registered by an individual Mr. Jawad Ashraf who has nothing to do with the 3S dealership of Toyota Abbott Motors, Abbottabad. As per policy of Toyota, all payments are made in favor of Indus Motor Company Ltd and not in the name of dealership as has been done in the instant case. They added that their company name has fraudulently been used. In addition very harsh language was used by the firm (**Annex-R**).

In response to above, a letter was issued from HED on 09-11-2016 wherein clarifications were sought from Toyota Abbot Motors, Abbottabad (**Annex-S**). The reply of Toyota Abbott dated 23-11-2016 is at **Annex-T** wherein it has been mentioned that their team visited HED department on 13-10-2016 to resolve the issue but Mr. Hayat, DS (Admn) informed them payment has not yet been done against the order however the payment was already done on 26-06-2016. further the NTN number of Toyota Abbott Motors in the quotation is 7143699-3 whereas payment has been done to Toyota Abbott Motors, Rawalpindi having NTN No. 2672698-0 which is not an authorized dealer. Besides, the supply order issued on 24-02-2016 contained a clause of 25% security deposit which was later on changed to 10% security deposit and hence the older supply order stands null and void. They further intimated that they have held meetings with Mr. Jawad Ashraf (receiver of the cheque) and he has agreed to make payment to the Indus Motors Company on behalf of HED. For that matter, they need a fresh supply order from HED in new date to be accepted by Indus Motor Company and thereafter will supply Hiaces to the HED.

Another meeting of Departmental Purchase Committee was held on 02-12-2016 under the chairmanship of DS (Admn) HED, wherein it was decided to call Mr. Jawad Ashraf (Receiver of the cheques) and Rep of Toyota Abbott Motors, Abbottabad to appear before the committee on 06-12-2016 (Minutes at **Annex-U**). Sequel to this, the meeting of Purchase committee was held on 06-12-2016 under the chairmanship of Mr. Hayat, DS (adm). Mr. Jawad Ashraf attended the meeting whereas rep of Toyota Abbott Motors was absent. Mr. Jawad Ashraf told the members that he was partner of Sardar Zia

Nabi of Toyota Abbott Motors and participated in quotation process. However, later on Zia Nabi withdrew his quotation but as per agreement he had to supply the vehicles. He offered that if the department is facing legal complications, then he is ready to return back the amount in 3-4 months. (Minutes at **Annex-V**).

Hence a letter was issued on 16-12-2016 to Mr. Jawad Ashraf for returning the amount before 09-01-2017 (**Annex-W**). In response, Mr. Jawad Ashraf, intimated vide letter dated 27-12-2016 that he is moving ahead in the light of agreement signed with DS (Admn) HED on 02-07-2016 and has given order for import of Hiaces from Japan. He termed the demand of HED for return of money as highly unjustified and requested for reconsidering the decision (**Annex-X**). On the very same date i.e 27-12-2016, he issued another letter stating therein that he has repeatedly informed the HED to receive the vehicles which are parked in Capital Motors Islamabad and that he will not be responsible for any loss to the vehicles (**Annex-Y**).

The note sheet of the main file reveals that both the above letters were processed on file but DS (Admn) asked the SO(G) to seek quotation from Toyota Khyber Motors, Peshawar and accordingly letter was issued on 16-01-2017 (**Annex-Z**). Subsequently supply order was issued to Toyota Khyber Motors vide letter dated 22-02-2017 (**Annex-AA**). It is to mention here that neither approval was taken on file from the competent authority nor the meeting of Purchase Committee was convened. An agreement was signed by Mr. Hayat, DS (Admn), with the MD of M/S Toyota Khyber Motors, Peshawar wherein payment to the company was shown in instalments (**Annex-AB**). Prior approval was not taken by the Ds (Admn).

Different correspondences were held between the Toyota Khyber Motors and HED. Record on note sheet transpires that decisions were taken by DS (Admn) without bringing into the notice of highups. Finally a letter evenly dated 17-07-2017 was received from Toyota Khyber Motors, addressed to DS (Admn) wherein it has been intimated that they are in continuous coordination with the Ds (Admn) for payment of balance amount for delivery of vehicles but to no avail. They requested for payment of remaining amount (**Annex-AC**). Toyota Khyber on 21-08-2017 informed the department to make payment of remaining amount of Rs-52,195,385/- as the 20 vehicles have arrived at Karachi Dry port (**Annex-AD**). On 20-09-2017, HED asked Toyota Khyber Motors to provide 12 Hiace vehicles against the payment of Rs.48129615/- already made. However, till the date of submission of this fact finding report, no delivery has been made yet. Besides, the department also sent letter to Mr. Jawad Ashraf, for providing 100% payment till 02-10-2017 (**Annex-AE**) but so far no remaining payment has been made.

FINDINGS

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1. Signs of the members of Departmental Purchase Committee are missing on the quotation letters.
2. Method of procurement should have been adopted as per past practice i.e through single source from the authorized dealer of Toyota in Peshawar.
3. Letter for seeking quotations from different authorized dealers is missing.
4. Date on the Toyota Abbott Motors letter pad is mentioned as 05-12-2016 whereas quotations were sought from authorized dealers in January 2016 (Annex-AF)
5. In the supply order it was mentioned that 25% security would be obtained (Annex-F) whereas in the agreement signed with the supplier, 10% security has been mentioned in shape of pay order/ bank guarantee (Annex-H).
6. The Note sheet reveals that an agreement was signed by DS (Admn) on 03-03-2016, however it is not available in file (Annex-G). Another agreement is available in file signed on 02-07-2016 (Annex-H) meaning thereby agreement was signed after full payment in advance on 24.06.2016 to Mr. Jawad Ashraf.
7. The agreement was neither vetted from Law department nor prior approval was taken from competent authority. Furthermore, the agreement also doesn't contain the penalty clause and arbitration clause.
8. It is not known that who received the letter of Toyota Abbot Motors, Abbotabad, dated 17-03-2016, in the department which contained the message that Toyota Abbot Motors withdrew its quotation on the plea that HED falls under PRA of Toyota Khyber Motors, Peshawar (Annex-AG)
9. Despite number of letters received from the Toyota Abbott Motors, the supply order was not cancelled and amount was not withdrawn.
10. In the quotation letter and pre-receipt bill received from Toyota Abbott Motors, the NTN No. has clearly been mentioned as 7143699-3 whereas NTN No for Mr. Jawad Ashraf is 2672698-0 (Annex-AI).
11. The cheque was issued in the name of M/S Toyota Abbott Motors, Bank Al Habib 5513 dated 24-06-2016 which is wrong. The cheque has to be issued in the name of Indus Motors and not the dealer (Annex-AJ)
12. In the taxpayer online verification form in respect of Mr. Jawad Ashraf, the address for Toyota Abbott Motors has clearly been written as F 654, Satellite Town, Near Hamid CNG, Potohar Town, Rawalpindi (Annex-AI). It depicts that the Mr. Jawad Ashraf is not receiving payment for Toyota Abbott Motor, Abbottabad.
13. The backside of stamp paper signed by DS Admn with Mr. Jawad Ashraf on 02-07-2016 also shows the signature of licensee from Rawalpindi (Annex-H).

14. The notesheet of the file reveals that the case was dealt by Mr. Hayat Khan, DS (Admn) from 13-12-2016 to 07-08-2017 by himself without placing it before the Departmental Purchase Committee or competent authority.

15. The paras 109-112 of notesheet reveals that DS (Admn) directed to call quotations from Toyota Khyber, Peshawar on 16-01-2017 without taking approval from the competent authority or placing before Departmental Purchase Committee (Annex-Z).

16. The record is also not available neither in note sheet nor in file that upon whose direction, supply order was issued to Toyota Khyber Motors, Peshawar on 22-02-2017 (Annex-AA).

17. Again an agreement was signed with Toyota Khyber Motors, Peshawar by Mr. Hayat, DS (Admn) on 16-02-2017 without bringing into notice of highups or Purchase Committee. The agreement was not vetted from Law department (Annex-AB).

18. It is also pertinent to mention here that supply order was issued on 22-02-2017 to Toyota Khyber Motors, Peshawar whereas agreement was signed on 16-02-2017 i.e prior to issuing of supply order.

CONCLUSION

On the basis of available record and above findings it can be concluded that the case was not dealt as per rules and regulations in vogue and irregularities have been committed. The case was not submitted to high ups for their information and directions or placed before the Departmental Purchase Committee by Mr. Hayat, Ex- DS Admn despite repeated intimations on note sheet by the section. Huge public money is involved in the case and loss to Government ex-chequer is occurring continuously.

RECOMMENDATIONS


On the basis of above fact & finding, following recommendations are submitted for consideration please.

1. FIR be lodged against Mr. Jawad Ashraf for doing fraud with the department. Opinion of Law Department may be obtained for recovery of remaining amount under Land Revenue Act.

OR

2. Meeting may be convened with the Law department on immediate basis for adopting legal action against Mr. Jawad Ashraf regarding his fraudulent actions and recovery of remaining amount.
3. The company of Mr. Jawad Ashraf may be black listed.
4. Advice from KPPRA may be obtained as to whether the present supply order to Toyota Khyber Motors is covered under the rules or otherwise.

5. Since huge amount is involved in the issue and continuous loss is occurring to the government, therefore, strict action as per law may be taken against the dealing hands in the case.



8/12/17

MUHAMMAD KABIR AFRIDI
Additional Secretary/ Enquiry Officer



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Amro D/

**FINDINGS
OF
THE INQUIRY IN THE**

**DISCIPLINARY PROCEEDINGS AGAINST THREE OFFICERS/OFFICIALS OF
HIGHER EDUCATION DEPARTMENT, GOVT: OF KHYBER PAKHTUNKHWA,
UNDER THE KHYBER PAKHTUNKHWA, GOVERNMENT SERVANTS
(EFFICIENCY AND DISCIPLINE) RULES, 2011, FOR ALLEGED
IRREGULARITIES IN PURCHASE OF 25 NOS. HI-ACES VEHICLES UNDER
ADP NO.545/150025 (2015-16)**

Confidential

INQUIRY

23 -

Subject: IRREGULARITIES IN PURCHASE OF 25 NOS. HI-ACES UNDER ADP NO.545/150025 (2015-16)

Through the Government of Khyber Pakhtunkhwa, Higher Education Department Notification No.SOG/HE/ADP-545/150025 (2015-16) dated 06.02.2018, the undersigned (Syed Kamran Shah, PCS-SG BS-20, Secretary Finance FATA Secretariat Peshawar) has been assigned as the inquiry officer to conduct disciplinary proceedings against the following accused officer/officials of Higher Education Department, Peshawar under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 (Annex-A): -

- 1) Muhammad Hayat, Associate Professor of Physics (BS-19) Ex-Deputy Secretary (Admn) in Higher Education Department.
- 2) Rahmani Gul, Section Officer (PMS BS-17) Higher Education Department
- 3) Imtiaz Ali, Superintendent/Accountant (BS-17) Higher Education Department.

2. According to the Statements of Allegations/Charge Sheets served upon the accused Officers/Officials vide the Higher Education Department, Govt of Khyber Pakhtunkhwa, Peshawar letter No.SOG/HE/ADP-545/150025/2015-16 dated 06.02.2018 (Annex-B), they have been charged respectively as under: -

A. Muhammad Hayat, Associate Professor of Physics (BS-19) Ex-Deputy Secretary (Admn) in Higher Education Department (Annex-C):

- i. You were directed in a meeting of the Purchase Committee held on 12.02.2016 to confirm the approved rates from the concerned supplier i.e M/S Toyota Abbott Motors, Abbottabad but you failed to report in black & white as to whom did you contact in Toyota Abbott Motors. Had this been done carefully, the fraud would have been surfaced long before issuance of cheque to the wrong person.
- ii. Pursuance to the first meeting of purchase committee, you entered into an agreement on 03.03.2016 with the Supplier as per record available in shape of the Note Sheet but the Agreement is missing from the file which you caused to be removed from the file maliciously in an effort to benefit the fraudulent Supplier by signing another Agreement (beneficial to the Supplier) on 02.07.2016; after issuance of Supply Order.
- iii. The Supply Order issued to Toyota Abbott Motors mention obtaining 25% Security but in violation, you signed an Agreement with 10% Security. You neither approved the agreement from the higher Hierarchy nor was opinion of Law Department obtained. Resultantly, you signed a faulty agreement having no penalty and arbitration clauses; thereby causing loss to government exchequer.

- 24 - 22
- iv. Toyota Abbott Motors issued a number of letters stating that they have withdrawn the quotation and that you have made payment to a wrong person but you failed to take cognizance to avoid this huge loss to the government. This amounts to collusion with Mr. Jawad Ashraf in fraudulently withdrawing Rs.100 Million by concealment of facts and tempering of record at your disposal.
 - v. When on 26.09.2016, Toyota Abbott Motors claimed again that they have not received any supply order or payment; you, heading a committee, were asked by the purchase committee to probe the matter and report. You visited Abbottabad alongwith the members of the Committee but you failed to report as to whether Toyota Abbott Motors has received the supply order and payment or otherwise. Instead, you only reported that Mr. Zia Nabi, MD of the firm is a friend of Jawad Ashraf. This shows connivance with Mr. Jawad Ashraf and concealment of facts.
 - vi. The Cheque was issued to M/S Toyota Abbott Motors, Rawalpindi instead of Indus Motors under your supervision. All this means that you facilitated the public money to go into wrong hands for ulterior motives.
 - vii. Mr. Jawad Ashraf had no Vendor Number for issuance of the Cheque. You used your personal influence in obtaining a vendor number for him overnight in your struggle to facilitate him.
 - viii. The NTN number of Toyota Abbott Motors Abbottabad as mentioned in the Quotation and pre-receipt bill is 7143699-3 while that for Mr. Jawad Ashraf is 2672698-0. It could be confirmed from online Tax payer verification that the NTN number is of Toyota Abbott Motors situated at Rawalpindi and not at Abbottabad. You failed even to apply this ordinary prudence in safeguarding public money.
 - ix. Even the backside of the stamp paper signed by you with Mr. Jawad Ashraf on 02.07.2016 bears signature of the licensee from Rawalpindi which you failed to understand.
 - x. From 13.12.2016 till 07.08.2017, you never took approval or guidance from the higher hierarchy intentionally and kept on playing with the public money. This shows a strong connivance with the fraudulent supplier which you supported for ulterior motives.
 - xi. You issued another Supply order to Toyota Khyber Motors Peshawar on 22.02.2017 without taking approval of the competent authority or the purchase committee without cancelling the earlier supply order and entered into another agreement.
 - xii. Being at the middle management in the department, you never pointed out that as per KPPRA Rules, the purchase to be made from the authorized dealer at Peshawar instead of going for Quotations which led to the disastrous situation.

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B. Rahmani Gul, Section Officer (PMS BS-17) Higher Education Department (Annex-D).

- i. You prepared the cheque number 1352571 dated 24.06.2016 for a huge amount of Rs.91287000/- in the name of Toyota Abbott Motors instead of Indus Motors. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50 vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent Supplier.
- ii. While processing bill in the name of Toyota Abbott Motors, Abbottabad; you failed to ask for the verified vendor number of the Firm; instead you helped in obtaining a vendor number for the fraudulent Firm situated at Rawalpindi and hence the cheque went into the wrong hands.

C. Imtiaz Ali, Superintendent/Accountant (BS-17) Higher Education Department (Annex-E).

- i. You prepared the cheque number 1352571 dated 24.06.2016 for a huge amount of Rs.91287000/- in the name of Toyota Abbott Motors instead of Indus Motors. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50 vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent Supplier.
- ii. While processing bill in the name of Toyota Abbott Motors, Abbottabad; you failed to ask for the verified vendor number of the Firm; instead you helped in obtaining a vendor number for the fraudulent Firm situated at Rawalpindi and hence the cheque went into the wrong hands.

BACKGROUND/HISTORY

3. It has originated from the procurement case/process of 25 vehicles under the Higher Education Department's ADP scheme titled "Transport Facility to the Staff of Government Colleges" approved by the Provincial Development Working Party (PDWP) at the total cost of Rs.100.00 Million for financial year 2015-16. Procurement process for purchase of 25 Toyota Hiace Vehicles was initiated back in February 2016. The accused Muhammad Hayat, originally Associate Professor of Physics (BS-19), belonging to Teaching Cadre of Higher Education Directorate, was serving as Deputy Secretary (Admn), Higher Education Department, whereas accused Rahmani Gul and accused Muhammad Imtiaz were then posted respectively as Section Officer (General) and Accountant in Higher Education Department.

4. The Supply Order was placed to M/S Toyota Abbott Motors, Mansehra Road, Abbottabad and an agreement was executed with its Managing

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Director, Sardar Zia Nabi. However, subsequently another agreement was signed with Mr. Jawad Ashraf, Toyota Abbott Motors, who was neither an authorized representative of nor was holding any official position in the actual supplying firm (M/S Toyota Abbott Motors, Mansehra Road, Abbottabad). The payment of Rs.9,12,87,000/- on that account was also irregularly made to Mr. Jawad Ashraf instead of M/S Toyota Abbott Motors, Mansehra Road, Abbottabad. Subsequently, a Schedule of Repayment was executed with him (Mr. Jawad Ashraf) for retrieval of the wrongfully paid money. Afterwards another supply order for procurement of 25 vehicles was issued on 22.02.2017 to Toyota Khyber Motors, Peshawar after, interestingly, execution of Agreement Deed with the said authorized dealer on 16.02.2017. Seemingly, all these actions were taken and transactions made at the level of the accused officers/officials without formal processing and approval of the competent authority/higher authorities.

5. On surfacing of the irregularities committed in the said procurement case, the instant disciplinary proceedings have been initiated against the three accused officers/official charge sheeted by Higher Education Department, Govt of Khyber Pakhtunkhwa. Mr. Muhammad Yasin, Section Officer (General), Higher Education Department has been assigned as the Departmental Representative for the instant inquiry. The disciplinary proceedings were held on 09.02.2018, 13.02.2018, 14.02.2018, 15.02.2018, 16.02.2018 and 19.02.2018.

6. During the course of the inquiry the following officers/officials/persons, also including the 03 accused officials, were heard, examined, cross questioned and their statements recorded: -

- i) Accused Muhammad Hayat, the then Deputy Secretary (Admn) in Higher Education Department (Annex-F). (His replies to the Questionnaire is at Annex-G).
- ii) Accused Rahmani Gul (PMS BS-17), the then Section Officer (General) Higher Education Department (Annex-H). (His replies to the Questionnaire is at Annex-I).
- iii) Accused Intiaz Ali, the then Accountant Higher Education Department (Annex-J) (His replies to the Questionnaire is at Annex-K).
- iv) Mr. Muhammad Ayaz Khan, Deputy Secretary (Admn), Higher Education Department (Annex-L). He was also heard and questioned in the presence of the accused officials and the Departmental Representative.
- v) Mr. Khushi Muhammad, Section Officer (Litigation) Higher Education Department (Annex-M). He was also heard in person and questioned in the presence of the accused officials and the Departmental Representative.
- vi) Mr. Aziz Muhammad, originally AD Accounts at Directorate of Higher Education, presently serving as Section Officer (B&A)

Higher Education Department (Annex-N). He was also heard in person and questioned in the presence of the accused officials and Departmental Representative.

vii) Mr. Abdul Ghafoor Baig, Commissioner D.I.Khan (the then Special Secretary, Higher Education Department). He was engaged telephonically as well as through a formal questionnaire for ascertaining factual position (Annex-O).

viii) Mr. Jawad Ashraf, so called owner of the Toyota Abbott Motors, Rawalpindi. He was heard in person and cross examined in the presence of the Departmental Representative (Mr. Muhammad Yasin, Section Officer General, Higher Education Department), accused Muhammad Hayat and accused Rahmani Gul.

FACTS

7. In the light of the statements/examination of the three accused functionaries as well as other officers/officials/persons and perusal of the relevant record, the following facts have come out: -

- i) An ADP (2015-16) Scheme titled "Transport Facility to the Staff of Government Colleges" with total cost of Rs.100.000 million was approved by the PDWP forum on 08.10.2015. The scheme provided for the purchase of 25 Toyota Hi-ace Vehicles for transport/pick & drop facilities to the teaching staff of the Government Colleges (Male/Female) (Annex-P).
- ii) Higher Education Department, Govt of Khyber Pakhtunkhwa constituted a Departmental Committee for Works and Service in vide its Notification No.SOG/HE/Purchase/2015-16/75 dated 04.01.2016 (Annex-Q).
- iii) Meanwhile, Finance Department, Govt. of KP released the funds amounting to Rs.25.00 Million through its letter No.SO(Dev-I)/FD/3-1/HE/2015-16 dated 26.11.2015 and Rs.75.00 Million vide No.SO(Dev-I)/FD/3-1/HE/2015-16 dated 25.01.2016, where after Higher Education Department issued the requisite sanction for the said scheme vide No. SO(Dev-1)FD/3-1/HE/2015-16 dated 12.02.2016 (Annex-R).
- iv) Initiating the procurement process, Higher Education Department obtained Quotations from different authorized dealers of Toyota and a comparative statement was prepared for the Departmental Purchase Committee (Annex-S).
- v) First Meeting of the Departmental Purchase Committee was held on 12.02.2016, which was chaired by Special Secretary Higher Education Department.
- vi) Out of the five contending parties, the rates offered by M/S Toyota Abbott Motors, Mansehra Road, Abbottabad were approved for

being the lowest i.e. Rs. 37,80,000/- per vehicle and 75% Advance Payment (Annex-T) (Minutes of the meeting dated 12.02.2016 is attached at Annex-U).

- vii) Accordingly, the supply order was issued to Managing Director, Toyota Abbott Motors, Mansehra Road, Abbottabad vide the Higher Education Department, Govt. of Khyber Pakhtunkhwa letter No.SOG/HE/Procurement/2015-16 dated 24.02.2016 for supply of 25 Toyota Hi-ace Vehicles (Annex-V).
- viii) Subsequently, an agreement was executed between the Higher Education Department and M/S Toyota Abbott Motors, Mansehra Road, Abbottabad on 03.03.2016 for supply of 25 Toyota Hi-ace Vehicles. It was signed by the accused Muhammad Hayat, the then DS (Admn), on behalf of Higher Education Department and Sardar Zia Nabi, MD from the other side.
- ix) Higher Education Department approached Finance Department Govt. of KP through its letter No.SOG/HE/Procurement/2015-16 dated 04.03.2016, seeking sanction for 100% advance payment to the supplying firm on that account (Annex-W).
- x) The requisite sanction of Finance Department was accorded vide its letter No.SO (Dev-I)FD/3-1/HE/2015-16 dated 10.06.2016 for 100% advance payment to the suppliers concerned (Annex-X).
- xi) Higher Education Department issued sanction order bearing No.SOG/HE/ADP-545/150025/2015-16 dated Nil accordingly (Annex-Y).
- xii) Subsequently, the cheque No.1352571 dated 24.06.2016 for Rs.9,12,87,000/- in the name of M/S Toyota Abbott Motors on account of the cost (100% advance payment) of 25 Toyota Hi-ace vehicles, accompanied with the Higher Education Department covering letter No.SOG/HE/Accounts/2015-2016 dated 28.06.2016 addressed to M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, was handed over to Mr. Jawad Ashraf on 28.06.2016 (Annex-Z).
- xiii) Subsequently, a second Agreement Deed was executed on 02.07.2016 by the accused Muhammad Hayat, the then DS (Admn), at his own level with Mr.Jawad Ashraf, purportedly representing so called M/S Toyota Abbott Motors and not the original suppliers, M/S Toyota Abbott Motors, Mansehra Road, Abbottabad.
- xiv) A reference dated 06.09.2016, addressed to DS (Admn) Higher Education Department, was received from M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, quoting their previous letter dated 01.05.2016 and intimating about non-receipt of supply order & payment, and hence withdrawal of their Quotation (Annex-AA).

- xv) Afterwards, another letter dated 13.10.2016 was received from M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, informing that Higher Education Department falls under the PRA of Toyota Khyber Motors Peshawar, so they could not entertain its request (Annex-BB). Yet again another letter dated 04.11.2016 was received from them, reiterating withdrawal of their quotation (Annex-CC). In response, Higher Education Department through its letter dated 09.11.2016 sought clarifications from M/S Toyota Abbot Motors, Abbottabad (Annex-DD).
- xvi) Meetings of the Purchase Committee were held on 20.10.2016 (Annex-EE), 02.12.2016 (Annex-FF) and 06.12.2016 (Annex-GG). The last meeting was also attended by Mr. Jawad Ashraf, while the representative of Toyota Abbott Motors, Mansehra Road, Abbottabad (Sardar Zia Nabi) did not turn up.
- xvii) An agreement was executed with Mr. Jawad Ashraf for retrieval/repayment of the irregularly paid amount of Rs.9,12,87,000/- (Annex-HH).
- xviii) Meanwhile, Higher Education Department vide its letter No.SOG/HE/Procurement/2015-16 dated 16.01.2017 solicited a Quotation from M/S Toyota Khyber Motors, Peshawar for purchase of 25 Toyota Hi-ace Vehicles (Annex-II).
- xix) Subsequently, the supply order, with 25% Advance Payment, was issued to M/S Toyota Khyber Motors vide the Higher Education Department letter No. SOG/HE/Procurement/2015-16 dated 22.02.2017 (Annex-JJ).
- xx) Accordingly, on 16.02.2017 an agreement was executed by the accused Muhammad Hayat, the then DS (Admn) Higher Education Department, with the MD of Toyota Khyber Motors, Peshawar for supply of 25 Toyota Hi-ace Vehicles (Annex-KK).
- xxi) Higher Education Department was requested, interalia, through the M/S Toyota Khyber Motors Peshawar letter dated 21.08.2017 for making payment of the remaining amount of Rs.5,21,95,385/- as 20 vehicles had arrived at the Karachi Dry Port (Annex-LL).
- xxii) Higher Education Department asked M/S Toyota Khyber Motors Peshawar on 20.09.2017 to provide 12 Toyota Hi-ace Vehicles against the payment of Rs.4,81,29,615/- already made to them (M/S Toyota Khyber Motors) (Annex-MM).
- xxiii) The department also sent a letter to Mr. Jawad Ashraf, for providing 100% payment till 02.10.2017 (Annex-NN).

FINDINGS

8. As a result of the interviews/hearings of the accused officers/officials as well as other functionaries/officers/persons concerned,

perusal of their statements and examination of the relevant record, the following findings have come-out: -

- i) Respective tenures of the incumbents of the positions of Secretary Higher Education, Govt. of KP, Special Secretary Higher Education Department (Mr. Abdul Ghafoor Baig) and the three accused officials in the context of and corresponding to the said procurement process/case were as under: -

A) SECRETARY HIGHER EDUCATION

S.No.	Name of Officer	From	To
1.	Farah Hamid Khan	04.02.2016	16.05.2016
2.	Muhammad Saleem	16.05.2016	10.11.2016
3.	Muhammad Faheem Wazir (Dual Charge)	01.08.2016	09.11.2016
4.	Syed Zafar Ali Shah	10.11.2016	Till Now.

B) SPECIAL SECRETARY HIGHER EDUCATION

S.No.	Name of Officer	From	To
1.	Abdul Ghafoor Baig	11.02.2013	27.09.2017

C) TENURES OF THE ACCUSED OFFICERS/OFFICIALS

S.No.	Name of Officer	From	To
1.	Muhammad Hayat, Ex-DS (Admn)	31.07.2015	15.08.2017
2.	Rahmani Gul Ex-Section Officer (General)	28.08.2012	27.01.2017
3.	Imtiaz Ali (Superintendent/Accountant)	01.08.2001	Till Now.

- ii) The Departmental Committee for procurement of Works and Services, constituted by the Higher Education Department, Govt. of Khyber Pakhtunkhwa vide its Notification No.SOG/HE/Purchase/2015-16/75 dated 04.01.2016, was headed by the Administrative Secretary (Annex-Q) but its meetings convened in connection with the procurement of 25 Toyota Hi-ace Vehicles, under the ADP (2015-16) Scheme titled "Transport Facility to the Staff of Government Colleges" with total cost of Rs.100.000 million (Annex-P), since its first sitting dated 12.02.2016, were never chaired by the Secretary Higher Education. The first meeting was in fact assigned to Mr. Abdul Gahfoor Baig, Special Secretary HED, who chaired on behalf of the Administrative Secretary.

- iii) As per the provision of sub-rule (c)(iv) of Rule 10 of the Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules 2014, for procurement of 25 Toyota Hi-ace Vehicles a single

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quotation should have been called from and supply order placed with the local authorized dealer of the sole manufacturer (Indus Motors), which was M/S Toyota Khyber Motors, Peshawar in this case. Instead the accused Muhammad Hayat, the then DS (Admn) HED obtained quotations, through telephonic contact, from different dealers of M/S Indus Motors. He has admitted the fact but claims that the quotations had been collected, seven to ten days prior to the first meeting of the purchase committee held on 12.02.2016, at the verbal instructions of Mr. Abdul Ghafoor Baig, the then Special Secretary HED (please peruse reply to Question No.6 of Questionnaire (at Annex-G). However, Mr. Abdul Ghafoor Baig, the then Special Secretary HED has denied giving any such verbal direction on his part and instead asserts that the quotations seemed to have been collected well before the first meeting of the Departmental Purchase Committee, held on 12.02.2016, was entrusted to him as per orders of the Administrative Secretary passed on through her Private Secretary, (please peruse Mr. Abdul Ghafoor Baig's replies to Questions No.2, 3, 4 & 5 of the Questionnaire (Annex-O). Nothing is available on record to substantiate the claim of the accused Muhammad Hayat as to calling the quotations at the verbal direction of the then Special Secretary HED.

- iv) As mentioned earlier, the first meeting of the Departmental Purchase Committee, held on 12.02.2016, was chaired by Special Secretary HED on the direction of the Administrative Secretary whose minutes were also formally submitted to the latter and approved by her (please peruse reply of Mr. Abdul Ghafoor Baig to Question No.3 of the Questionnaire at Annex-O). During the course of meeting, the accused Muhammad Hayat was verbally directed by the chair to confirm the approved rates from M/S Toyota Abbott Motors, Mansehra Road, Abbottabad. As per the accused Muhammad Hayat's own statement at Annex-F and Annex-G (please perused his reply to Question No.8 of the Questionnaire), he got the rates telephonically confirmed from Sardar Zia Nabi, MD Toyota Abbott Motors, Mansehra Road, Abbottabad but did not report the confirmation in writing to the Chairman of the Purchase Committee; the accused officer asserted that he informed the Special Secretary verbally.
- v) The Purchase Committee in its said meeting approved, out of the five contenders, the Offer/Quotation of M/S Toyota Abbott Motors, Mansehra Road, Abbottabad for being the lowest i.e. Rs. 37,80,000/- per vehicle and 75% Advance Payment (Annex-T). Had the Department followed the relevant rules, the supply order would have been placed directly with the Indus Motors (the sole actual manufacturer) or its authorized local dealer, M/S Toyota Khyber Motors, Peshawar.
- vi) Subsequently, Higher Education Department, Govt. of Khyber Pakhtunkhwa vide its letter No.SOG/HE/Procurement/2015-16

dated 24.02.2016 issued the supply order to Managing Director, Toyota Abbott Motors, Mansehra Road, Abbottabad for supply of 25 Toyota Hi-ace Vehicles with the direction, interalia, to submit **25% security** in shape of CDR/Bank Guarantee (**Annex-V**). The supply order was handed over to Sardar Zia Nabi MD Toyota Abbott Motors, Mansehra Road, Abbottabad personally. It is worth noting that formal approval for issuance of the supply order was not obtained from the Competent Administrative Authority, rather it was done at the level of the accused Muhammad Hayat, the then DS (Admn).

- vii) Accordingly, Higher Education Department inked a contract with M/S Toyota Abbott Motors, Mansehra Road, Abbottabad on 03.03.2016 for supply of 25 Toyota Hi-ace Vehicles. It was authenticated/executed by the accused Muhammad Hayat, the then DS (Admn) HED, at his level **without prior approval of the Secretary HED/Principal Accounting Officer** and legal vetting of the (draft) agreement by the Finance Department or Law Department. Sardar Zia Nabi, MD Toyota Abbott Motors, Mansehra Road, Abbottabad signed the agreement from the other side. The original copy of the Agreement Deed dated 03.03.2016 is not available in the relevant file/record; which according to the statement of the accused Imtiaz Ali (Accountant), and endorsed by the accused Rahmani Gul (the then SOG, HED), had been returned by the accused Muhammad Hayat, the then DS (Admn) in his presence to Mr. Jawad Ashraf in the former's Office (DS Admn HED office), after executing a subsequent Agreement Deed with the latter (Mr. Jawad Ashraf) on 02.07.2016 (please peruse reply to the Question No.6 of the Questionnaire at Annex-K and reply to Question No.7 of the Questionnaire at Annex-I).
- viii) Subsequently, Higher Education Department requested Finance Department, Govt. of KP through its letter No.SOG/HE/Procurement/2015-16 dated 04.03.2016, for sanction of **100% advance payment, instead of 75% as per the relevant Quotation**, to the supplying firm on that account (**Annex-W**). Moreover, **instead of the full title of the suppliers i.e. M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, only M/S Toyota Abbott Motors was mentioned** in the said letter dated 04.03.2016. This omission, whether deliberate or inadvertent, was manipulated at later stage. The said reference was made to Finance Department, at the behest of the accused Muhammad Hayat (the then DS Admn), again without formal approval of the Competent Authority.
- ix) Finance Department conveyed the requisite sanction vide its letter No.SO (Dev-I)FD/3-1/HE/2015-16 dated 10.06.2016 for 100% advance payment to the suppliers concerned, naming them as M/S Toyota Abbott Motors instead of M/S Toyota Abbott Motors, Mansehra Road, Abbottabad (**Annex-X**). As stated earlier, this omission helped making payment to a wrong person/unauthorized

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individual (Mr. Jawad Ashraf) instead of the actual party, namely M/S Toyota Abbott Motors, Mansehra Road, Abbottabad.

- x) Later on, an undated sanction order bearing No.SOG/HE/ADP-545/150025/2015-16 was issued by Higher Education Department accordingly (Annex-Y).
- xi) An incomplete/deficient photo copy of another Agreement Deed dated 21.06.2016, seemingly about the same transaction, has been found in the relevant file; the original copy thereof is, however, not available/traceable. Nevertheless, the accused Rahmani Gul, the then SOG HED (please see his reply to Question No.8 of the Questionnaire at Annex-I) and the accused Imtiaz Ali, Accountant (please peruse reply to Question No. 7 of the Questionnaire at Annex-K) have denied to have any knowledge about its existence (execution) or having seen original copy thereof but they are aware of the presence of its photo copy in the file. So is the statement of the accused Muhammad Hayat, the then DS Admn. (Please see his reply to Question No.18 of the Questionnaire at Annex-G).
- xii) The accused Imtiaz Ali, Accountant prepared a bill, which was signed by the accused Rahmani Gul (the then SOG), in the name of M/S Toyota Abbott Motors, instead of **M/S Toyota Abbott Motors, Mansehra Road, Abbottabad**, for payment of Rs.9,12,87,000/- on account of cost of 25 Toyota Hi-ace Vehicles for submission to the Accountant General, Khyber Pakhtunkhwa for pre audit (please see reply to Question No. 12 of the Questionnaire at Annex-K and reply to Question No.13 of the Questionnaire at Annex-I). Both the accused officials have admitted that in a previous supply of 50 Vehicles they had processed the case and prepared the bill in the name of the **original manufacturer (M/S Indus Motors)** and cheque had also been issued to the M/S Indus Motors but in this case ignoring the previous experience/practice they prepared the bill in favour of an unauthorized dealer and a wrong party (please peruse the reply to Question No. 14 of the Questionnaire at Annex-I and reply to Question No.13 of the Questionnaire at Annex-K).
- xiii) For preparation of the bill, Vendor No. was not solicited from the actual suppliers (M/S Toyota Abbott Motors, Mansehra Road, Abbottabad). Nobody from the Higher Education Department contacted, directly or indirectly, the suppliers concerned for that purpose. The accused Rahmani Gul, SOG in his reply to Question No.15 of the Questionnaire at Annex-I and the accused Imtiaz Ali, Accountant in his response to Question No.14 of the Questionnaire at Annex-K have admitted this omission on their part (also peruse reply of the accused Muhammad Hayat to the Question No.20 of the Questionnaire at the Annex-G). They have also admitted that the case for generation of vendor number was submitted to the AG Khyber Pakhtunkhwa on the basis of the documents respecting

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Toyota Abbott Motors (and not M/S Toyota Abbott Motors, Mansehra Road, Abbottabad) furnished by Mr. Jawad Ashraf, an un-authorized/unconcerned person. All the three accused officials have failed to exercise due diligence on their respective part as otherwise required, under the relevant rules including the General Financial Rules, from them.

- xiv) It is also worth noting that the actual suppliers (M/S Toyota Abbott Motors, Mansehra Road, Abbottabad) in their Pre-receipt dated 24.02.2016 had clearly mentioned their NTN number as 7143699-3, while Mr. Jawad Ashrad had given his NTC as 2672698-0 but none of the three accused officials tried to ascertain the credentials of Toyota Abbott Motors (Rawalpindi) or Mr. Jawad Ashraf as has been admitted by the accused Muhammad Hayat himself in his reply to Question No.21 of the Questionnaire at Annex-G. The accused Imtiaz Ali, Accountant has confirmed, endorsed by the accused Rahmani Gul, SOG during the inquiry proceedings in the presence of the Departmental Representative and the accused Muhammad Hayat the then DS (Admn) that the latter (accused Muhammad Hayat) had personally accompanied him when he visited the office of Accountant General Khyber Pakhtunkhwa in connection with generation of vendor number in respect of Mr. Jawad Ashraf, using his (accused Muhammad Hayat) influence for that purpose.
- xv) On clearance of the Bill submitted by the department, the Cheque No.1352571 dated 24.06.2016 for Rs.9,12,87,000/- was prepared and issued by the Accountant General Khyber Pakhtunkhwa, in the name of M/S Toyota Abbott Motors (and not M/S Toyota Abbott Motors, Mansehra Road, Abbottabad) on account of the cost (100% advance payment) of 25 Toyota Hi-ace vehicles. The cheque accompanied with the Higher Education Department covering letter No.SOG/HE/Accounts/2015-2016 dated 28.06.2016 addressed to M/S Toyota Abbott Motors, Mansehra Road, Abbottabad (Annex-Z), was handed over to Mr. Jawad Ashraf, instead of an authorized representative of the actual suppliers, on 28.06.2016 in person by the accused Imtiaz Ali in the presence of the accused Muhammad Hayat, the then DS (Admn), in the latter's office (please see the accused Rahmani Gul's, the then SO Admn HED, reply to Question No.16 of the Questionnaire at Annex-I, the accused Imtiaz Ali's own admission in his reply to Question No.15 of the Questionnaire at Annex-K and the accused Muhammad Hayat the then DS Admn statement through his reply to Question No.17 of the Questionnaire at Annex-G).
- xvi) Subsequently, second Agreement was executed/signed by the accused Muhammad Hayat, the then DS (Admn), at his own level with Mr. Jawad Ashraf, purportedly representing so called M/S Toyota Abbott Motors (Rawalpindi) and not the original supplying party namely M/S Toyota Abbott Motors, Mansehra

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Road, Abbottabad. However, the second Agreement was executed without rescinding, revoking or superseding the first Agreement dated 03.03.2016 as well as the supply order dated 24.02.2016 and without prior approval of the Administrative Secretary (Secretary Higher Education). Moreover, the draft or original document of the second Agreement Deed dated 02.07.2016 was neither initiated by the section concerned nor processed on the relevant file. These facts have been admitted by the accused Muhammad Hayat in his replies to Question No. 10, 11, 12 & 14 of the Questionnaire at Annex-G, confirmed by the accused Rahmani Gul, the then SOG in his reply to Question No.6 & 9 of the Questionnaire at Annex-I, endorsed by the accused Imtiaz Ali, Accountant in his replies to Question No.5 & 8 of the Questionnaire at Annex-K and substantiated by Mr. Abdul Ghafoor Baig, the then Special Secretary HED in his replies to Question No.7, 10 & 11 of the Questionnaire at Annex-O. Furthermore, the Higher Education Department supply order dated 24.02.2016 issued to the suppliers mentioned requisite depositing of 25% Security by the latter (the suppliers) but the agreement executed by the accused Muhammad Hayat spoke of 10% Security (please peruse replies of the accused Muhammad Hayat, the then Deputy Secretary (Admn) to Questions No.13 & 14 of the Questionnaire at Annex-G. All this was quite irregular, violative, unjustifiable and unlawful acts and conduct on the part of the accused Muhammad Hayat, the then DS (Admn).

- xvii) Like the first Agreement Deed 03.03.2016, the second Agreement executed on 02.07.2016 also did not contain provisions/clauses regarding penalty or arbitration in case of any infringement, violation, dispute or default on the part of the suppliers. Though the accused Muhammad Hayat has tried to pass the buck, in his reply to Question No.15 of the Questionnaire at Annex-G, on others, as both the Agreements were authenticated/executed by him at his own level and without prior approval of the Administrative Secretary, he cannot absolve himself of the entire responsibility for the omission in this behalf. During the cross examination when asked that had he even looked at the back side of the stamp paper of the second agreement dated 02.07.2016 executed by him with Mr. Jawad Ashraf he would have seen the signature of the licensee/stamp vendor from Rawalpindi, which would have divulged the compromise credentials of the latter (Jawad Ashraf) being not the genuine representative of the actual suppliers, the accused Muhammad Hayat verbally stated that such non judicial stamp papers could be obtained from the licensee vendors of any city/town.
- xviii) M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, through their reference dated 26.09.2016, addressed to the DS (Admn) (the accused Muhammad Hayat), Higher Education Department, referring to their previous letter dated 01.05.2016, intimated about

neither receiving the supply order dated 24.02.2016 nor the payment and hence withdrawal of their Quotation (Annex-AA). Their assertion as to not receiving the supply order dated 24.02.2016 does not look tenable because the (first) Agreement dated 03.03.2016 was signed by Sardar Zia Nabi, MD of M/S Toyota Abbott Motors, Mansehra Road, Abbottabad himself as a sequel to the said supply order. Anyway, their previous letter dated 01.05.2016 seemed to have not been received at the Higher Education Department because not only the relevant record does not contain a copy of any such reference but the accused officials have also expressed their unawareness there-about (please peruse the detailed note dated 07.10.2016 moved, through para 64-75 of the Note Part of the relevant file, by the accused Imtiaz Ali, Accountant and onwardly submitted by the accused Rahmani Gul, the then SOG HED, available annexed with the Q & A Statement at Annex-O).

- xix) Afterwards, another letter dated 13.10.2017 was received from M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, informing that Higher Education Department falls under the PRA of Toyota Khyber Motors Peshawar, so they could not entertain its request (Annex-BB). Yet again another letter dated 04.11.2016 was received from them, reiterating withdrawal of their quotation (Annex-CC). In response, Higher Education Department through its letter dated 09.11.2016 sought clarifications from M/S Toyota Abbot Motors, Abbottabad (Annex-DD).
- xx) Seemingly, the withdrawal letters from the suppliers stirred the department, which convened meetings of the Purchase Committee on 20.10.2016 (Annex-EE), 02.12.2016 (Annex-FF) and 06.12.2016 (Annex-GG). A subcommittee comprising (1) accused Muhammad Hayat, Ex-DS (Admn), HED (2) Mr. Aziz Muhammad SO (B&A), HED and (3) Mr. Waqid Ali, DD (P&D), Directorate of Higher Education, constituted in the purchase committee's meeting dated 20.10.2016 (Annex-EE), visited M/S Toyota Abbott Motors, Mansehra Road, Abbottabad on 20.10.2016 and met its Manager Finance Mr. Sajjad and Mr. Jawad Ashraf (the one who had received the cheque and to whose account the cheque was issued). The subcommittee also met with its Managing Director, Sardar Zia Nabi, on 23.10.2016, upon his return from Karachi (Report of the subcommittee is placed at Annex-OO). However, the report submitted by the subcommittee did not mention whether the actual suppliers (M/S Toyota Abbott Motors, Mansehra Road, Abbottabad) had received the supply order and the payment or not. Impliedly, the subcommittee seemed to have not in fact ascertained the factual position from the party/suppliers concerned during their visit to Abbottabad, which was a glaring omission on their part.
- xxi) In the Departmental Purchase Committee's meeting chaired by the accused Muhammad Hayat, Ex-DS (Admn) on 02.12.2016, it was decided to call Mr. Jawad Ashraf (the receiver of the cheque of

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payment) and a representative of M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, in the next sitting. Accordingly, the next meeting of the Purchase Committee, presided over by the accused Muhammad Hayat, the then DS (Admn.), on 06.12.2016 was also attended by Mr. Jawad Ashraf, while nobody from the M/S Toyota Abbott Motors, Mansehra Road, Abbottabad (Sardar Zia Nabi) came up. In the meeting Mr. Jawad Ashraf reportedly claimed that he was partner of Sardar Zia Nabi, MD M/S Toyota Abbott Motors, Mansehra Road, Abbottabad and had participated in quotation process (Minutes at Annex-GG). The assertion made by Mr. Jawad Ashraf was far from reality.

xxii) As a result of firefighting, an agreement was reached/executed by the accused Muhammad Hayat, the then DS (Admn) with Mr. Jawad Ashraf for retrieval/repayment of the irregularly paid amount of Rs.9,12,87,000/- (Annex-HH). It was done again without prior approval of the Competent Authority/Secretary Higher Education as admitted by the accused Muhammad Hayat, the then DS (Admn) in reply to Question No.22 of the Questionnaire at Annex-G and confirmed by Mr. Muhammad Ayaz Khan present, Deputy Secretary (Admn) in his reply to Question No. 9 of the Questionnaire at Annex-L. However, the then Special Secretary HED (Mr. Abdul Ghafoor Baig) was in the know as stated by him in his reply to Question No. 11 of the Questionnaire at Annex-O (please also peruse the reply of the accused Muhammad Hayat to Question No.22 of the Questionnaire at Annex-G).

xxiii) As a result of the deal struck with Mr. Jawad Ashraf, the entire amount of the irregular payment (Rs.9,12,87,000/-) made to him alongwith the difference of the higher cost per vehicle was to be repaid/returned by him in toto by 30th June, 2017. However, he has failed to make full repayment; reportedly only sum of Rs.4,81,29,615/- has so far been retrieved from him for onward payment to M/S Toyota Khyber Motors, Peshawar to whom subsequent the supply order dated 22.02.2017 was placed for procurement of 25 Toyota Hi-ace Vehicles. As such a sum of Rs.4,31,57,385/- is still outstanding against Mr. Jawad Ashraf besides a sum of Rs.7,60,725/- being a difference of the higher cost of 25 Vehicles (please peruse the accused Muhammad Hayat's reply to Question No.27 of the Questionnaire at Annex-G and the reply of Mr. Muhammad Ayaz Khan, present DS (Admn) to Question No. 7 & 8 of the Questionnaire at Annex-L).

xxiv) In the wake of the aforementioned development, Higher Education Department through its letter No.SOG/HE/Procurement/2015-16 dated 16.01.2017 called for fresh Quotation from M/S Toyota Khyber Motors, Peshawar for supply of 25 Toyota Hi-ace Vehicles (Annex-II). Subsequently, the accused Muhammad Hayat, the then DS (Admn) HED, executed an agreement with the MD, Toyota Khyber Motors, Peshawar on 06.02.2017 for supply of 25 Vehicles

(Annex-KK). It was followed by the issuance of the supply order, with 25% Advance Payment, to M/S Toyota Khyber Motors vide the Higher Education Department letter No. SOG/HE/Procurement/2015-16 dated 22.02.2017 (Annex-JJ). All these acts/activities were done at the level of the accused Muhammad Hayat, the then DS (Admn) without prior approval/sanction of the Administrative Secretary. Moreover, ordinarily issuance of Supply Order precedes and not follows the execution of agreement in procurement cases. But in this case it happened the other way, which is surprising.

- xxv) M/S Toyota Khyber Motors Peshawar, interalia, requested Higher Education Department, through their letter dated 21.08.2017 for making payment of the remaining amount of Rs.5,21,95,385/- as 20 vehicles had arrived at the Karachi Dry Port (Annex-LL). Thereupon, Higher Education Department asked the suppliers on 20.09.2017 to provide 12 Toyota Hi-ace Vehicles against the payment of Rs.4,81,29,615/- already made to them (M/S Toyota Khyber Motors Peshawar) (Annex-MM). Reportedly, only 12 Toyota Hi-ace Vehicles have been supplied to the Higher Education Department against the supply order for 25 vehicles, obviously, because of non-payment of the balance amount/cost to the suppliers.
- xxvi) Moreover, the Higher Education Department through its letter No.SOG/HE/ADP-545/150025/2015-16 dated 21.09.2017 also urged Mr. Jawad Ashraf to make 100% remaining amount on or before 02.10.2017 (Annex-NN); however, no payment/repayment of the remaining amount has so far been made. The fact has not only been admitted by the accused Muhammad Hayat, the then DS (Admn) and other accused officials as well as Mr. Muhammad Ayaz Khan, the incumbent DS (Admn) Higher Education Department but also by Mr. Jawad Ashraf himself during his verbal statement before this Inquiry Officer.
- xxvii) The accused Muhammad Hayat, the then DS (Admn) HED himself has admitted that throughout the period from 13.12.2016 to 07.08.2017, he did not ever ascertain or get it confirmed that the authority being exercised by him with respect to the said procurement process at his level was in accordance with or consistent with the delegation of financial powers invested in him (as DS Admn, HED) being a **Category-II Officer** (please peruse his reply to Question No. 25 of the Questionnaire placed at Annex-G and the replies of Mr. Abdul Ghafoor Baig, the then Special Secretary HED to the Questions No. 6, 7, 8, 10, 11 & 12 of the Questionnaire at Annex-O).
- xxviii) After transfer of the accused Muhammad Hayat from the post of Deputy Secretary (Admn.), Higher Education Department through its Notification No.SOG/HE/ADP-545/150025/2015-16 dated 03.11.2017 ordered a fact finding inquiry through Mr. Muhammad

Kabir Afridi, Additional Secretary (Annex-PP). The Inquiry Officer submitted its Report through letter No.PA/AS/HED/Inquiry/2017 dated 08.12.2017 (Annex-QQ). Perusal of the fact finding inquiry report signifies that real hard work was put in on the part of the Inquiry Officer to dig out factual position and ascertain the truth. It brought out different facts of the procurement process in question, pointing out multiple irregularities, omissions and violations of the relevant rules, prescribed procedures and set practices etc. committed in this case specifically on the part of the accused Muhammad Hayat, the then Deputy Secretary (Admn). Statements and replies of the accused officials and other officers/persons to the questions/cross examination, during the course of the instant disciplinary proceedings, by and large endorse the findings of the fact finding inquiry officer.

xxix) It was also brought into the knowledge of the Inquiry Officer (the undersigned) Sthat a case had also been referred by the Higher Education Department to the Khyber Pakhtunkhwa Ehtesab Commission for investigation/prosecution.

xxx) During the instant disciplinary proceedings, Mr. Jawad Ashraf also appeared in person on 19.02.2018. He was heard in detail for his part of the story and was found straight forward in accepting the facts of the case/process. As gathered from his verbal statement, Mr. Jawad Ashraf was willing to repay the remaining amount outstanding against him, excluding the amount in the shape of CDR, with the penalty on the remaining sum of Rs.2,12,00,000/- which comes to around Rs.8,64,000/- (Rs.1,68,000/- per vehicle). However, he seeks certain facilitation/favour from the Higher Education Department.

xxxi) The formal written statements of all the three accused officials submitted to the undersigned (Inquiry Officer), and placed at Annex-F, H & J respectively, are too simplistic and unconvincing. However, their replies, during the examination/cross examination in the course of disciplinary proceedings, available at Annex-G, I & K respectively are significantly clear, candid and meaningfully elaborate.

CONCLUSIONS

9. In the light of the statements/examination of the accused officers/official as well as the other officers/persons concerned, the above stated FACTS, FINDINGS and scrutiny of the relevant record, the following conclusions have been drawn: -

1. The case for procurement of 25 vehicles by Higher Education Department, Government of Khyber Pakhtunkhwa has been mis-handled/mis-managed from the very beginning. The process was conducted and authority/powers were exercised in irregular way,

which was inconsistent with and in violation of the relevant rules, prescribed procedure and set practices.

2. It seems that the whole process and the related affairs were left to the sweet will of the then Deputy Secretary (Admn) HED (accused Muhammad Hayat), who was calling the shots. He was from the teaching cadre having no experience of administrative matters and with no knowledge of financial rules and regulations etc. By virtue of his posting as Deputy Secretary (Admn), he was invested with the financial powers of Category-II Officer under the Khyber Pakhtunkhwa Delegation of Financial Powers and Powers of Re-appropriation Rules. However, in this procurement case he would act, perform job, exercise authority and decide matters, which otherwise fell under the competency and powers of the Administrative Secretary/Category-I Officer/Principal Accounting Officer. More intriguing is the inaction or nonchalance on the part of Administrative Secretary throughout this episode, not intervening to check unbridled exercise of irregular authority by the accused Muhammad Hayat, the then DS (Admn).

3. As regards the respective allegation/charges brought up against the accused officials, specific conclusions are as under: -

A) Accused Muhammad Hayat, then DS (Admn) HED:

- i) Charge No.1 stands proven.
- ii) Charge No.2 stands proven.
- iii) Charge No.3 stands proven.
- iv) The payment was made to a wrong and unauthorized person at the behest of the accused officer indeed. No conscious efforts was made to ensure the payment to right party and no timely cognizance was taken to avoid this irregular transaction. Charge No.4 stands proven.
- v) Charge No.5 stands proven to the extent that the subcommittee headed by the accused officer failed to ascertain and report as to whether the suppliers (M/S Toyota Abbott Motors, Mansehra Road, Abbottabad) had received the supply order dated 24.02.2016 and the payment or otherwise.
- vi) Charge No.6 stands proven.
- vii) Charge No.7 stands proven.
- viii) Charge No.8 stands proven.
- ix) Charge No.9 stands proven.
- x) Charge No.10 stands proven.
- xi) Charge No.11 stands proven.
- xii) Charge No.12 stands proven.

B) Accused Rahmani Gul, the then SOG HED.

- i) The accused officer did not prepare the Cheque No.1352571 dated 24.06.2016 for Rs.9,12,87,000/-.

Handwritten signature/initials on the right margin.

- 41 -

which was in fact issued, after requisite pre audit clearance of the bill, by the AG Khyber Pakhtunkhwa. However, he being the Drawing & Disbursing Officer of Higher Education Department did process and sign the bill for payment on account of the said procurement of 25 vehicles without ensuring conformity to the prescribed procedures/ requirements etc. Charge No.1 stands partially proved.

- ii) No collusive role on the part of the accused officer is detectable in this case. However, he did omit to exercise due diligence by not reflecting/mentioning the full nomenclature and vendor number of the actual suppliers, namely M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, in the bill processed and signed by him as the DDO concerned. Charge No.2 stands partially proved.

C) Accused Imtiaz Ali, Accountant, HED

- i) The accused official did not prepare the Cheque No.1352571 dated 24.06.2016 for Rs.9,12,87,000/-, which was in fact issued, after requisite pre audit clearance of the bill submitted by the department, by the AG Khyber Pakhtunkhwa. However, he being the Accountant concerned did prepare and process the bill for payment on account of the said procurement of 25 vehicles without ensuring conformity to the prescribed procedures/requirements etc. Charge No.1 stands partially proved.
- ii) The accused official did fail to exercise due diligence by, interalia, not reflecting/mentioning the full nomenclature and vendor number of the actual suppliers, namely M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, in the bill prepared and processed by him as the dealing Accountant concerned. However, at a later stage he belatedly made certain attempts to bring up the position to the notice of the higher authorities but in vain. Charge No.2 stands partially proved.

RECOMMENDATIONS

10. In the light of the scrutiny of the relevant record, the statements/examination of the accused officials as well as the other officers/persons concerned, and the above stated **FACTS, FINDINGS and CONCLUSIONS**, the following recommendations are made: -


- i. Keeping in view the **CONCLUSIONS** at Para-9 ante, the competent authority may decide imposition, in addition to the recovery of the pecuniary loss caused to the government in case the remaining/receivable sum is

42-20

not retrieved from Mr. Jawad Ashraf as given in forthcoming sub para (iii), of one of the penalties prescribed in sub rule (1) (b) of Rule-4 of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 upon the accused Muhammad Hayat (the then Deputy Secretary Admn. HED), Associate Professor of Physics BS-19, Government of Khyber Pakhtunkhwa, Higher Education Department.

- ii. The Competent Authority may decide imposition of one or more appropriate penalties from sub rule (1) (a) of Rule 4 of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 upon the remaining two accused officials, namely Rahmani Gul, the then Section Officer (General) HED and Imtiaz Ali, Accountant HED.
- iii. Higher Education Department may engage Mr. Jawad Ashraf, to whom the irregular payment had been made for an early retrieval of the remaining sum alongwith the cumulative differential amount of the current per unit market cost of 13 Toyota Hi-ace Vehicles. The administrative authorities concerned may make all possible efforts in order to ensure early procurement of the remaining vehicles in the larger public interest.
- iv. The Administrative Department may, in consultation with Law Department, reconsider/review the referral of case to Khyber Pakhtunkhwa Ehtesab Commission, which has not been actively functional for sometimes, and instead the case may be referred to the NAB Khyber Pakhtunkhwa.
- v. In future it may be ensured by Higher Education Department that in procurement cases of substantial value, meetings/proceedings of the purchase/procurement committee are chaired by the Administrative Secretary or Special Secretary himself and such processes are not left to the middle level or junior officers.

Dated 17.04.2018


 (Syed Kamran Shah)
 PCS-SG (BS-20) 17/04/2018
 Inquiry Officer

CHARGE SHEET

MINE E


I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Mr. Rahmani Gul, Section Officer (PMS BS-17) Higher Education Department as follows:-

-43-

You prepared the cheque number 1352571 dated 24.06.2016 for a huge amount of Rs. 91287000/- in the name of Toyota Abbott Motors instead of Indus Motors. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50 vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent Supplier.

While processing bill in the name of Toyota Abbott Motors, Abbottabad, you failed to ask for the verified vendor number of the Firm, instead you helped in obtaining a vendor number for the fraudulent Firm situated at Rawalpindi and hence the cheque went into the wrong hands.

2. By reason of the above, you appear to be guilty of corruption and misconduct under rule 03 (b) & (c) of the Khyber Pakhtunkhwa, Peshawar, Govt. Servants (Efficiency and Discipline) Rules 2011 and have rendered yourself liable to all or any of the penalties specified in rule 04 of the Rule ibid.
3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Inquiry Officer/Committee, as the case may be.
4. Your written defense, if any, should reach the Inquiry Officer/Committee within the specific period, failing which it shall be presumed that you have no defense to put in and in that case ex parte action shall be taken against you.
5. You are required to intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.


(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

F

- 44 -

DISCIPLINARY ACTION

i. Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority am of the opinion that Mr. Rahmani Gul, Section Officer (PMS BS-17) Higher Education Department has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 03 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

You prepared the cheque number 1352571 dated 24.06.2016 for a huge amount of Rs. 91287000/- in the name of Toyota Abbott Motors instead of Indus Motors. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50 vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent Supplier.

While processing bill in the name of Toyota Abbott Motors, Abbottabad, you failed to ask for the verified vendor number of the Firm, instead you helped in obtaining a vendor number for the fraudulent Firm situated at Rawalpindi and hence the cheque went into the wrong hands.

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

i. S. Iqbal Khan, Section Officer, Higher Education Department, Abbottabad

ii. _____

3. The inquiry officer/inquiry committee shall, in accordance with the provisions of the said rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/inquiry committee.


(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

To

Syed Kamran Shah,
Inquiry Officer (PCS SG BS-20-20),
Secretary Finance FATA,
FATA Secretariat, Peshawar.

Subject: REPLY TO SHOW CAUSE NOTICE


Respected Sir,

This is with reference to the subject show cause notice served upon me vide No. SO(G)/HE/ADP-545/150025/2015-16 dated 06-02-2018 with the directions to submit its reply within 07 days. The allegation framed against me in the above referred to show cause notice though in itself negating the charges leveled against me as per assigned mandate and in accordance with practice in vogue in general. However, in compliance of the directions, the desire reply is as under with humble submission for kind consideration keeping in view assigned mandate as per job description please:-

- i) It is submitted that previously 50 vehicles purchased from M/S Toyota Frontier Motors, the authorized dealer of Indus Motors, Karachi and the cheque was issued to Indus Motors Karachi, as Finance Department accorded advance payment sanction in the name of Toyota Frontier Motors/Indus Motors Karachi. While in this specific case, firstly the Purchase Committee approved the rates of Toyota Abbott Motors due to low rate. Lateron, the case was sent to Finance Department for advance payment sanction and the Finance Department accorded advance payment sanction in the name of Toyota Abbott Motors, as well as the Department signed an agreement with Toyota Abbott Motors. Therefore, the crossed cheque was issued to the same firm by the Accountant General Office KP after going through all codal formalities of pre-audit.
- ii) While processing the bill, a proforma for preparing the vendor number was prepared by the Accountant and signed from the undersigned for vendor number of M/S Toyota Abbott Motors as per routine cases. The bill was submitted in the AG office and recorded the said vendor number was verified by AG office through its SAP system. The bill was scrutinized and passed by AG office and cross cheque was issued in the name of Toyota Abbott Motors by AG office. It is pertinent to mention here that vendor number verification is the mandate of AG office and was not of the undersigned in the capacity of Section Officer (General).

In view of the above facts, it is once again humbly prayed that I may very kindly be exonerated from the charges of the show cause notice referred to above because in the entire service especially on the post of Section Officer (General) always all out efforts were made to safe guard public interest within the frame work of assigned mandate to the best of my life long experience and abilities please.

Yours faithfully,


(Rahman Gul)
Section Officer (U-II),
Higher Education Department,
Khvber Pakhtunkhwa, Peshawar

ANNEX F
-45-

9

TOYOTA

DAIHATSU

TOYOTA FRONTIER MOTORS (PVT) LTD

Indus Motor Company Limited
N.T.N. #: 34-01-0676546
S. Tax. Reg. #: 02-04-8703-001-55

Authorized Dealer of
Indus Motors Company Limited, Karachi

Bill

To: Deputy Secretary Government of KPK Higher Education Department Civil Secretariat, Peshawar	Date: Our Ref.: S.O. Number Date:	26th January 2015 HED-02 SO (T) / Transport/2013-14 22/01/2015
---	--	---

Description of vehicle	Qty.	Unit Price In Pak Rupees (Ex-Karachi)	Total Price In Pak Rupees (Ex-Karachi)
RHD Toyota Hiace Commuter Van 15 Seater with Dual A.C, Long Wheel Base 2TR-FE 2,693 C.C. Petrol Model 2015. 05 Speed Manual Transmission, Company Fitted Dual Air Conditioner Japan Assembled (Exclusive of Sales Tax)	50	3,232,478.63	161,623,931.50
Sales Tax @ 17%	50	549,521.37	27,476,068.50
Total Price (Inclusive of S. Tax)	50	3,782,000.00	189,100,000.00
Freight & Transit Insurance Charges Khi - Pesh	50	25,213.68	1,260,684.00
Sales Tax @ 17%	50	4,286.32	214,316.00
Total Freight & Insurance (Inclusive of S. Tax)	50	29,500.00	1,475,000.00
Total Price (Ex-Peshawar):	50	3,811,500.00	190,575,000.00

In Words: Rupees One Hundred Ninty Million Five Hundred & Seventy Five Thousand Only

Note:

The payment of vehicles i.e. Rs.190,575,000/- shall Must be made in favour of M/s Indus Motor Co. Ltd. Karachi
Indus Motor Co. Limited Standard Chartered Peshawar Cantt Branch A/c # 01-1042424-01.

DMC Vendor No. 30009175

For Toyota Frontier Motors (Pvt) Ltd

Irfan Haider
Manager Sales & Marketing

Section Officer (General)
Govt. of Khyber Pakhtunkhwa
Higher Education Archives &
Library Department

Main University Road, Peshawar. UAN #: 111-235-236 Fax: 091-5701275

E-mail: info@tfm.com.pk Website: www.tfm.com.pk



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Amir H

- 47 -

No. SO(Dev-I) FD/3-25/2015/PTFT/S.

Dated Peshawar the 10th March, 2015

To

The Secretary to,
Government of Khyber Pakhtunkhwa,
Higher Education, Archives & Libraries Department,
Peshawar.

Subject:

ADVANCE SANCTION FOR PURCHASE OF 50 NOS TOYOTA HIACE(15 SEATERS) IN R/O PROVISION OF TRANSPORT FACILITIES FOR TEACHERS/ STUDENT OF GOVT COLLEGES IN KHYBER PAKHTUNKHWA.

Dear Sir,

I am directed to refer to your department letter No.SO(T)/HE/Transport/2013-14 dated 02-02-2015 on the subject noted above and to state that Finance Department agrees to accord concurrence for Advance Payment of Rs 190.575(Million) on account of Purchase 50 Nos Toyota Hiace(15 Seaters) from the concerned dealer i.e Toyota Frontiers Motors(Pvt) Ltd/Indus Motors Company Ltd Peshawar, under the project title "ADP No 443/140007- Provision of Transport Facilities for Teacher/Students of Govt Colleges in Khyber Pakhtunkhwa", in relaxation of rules with in the available budget already released during the current financial year 2014-15 subject to fulfillment of all codal formalities.

Yours faithfully,

(FAZELAT JEHAN)

SECTION OFFICER (DEV.I)

Endst:- No. & date even

Copy forwarded for information and necessary action to the :-

1. Accountant General, Khyber Pakhtunkhwa Peshawar
2. Section Officer (Trg) Higher Education Department Peshawar with reference to his letter refer above..
3. PA to Deputy Secretary (Dev,-I) Finance Khyber Pakhtunkhwa Peshawar
4. Master File

Section Officer (Dev.I)

19

COMPARATIVE

IDENT

S. No.	Name	Specification	Unit	Mode of payment	Delivery Time	Delivery	Remarks
1	TOYOTA - DAIHATSU Toyota Frontier Motors (Pvt) Ltd.	RHD Toyota Hiace Van 15 Seaters with Dual A.C. -Engine Capacity: 2693 CC Gasoline -Transmission: 05 Speed M/T <u>Standard Accessories:</u> Air Conditioner, Power Steering, Heater, Cigarette Lighter, Front Seat Belts, etc. Japan Assembled. (Inclusive of All Taxes)	Rs. 3,850,000/- (Ex-Peshawar)	100% advance payment at the time of booking	06-08 months after receipt of confirmed supply order with 100% advance payment	Ex-Peshawar delivery	
2	Toyota Central Motors	Toyota Hiace Std. Roof Dual A/C 2693/2TR-FE GASOLINE/4CYLINDERS, L-TYPE Air conditioner, 15 Seater, Ashtray Fitted, Fuel Tank Capacity 70 liters. Latest model with all standard fittings and accessories. Warranty: 50,000 Km or 2-years what ever come first.	Rs. 3787000/- (Quote is valid for 3-days)	1 million an advance by pay order and bank draft in favour of Dealers.	04-05 months (after receipt of confirmed supply order with 100% advance payment	03-Main Shahrah-e-Faisal, Karachi	
3	Toyota Rawal Motors (Pvt.) Ltd.	Toyota Hiace Std Roof Dual A/C 2.7 Gasoline	Rs. 3809000/-	100% payment an advance at the time of booking	06-months.	Islamabad	
4	Toyota Abbott Motors.	<u>Toyota Hi-ace Model 2015</u> Petrol Engine, Engine 2TR-FE, Type water cooling in line 4 cylinder, Engine size 2.7 (2693CC), fuel tank capacity, 70liters, rear brake drum, Front fog lights, Rear fog lights, Xenon head lights, Additional front headlights, Front/rear spoiler, Rear wiper, Navigation, audio CD-player, Dual A/C 14/15 Seats, White Color, Ash Tray fitted.	Rs. 3780000/-	75% advance payment.	03-months after placing 75% advance payment.	Ex-Peshawar	Being the lowest price with shortest delivery period recommended
5.	Toyota Khyber Motors	<u>Toyota Hi-ace Model 2015</u> RHD Toyota Hiace Standard Roof with Dual A/C Latest Model 2.7 L (Petrol). (Manual Transmission)	Rs. 3849615/-	100% Advance payment.	5 to 6 months after advance payment OR subject to confirmation by our Principals M/S Indus Motors Co. Ltd. Karachi.	Ex-Peshawar	

Spl:Secretary
 12/21/2016
 DG Commerce
 Dir. Higher Edu.
 Dir. A&Libraries
 Dir. HETTA
 D.C.P.O.HED
 D.S(Admn)HED
 SO(B&A)HED
 SO(G)HED
 12/21

48-
1/2



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

No. SO (Dev-I)FD/3.1/HE/2015-16

Dated Peshawar the 10th June, 2016

Arwa J

The Secretary to Government of Khyber Pakhtunkhwa,
Higher Education, Archives & Library Education Department,
Peshawar.

Subject - SANCTION FOR 100 % ADVANCE PAYMENT TO M/S TOYOTA ABBOTT
MOTERS PVT.LTD. - 49-

Dear Sir,

I am directed to refer to your letter No.SOG/HE/Procurement/2015-16/1764-67 dated 28-04-2016 on the subject noted above and to state that Finance Department agrees to accord concurrence for advance sanction/payment to M/S Toyota Abbott Motors (PVT) Ltd. for the supply of 25 Toyota Hiace Vehicles under ADP Scheme 545/150025 Transport Facility to the Staff of Government Colleges (Phase-II.) in relaxation of rules within the available budget, during the current financial year 2015-16 subject to fulfillment of all codal formalities.

Yours faithfully,

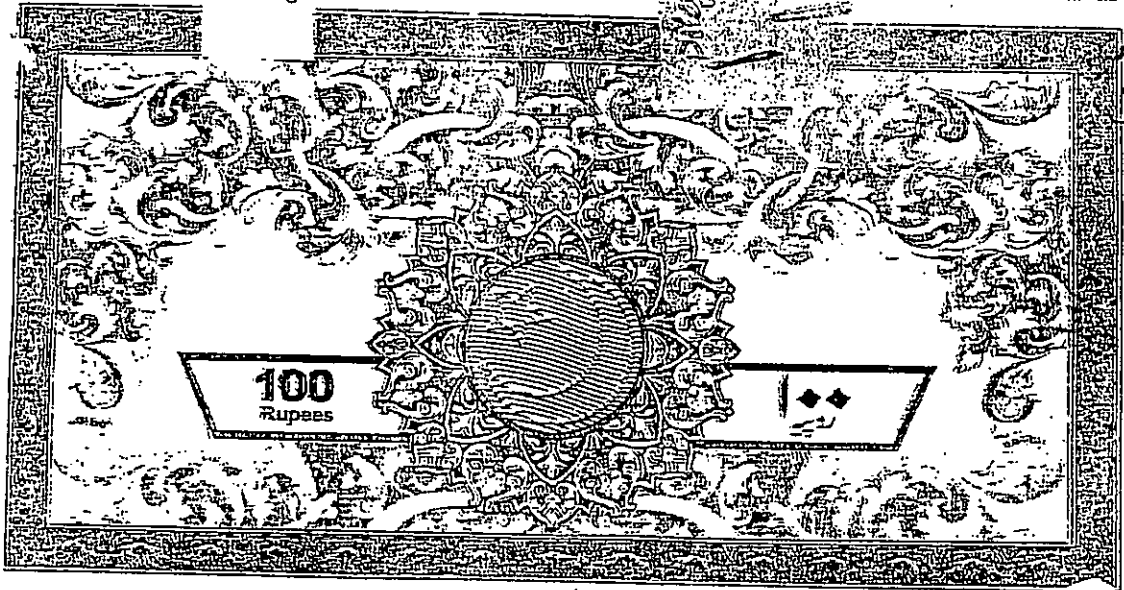
(Fozial Naz)
Section Officer (Dev-I)

Encl. No. & Date even:

Copy forwarded for information and necessary action to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. The Section Officer (Estt. & Admn), Higher Education Department, Khyber Pakhtunkhwa Peshawar w/r to his letter No. as cited above for information and similar necessary action.
3. PA to Deputy Secretary (Dev-I), Finance Department Peshawar.
4. PA to Additional Secretary (Dev-I), Finance Department Peshawar.
5. Master File.

Section Officer (Dev-I)



49

AGREEMENT DEED

Anwar K - 50-

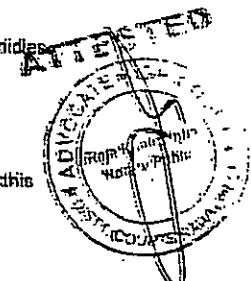
This agreement is found to take place between the Higher Education, Archives & Libraries Department, Feshawar and M/s Toyota Abbott Motors on dated 02-07-2016 regarding the purchase of Toyota Hi-ace Dual AC 15 seater standard roof van.

Vehicle Details are as under:-

S#	Type of Vehicle	Quantity	Unit Price	Total Cost
1.	Toyota Hi-Ace Petrol Engine 211R-FE, Type-Water Cooling in-line 4 Cylinder Engine Size 2.7 (2693 cc) - Fuel Tank Capacity, 70 Liters Rear Brake Drum- Front Fog Lights Rear Fog Lights- Xenon headlights Additional front headlights- Front/Rear Wiper - Navigation, audio CD Player Dual AC-14-15 Seats- ashtray fitters. Different colors (white, silver etc). IMPORTED From JAPAN	25	Rs. 3,780,000/-	Rs. 94,500,000/-
Total				94,500,000/-

Following are the terms and conditions:

1. The warranty period by the manufactures is 02 years or 50,000 KM, (whichever comes first) from the date of delivery shall apply, for any manufacturing fault.
2. The company is responsible to deliver the vehicles which are by law allowable to import in Pakistan fulfilling the import policy of Government of Pakistan.
3. The company will be held responsible to pay all kind of Govt. taxes in vogue and invoice/ challan will be submitted to this department to clear a query by the audit for any other agency regarding the said purchase. GST Deducted at clearing port will also include in tax amount since all kind of taxes and duties are paid during import processes, company will provide documents of paid duties and taxes at the time of delivery. Therefore department will not deduct any kind of tax and will release 100% advance payment to the company in favor of business name M/S Toyota Abbott Motors NTN No 2672698-0. Tax certificate is issued by Department of NTN number mentioned.
4. The process quoted is based inclusive Custom duty / Govt. Level applicable on import of vehicles.
5. The company is responsible to deliver within stipulated period.
6. 100% advance payment along with supply order.
7. Pre-shipment inspection of vehicles will be made by the inspection committee constituted by this department.
8. The contract is subject to standard condition of force majeure.
9. 10% security in shape of Pay Order / Bank guarantee will be placed with department by M/S Toyota Abbott Motors. PAY ORDER IND 00003417, Bank: Alfalah Islamabad Amount 9450000/-

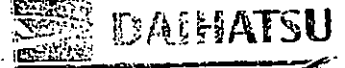


[Signature]
Deputy Secretary (Adman)
Higher Education Department

[Signature]
Jawad Ashraf
M/S Toyota Abbott Motors



TOYOTA



TOYOTA ABBOTT MOTORS

Secretary Higher Education Department. -51-
Peshawar.

NTN # 7143699-3


PRE-RECEIPT BILL

Higher Education, Archives & Libraries Department, Peshawar.	REF: SOG/HE/Procurement/2015-16 Date: 24-02-2016
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Description of Vehicle	Qty	Unit Price in Pak Rupees	Total Price in Pak Rupees
Toyota Hi-Ace Petrol Engine 2TR-FE, Type - Water Cooling inline 4 Cylinder Engine Size 2.7 (2693 cc) - Fuel Tank Capacity, 70 Liters 14-15 Seats.	25	Rs. 3,780,000/-	Rs. 94,500,000/-
Total			94,500,000/-

Note: The payments of Vehicles i.e. Rs. 94,500,000/- shall must be made in favor of M/s Toyota Abbott Motors Abbottabad.


Sardar Zia Nabi
Managing Director
0300-8111445


Section Officer (SOG/HE)
Govt. of Khyber Pakhtunkhwa
Higher Education, Archives &
Libraries Department

Km 11, Neelay Pair, Mansehra Road Abbottabad. Ph: 0992-406903, 0992-406904
www.toyota-abbott.com

00000C1352571
 ED No: 093608

GOVERNMENT OF KHYBER PAKHTUNKHWA

1352571

Amir - 1-52

A/C No. _____ A/C Type. NDE 1005 L/C PWR Pre-Audit Cheque Dated 21.05.2016

Department _____

Office of College Education

NOT PAYABLE AFTER
30-6-2016

On the State Bank of Pakistan - National Bank of Pakistan
M/S FOYOLA ABBOTT - HAYRES WILLS - 000503-01-5 HAYRES ALPANTA 5513

Pay to _____
 Rs. ++91,267,000/-++ Rupees NINETY-ONE MILLION TWO HUNDRED EIGHTY-SEVEN THOUSAND ONLY

and charge the same against the account of the Government of Khyber Pakhtunkhwa
 N.B. This cheque is current for three months only after the month of issue.

Assistant Accountant General
 Accounts Officer

DO NOT WRITE BELOW THIS LINE

Colleges (Phase-II)

COST CENTRE/DDO CODE

P	R	4	5	1	3
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FUND NO.

N	C	2	2	0	6	1
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FUNCTION

0	9	3	1	0	1
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VENDER No.

3	0	2	8	4	5	1	5
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PAYMENT (DEBIT)		DEDUCTION (CREDIT)	
OBJECT CODE	AMOUNT	OBJECT CODE	AMOUNT
<u>A03970</u>	<u>95445000</u>	<u>G12777</u>	<u>3213000</u>

CROSS PAYMENT: 95445000/- DEDUCTION: 3213000/-

NET PAYMENT: 91287000/-

Rahim
 Signature of Drawing & Disbursing Officer
 SIGNATURE & OFFICIAL STAMP OF
 DRAWING & DISBURSING OFFICER

M. M.

-53-

SHOW CAUSE NOTICE

I, Mehmood Khan, Chief Minister, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Rahmani Gul, Section Officer (PMS BS-17) in Higher Education Department as follows:

1. (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer/inquiry committee for which you were given opportunity of hearing dated: 15-02-2018 and
- (ii) on going through the findings and recommendations of the inquiry officer/inquiry committee, the material on record and other connected papers including your defence before the inquiry officer/inquiry committee.

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

- (a) You prepared the cheque number 1352571 dated 24.06.2016 for a huge amount of Rs. 91287000/- in the name of Toyota Abbott Motors instead of Indus Motors. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50 vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent Supplier.
- (b) While processing bill in the name of Toyota Abbott Motors, Abbottabad, you failed to ask for the verified vendor number of the Firm; instead you helped in obtaining a vendor number for the fraudulent Firm situated at Rawalpindi and hence the cheque went into the wrong hands.

2. As a result, I, as competent authority, have decided to impose upon you the following penalty under Rule-4 of the said rules:

- (i) Censure and withholding of
- (ii) promotion for 03-years.

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

4. If no reply to this notice is received within 15 days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

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


(MEHMOOD KHAN)
CHIEF MINISTER,
KHYBER PAKHTUNKHWA

N

S4

To

The Section Officer (General),
Higher Education Department,
Peshawar

ANNEX N"
- 1/19 -

Subject: REPLY TO SHOW CAUSE NOTICE

Sir,

With reference to your letter No. SO(G)/HE/ADP-545/150025/2015-16 dated 20-09-2019 on the subject noted above.

Enclosed please find herewith a reply of show cause notice along with enclosures, served upon me through above mentioned letter for onward submission to the quarter concerned, please.

Yours faithfully,


(Rahmani Gul) 30/9/19

Section Officer (PMS BS-17),
Higher Education, Archives & Libraries Department,
Khyber Pakhtunkhwa, Peshawar

0

To

The Honourable Chief Minister,
Khyber Pakhtunkhwa, Peshawar

-55-

Subject: REPLY TO SHOW CAUSE NOTICE

Respected Sir,

This is with reference to the subject show cause notice served upon me vide No. SO(G)/HE/ADP-545/150025/2015-16 dated 20-09-2019 with the directions to submit its reply within 15 days. The allegation framed against me in the above referred to show cause notice though in itself negating the charges leveled against me as per assigned mandate and in accordance with practice in vogue in general. However, in compliance of the directions, the desire reply is as under with humble submission for kind consideration keeping in view assigned mandate as per job description please:-

- i) **The cheque bearing No.1352571 dated 24-06-2016 in the name of Toyota Abbott Motors instead of Indus Motors because its neither my domain nor my competence as per practice in vogue and assigned mandate of the post of Section Officer (General). Previously 50 vehicles were purchased from M/S Toyota Frontier Motors, the authorized dealer of Indus Motors, Karachi and the cheque was issued in the name of Indus Motors, Karachi under its vendor No.30009175 as requested in the bill submitted by M/S Toyota Frontier Motors (Flag-A) and as well as Finance Department was also accorded advance payment sanction in the name of Toyota Frontier Motors/Indus Motors, Karachi (Flag-B), while in this specific case, the purchase committee approved the rates of Toyota Abbott Motors, Abbottabad (Flag-C) that Finance Department accorded Advance payment Sanction in the name of Toyota Abbott Motors Abbottabad (Flag-D) and as well as the Department also signed an agreement deed with same firm and furthermore, the firm was also requested that the payment must be made in favour of M/S Toyota Abbott Motors, Abbottabad (Flag-E) so the bill of the vendor was processed accordingly and cheque was also issued to the same firm (Flag-F)**
- ii) **While processing the bill, a vendor number was generated in AG office by the representative of M/S Toyota Abbott Motors, Abbottabad, which was recorded on the bill as per procedure and**

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submitted to AG office for pre-audit. The said vendor number was verified by AG office through its SAP system. The bill was scrutinized, passed and cheque was issued in the name of M/S Toyota Abbott Motors by AG office. It is pertinent to be mentioned here that verification of vendor number is the mandate of AG office.

In view of the foregoing facts, it is humbly prayed that I may kindly be exonerated from the charges and the penalties imposed on me in the show cause notice because in the entire service especially on the post of Section Officer (General), all out efforts were made to safe guard public interest within the frame work of assigned mandate please.

It is further requested that I may be given an opportunity of personal hearing please.

Yours faithfully,


(Rahmani Gull)

Section Officer (PMS BS-17),
Higher Education, Archives & Libraries Department,
Khyber Pakhtunkhwa, Peshawar
Dated 30-09-2019



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

57
Dated Peshawar, the March 11, 2020

NOTIFICATION

NO.SOE-II(ED)3(912)/2015:- WHEREAS, Mr. Rehmani Gul, (PMS BS-17) Section Officer, Higher Education Department, was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Show Cause Notice;

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12/3/2020
02. AND WHEREAS, the Inquiry Officer after having examined the charges, evidence on record and explanation of the accused officer, submitted his report, whereby the charges levelled against the accused officer stand proved;

03. AND WHEREAS, Show Cause notice was served upon the accused officer;

04. NOW THEREFORE, the competent authority (Chief Minister, Khyber Pakhtunkhwa) after having afforded an opportunity of personal hearing to the accused officer through Mr. Zahir Shah (PAS BS-20), Secretary to Govt. Khyber Pakhtunkhwa, Administration Department, while exercising the powers conferred upon him under Khyber Pakhtunkhwa, Government Servants (E&D) Rules 2011, has imposed minor penalty of "Censure and withholding of promotion for 03 years" in terms of Rule-4 (a) (i) (ii) of the ibid Rules, upon the above named officer.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: NO. & DATE EVEN.

A copy is forwarded to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Higher Education Department.
3. S.O (Secret) / S.O (Admn) / E.O, Establishment & Admn. Department.
4. Officer concerned.
5. PS to Chief Secretary, Khyber Pakhtunkhwa.
6. PS to Secretary, Establishment Department.
7. PS to Special Secretary (Estt), Establishment Department.
8. PA to Addl: Secretary (Estt) / AS(HRD) / Dy. Secretary (Estt), Establishment Department.
9. Office order file.
10. Personal file.

S.S
DS CA
506
12/3/2020
P
SHAHBAZ KHATTAK
(SECTION OFFICER (E-II))

To

The Honourable Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

ANNE P
SB

Through: Secretary, Higher Education Department.

Subject: REQUEST FOR REVIEW AGAINST PENALTIES

Respected Sir,

This is with reference to the Establishment Department Notification No. SOE-II(ED)3(912)/2015 dated March 11, 2020 wherein, two minor penalties of "**Censure and withholding of promotion for 03-years**" have been imposed upon me from your goodself.

The allegations framed against me in the **show cause notice** through in itself negating the charges leveled against me as per assigned mandate and in accordance with practice in vogue in general. However, I beg to submit a review appeal for kind consideration to keeping in view assigned mandate as per job description please:-

- i) The cheque bearing No. 1352571 dated 24-06-2016 in the name of Toyota Abbott Motors instead of Indus Motors because its neither my domain nor my competence as per practice in vogue and assigned mandate of the post of Section Officer. Previously 50 vehicles were purchased from M/S Toyota Frontier Motors, the authorized dealer of Indus Motors, Karachi and the cheque was issued in the name of Indus Motors, Karachi under its vendor No. 30009175 as requested in the bill submitted by M/S Toyota Frontier Motors (**Flag-A**) and well as Finance Department accorded Advance Payment Sanction in the name of Toyota Frontier Motors/Indus Motors, Karachi (**Flag-B**), while in this specific case, the purchase committee approved the rates of Toyota Abbott Motor Abbottabad (**Flag-C**), than Finance Department accorded Advance Payment Sanction in the name of Toyota Abbott Motor Abbottabad (**Flag-D**) and as well as the Department also signed an agreement deed with the same firm and furthermore, the firm was also requested that the payment must be made in favour of M/S Toyota Abbott Motors, Abbottabad (**Flag-E**) so the bill of the vendor was processed accordingly and cheque was also issued to the same firm (**Flag-F**).


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- ii) While processing the bill, a vendor number was generated in AG office by the representative of M/S Toyota Abbott Motors, Abbottabad, which was recorded on the bill as per procedure and submitted to AG for pre-audit. The said vendor number was verified by AG office through its SAP system. The bill was scrutinized, passed and cheque was issued in the name of M/S Toyota Abbott Motors by AG Office. It is pertinent to be mentioned here that verification of vendor number is the mandate of AG office.

In view of the forgoing facts, it is humbly prayed that I may very kindly be exonerated from the charges and the penalties imposed upon me in the notification because I am in promotion zone and in the entire service especially on the post of Section Officer always all out efforts were made to safe guard public interest within the frame work of assigned mandate, please.

Yours obediently,


(Rahmani Gul) 16/3/2020

Section Officer (PMS BS-17),
Higher Education, Archives & Libraries Deptt.
Dated Peshawar, the March 16, 2020.


Section Officer (General)
Govt. of Khyber Pakhtunkhwa
SIGNATURE & OFFICIAL STAMP OF
DRAWING & DISBURSING OFFICER

Questions and Answers from accused Rehmani Gul, the then Section Officer (General), Higher Education Department (Dated 15.02.2018)

60
Answers
Q

Q.No.1: When were you posted in Higher Education Department and in which capacity you were serving at the time of processing of the procurement case of 25 vehicles under inquiry at present?

Reply: I was posted in Higher Education Department in December 2011 and was serving as Section Officer (General) when the said procurement process was initiated/underway.

Q.No.2: Who was the Administrative Authority and Principal Accounting Officer of the Higher Education Department.

Reply: Secretary Higher Education Department, Govt. of Khyber Pakhtunkhwa.

Q.No.3: What was the status/category of Deputy Secretary (Admn) under the Delegation of Financial Powers and Powers of Re-appropriation Rules, 2001?

Reply: Deputy Secretary (Admn) was category-II Officer.

Q.No.4: Who was the Drawing & Disbursing Officer of the Higher Education Department at the time of the procurement process presently under instant inquiry/disciplinary proceedings?

Reply: I was Drawing & Disbursing Officer.

Q.No.5: Did you process on file, without vetting, the agreement deed dated 03.03.2016, prepared and signed by Mr. Sardar Zia Nabi MD Toyota Abbott Motors, Mansehra Road, Abbottabad, for signature of the accused Muhammad Hayat the then Deputy Secretary (Admn), without specifying that the same was required to be submitted to the Administrative Secretary/Principal Accounting Officer?

Reply: Yes.

Q.No.6: Was the draft of the 2nd agreement deed dated 02.07.2016 prepared, initiated or processed by you or General Section for approval or execution by the competent authority? If negative, how was that agreement deed processed and executed?

Reply: No it was not done on my part or through my office. Infact I came to know through accused Imtiaz Ali, Accountant that the said agreement deed had been executed by the then DS (Admn) at his level, which was later-on sent to the Section.

Q.No.7: Where is the original document of the agreement deed dated 03.03.2016 because reportedly this is not available in record/relevant file? Was it removed by you or any other official of General Section?

15/2/18

R

- 01 -

Reply: No. The original document was not taken out or removed at the General Section level. In fact I was informed by accused Imtiaz Ali, Accountant that the original Agreement Deed had been returned by the accused Muhammad Hayat, the then Deputy Secretary (Admn), in his presence, to Mr. Jawad Ashraf, purportedly representing Toyota Abbott Motors (Rawalpindi) and not Toyota Abbott Motors, Mansehra Road, Abbottabad, after executing/signing the agreement deed dated 02.07.2016 with him.

Q.No.8: Do you have any knowledge or information about the existence of another agreement deed dated 21.06.2016, an incomplete/deficient photo copy whereof is available in the relevant file?

Reply: No. I don't know anything about that document nor have I seen original copy thereof. I have only seen the photo copy placed in the file.

Q.No.9: Were any of the two agreement deeds i.e. dated 03.03.2016 and 02.07.2016, formally approved or executed with the approval of the Administrative Secretary/Principal Accounting Officer?

Reply: No.

Q.No.10: How was and to whom the supply order for 25 vehicle dated 24.02.2016 delivered?

Reply: The supply order was handed over to Sardar Zia Nabi, MD Toyota Abbott Motors, Mansehra Road, Abbottabad, in person by accused Imtiaz Ali in the presence of Mr. Jawad Ashraf and Muhammad Hayat DS (Admn) at the latter's office.

Q.No.11: Was the agreement deed dated 03.03.2016 formally revoked, rescinded or superseded subsequently?

Reply: No.

Q.No.12: Did you prepare the said cheque No.1352571 dated 24.06.2016 for Rs.9,12,87,000/- in the name of Toyota Abbott Motors instead of Indus Motors, the original sole manufacturer?

Reply: No.

Q.No.13: Was the bill prepared by your section and signed by you for payment of Rs.9,12,87,000/- on account of cost of 25 vehicles in favour of Toyota Abbott Motors instead of Toyota Abbott Motors, Mansehra Road, Abbottabad with whom the agreement deed dated 03.03.2016 had been executed for the said supply or Indus Motors, the actual sole manufacturer?

Reply: Yes. The bill was prepared by accused Imtiaz Ali Accountant and signed by me in the name of Toyota Abbott Motors for submission to

13/2/18

the AG Khyber Pakhtunkhwa for pre audit. However, the original copy of pre receipt bill dated 24.02.2016 submitted by M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, was enclosed with the bill. 62

Q.No.14: Had not a similar nature bill been previously prepared by your Section and signed by you, in respect of Indus Motors being the sole manufacturer, for payment of the cost of 50 vehicles, procured by the Higher Education Department in the past but in this case you prepared the bill in the name of Toyota Abbott Motors, which was neither the actual party whose offer/quotation had been approved nor was reportedly authorized 3S dealer of M/S Indus Motors (the sole manufacturer)?

Reply: Yes previously my Section had prepared the bill in the name of M/S Indus Motors in the similar nature procurement case. However, in this case as the vendor number had been generated in respect of M/S Toyota Abbott Motors, thus the bill was prepared by my Section and signed by me in their name accordingly.

Q.No.15: Did you ask M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, formally/in writing for their vendor number while preparing the bill for payment to be submitted to AG KP for pre audit clearance?

Reply: No, M/S Toyota Abbott Motors, Mansehra Road, Abbottabad were not asked formally. However, Mr. Jawad Ashraf furnished documents respecting Toyota Abbott Motors to accused Imtiaz Ali by hand, on the basis of which a case for generation of vendor number was submitted to the AG KP.

Q.No.16: How and to whom the cheque number 1352571 dated 24.06.2016 for Rs.9,12,87,000/- prepared in the name of Toyota Abbott Motors (not the actual supplier M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, or M/S Indus Motors, the sole manufacturer) was delivered?

Reply: The said cheque dated 24.06.2016 alongwith the covering letter dated 28.06.2016, duly signed by me, addressed to M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, was delivered by hand to Mr. Jawad Ashraf in person by accused Imtiaz Ali in the presence of accused Muhammad Hayat Ex-DS (Admn) in the latter's office on the same day i.e. 28.06.2016.

Q.No.17: Was the reference dated 04.03.2016 to Finance Department for sanction as to 100% advance payment, while in the relevant quotation as well as the Agreement Deed dated 03.03.2016 only 75% advance had been mentioned, made with the prior approval of the Administrative Department or any other Higher Authority?

Reply: No prior approval was obtained. As regards request for 100% advance payment, it was made merely in view of the statement of the then Additional Director Higher Education made during the discussion in the 1st meeting of the Purchase Committee held on 12.02.2016.

Rahim Qureshi
15/2/18
Section Officer (U-II)
Higher Education Department

WAKALAT NAMA

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Rahmani Gul _____ Appellant(s)/Petitioner(s)

VERSUS

The Govt. of Khyber Pakhtunkhwa and others _____ Respondent(s)

I/We Rahmani Gul do hereby appoint **Mr. Khaled Rehman**, Advocate, Supreme Court & **Mr. Muhammad Amin Ayub**, Advocate High Court in the above mentioned case, to do all or any of the following acts, deeds and things.

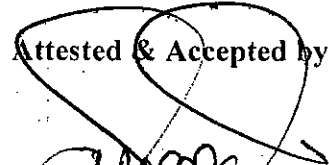
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for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

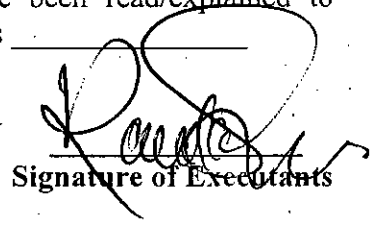
AND hereby agree:-

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

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

Attested & Accepted by


Khaled Rehman,
Advocate
Supreme Court of Pakistan


Signature of Executants

&


Muhammad Amin Ayub
Advocate, High Court

4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458

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

Service Appeal NO. 6345/2020

Rehmani Gul.....(Appellant)

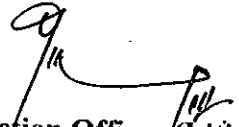
VERSUS

Govt. of Khyber Pakhtunkhwa

.....(Respondents)

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Section Officer (Litigation)
Higher Education Department Khyber
Pakhtunkhwa Peshawar.

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

Service Appeal No. 6345/2020

Rahmani Gul

.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary & others

.....Respondents

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:

1. That the appellant has neither cause of action nor locus standi to file the instant service appeal in this Hon'ble Service Tribunal.
2. That the appellant is estopped by his own conduct to file the appeal in hand.
3. That the appellant has concealed material facts from this Hon'ble Tribunal, disclosure whereof may disentitle the appellant for the relief as prayed for.
4. That the appeal in hand is bad for non-joinder of necessary parties.
5. That the appellant has not come to this Hon'ble Tribunal with clean hands.

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2

ON FACTS:

1. Pertains to record, hence subject to proof if agitated on grounds at the bar.
2. Correct.
3. Correct to the extent that quotations were called for the purchase of 25x Toyota Hiace for different Government Colleges of Khyber Pakhtunkhwa with further explanation that as per the provision of sub-rule (c) (iv) of rule 10 of the Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules 2014, for procurement of 25 Toyota Hiace vehicles a single quotation should have been called from and supply order placed with the local authorized dealer of the sole manufacturer (Indus Motors), which was M/S Toyota Khyber Motors, Peshawar in this case. However, the accused official obtained quotations from different dealers of M/S Indus Motors, which is clear violation of the rules ibid. Furthermore cancellation of CDR was made without any formal approval and the record was also not maintained deliberately which speaks malafide on the part of the accused official.
4. Incorrect, hence denied. The appellant has committed gross irregularity in the purchase of 25 Nos. of Hiace Vehicles. The co-accused in (S.A 6346/2020) Imtiaz Ali, the then Accountant, HED prepared a bill of Rs. 9,12,87,000/- for purchase of 25 Toyota Hiace

Vehicles, which was signed by the then SO(G), HED (appellant in the instant appeal), in the name of **M/S Toyota Abbot Motors**, instead of **M/S Indus Motors**, for onward submission to the Accountant General, Khyber Pakhtunkhwa for pre-audit. Moreover, the appellant also admitted himself that previously they have purchased 50x vehicles and the bill was prepared in the name of the original manufacturer(s) i.e. **M/S Indus Motors**, but has ignored the previous rich experience/practice and prepared the bill in favor of an unauthorized dealer i.e. **M/S Toyota Abbot Motors** which is a wrong party, in the instant case, which shows malafide / gross negligence on the part of appellant.

5. Correct to the extent that a fact finding inquiry was conducted by the Additional Secretary, Higher Education Department and as a result, the appellant and other officers were charge sheeted and served with show cause notices, (issued by the inquiry officer). The appellant was served with the following serious allegations to explain his conduct / position viz-a-viz the charges leveled against him:

- I. You prepared the cheque number 1352571 dated 24.6.2016 for a huge amount of Rs. 9,12,87,000/- in the name of **Toyota Abbott Motors**, instead of **Indus Motors**. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50x vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent supplier.
- II. While processing bill in the name of **Toyota Abbott Motors, Abbottabad**: you failed to ask for verified vendor number of the Firm, instead you helped in obtaining a vendor number for fraudulent Firm situated at Rawalpindi and hence the cheque went into wrong hands.

Full opportunity of defense was provided to the appellant, however, he failed to successfully defend himself and hence, the charges were proved against him. As a result of which minor penalty of "**Censure and withholding of promotion for 03 years**" was imposed upon the appellant. Furthermore, the appellant in collusive relations with Jawad Ashraf contractor and others caused a hefty amount of Rs. 100 million losses to the public exchequer and therefore, the department was constrained to file a reference against the appellant alongwith other co-accused in the former Ehtesab Court constituted under the Khyber Pakhtunkhwa Ehtisab Commission Ordinance which is pending adjudication in the court of Judge Anti-Corruption, Peshawar. The department has so far failed to recover the amount from the delinquent persons including the appellant (**Inquiry Report is Annex-A**).

6. Correct that the appellant was served with charge sheet and statement of allegations to prove his innocence in accordance with the principles of natural justice, however, he failed to prove his innocence.
7. Incorrect. The appellant failed to give satisfactory reply to the competent authority regarding his innocence and was therefore, found guilty of misconduct, misuse of power and corrupt practices and as a result the appellant was imposed a minor penalty of **“Censure and withholding of promotion for 03 years”**.
8. Incorrect as elaborated above. Full opportunity of defense was provided to the appellant. The appellant participated in the inquiry proceedings, however, he waived to cross-examine any of the witnesses that recorded statement(s) and produced evidence against him. Nobody has prevented the appellant from cross-examining any person who recorded statements against him. After fulfillment of all codal formalities, the inquiry officer rightly recommended the imposition of minor penalty being co-accused.
9. Incorrect. The appellant is in no way aggrieved as explained in the preceding paras.

On Grounds: -

- A. Incorrect and misconceived, as explained in the preceding paras on facts.
- B. Incorrect and misconceived, as explained in the preceding paras on facts. Moreover, after fulfillment of all codal formalities, the competent authority has imposed a minor penalty of **“Censure and withholding of promotion for 03 years”** vide notification dated 11.03.2020 rightly annexed with the memo of instant appeal (as annexed-M).
- C. Incorrect as elaborated in the preceding paras. Moreover, full opportunity of defense was provided to the appellant. The appellant participated in the inquiry proceedings, however, he waived to cross-examine any of the witnesses that recorded statement(s) and produced evidence against him. Nobody has prevented the appellant from cross-examining any person who recorded statements against him. After fulfillment of all codal formalities, the inquiry officer rightly recommended the imposition of minor penalty being co-accused.
- D. Incorrect and misconceived, as elaborated in detail in the preceding paras.
- E. Incorrect and misconceived, as elaborated in detail in the preceding paras. Moreover, the order of imposition of minor penalty of **“Censure and withholding of promotion for 03 years”** upon the appellant has been passed strictly in accordance with law.
- F. Incorrect, as explained above. The appellant tries to shift his guilt on others. The appellant neither proved his innocence nor explained his conduct in the instant matter. In


fact he had nothing to put in defense, therefore, all the charges of corruption, misconduct, misuse of powers stood proved against him.

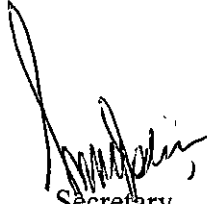
G. Incorrect and misconceived. The order has been passed strictly in accordance with law.

H. That the respondents may also assist this Hon'ble Tribunal with additional grounds at the time of arguments.

PRAYER:

In view of the above, it is, humbly prayed that the instant service appeal being devoid of merit, may graciously be dismissed with appropriate costs to deter the filing of such like frivolous appeals in this Hon'ble Tribunal.


Chief Secretary,
Khyber Pakhtunkhwa
(Respondent No. 1)


Secretary,
Higher Education Department
(Respondent No. 2)

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

Service Appeal NO. 6345/2020

Rehmani Gul.....(Appellant)

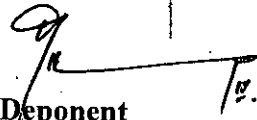
VERSUS

Govt. of Khyber Pakhtunkhwa

.....(Respondents)

AFFIDAVIT

I, Qazi Muhammad Ayaz, Assistant Director (Litigation), Higher Education Department, Government of Khyber Pakhtunkhwa, as per the instructions of respondents do hereby declare and affirm on oath, that the contents of the Parawise comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



Deponent

CNIC No. 17301-7027499-5

FIA

5



**FINDINGS
OF
THE INQUIRY IN THE**

**DISCIPLINARY PROCEEDINGS AGAINST THREE OFFICERS/OFFICIALS OF
HIGHER EDUCATION DEPARTMENT, GOVT: OF KHYBER PAKHTUNKHWA,
UNDER THE KHYBER PAKHTUNKHWA, GOVERNMENT SERVANTS
(EFFICIENCY AND DISCIPLINE) RULES, 2011, FOR ALLEGED
IRREGULARITIES IN PURCHASE OF 25 NOS. HI-ACES VEHICLES UNDER
ADP NO.545/150025 (2015-16)**

Confidential

6
INQUIRY

Subject: IRREGULARITIES IN PURCHASE OF 25 NOS. HI-ACES UNDER ADP NO.545/150025 (2015-16)

Through the Government of Khyber Pakhtunkhwa, Higher Education Department Notification No.SOG/HE/ADP-545/150025 (2015-16) dated 06.02.2018, the undersigned (Syed Kamran Shah, PCS-SG BS-20, Secretary Finance FATA Secretariat Peshawar) has been assigned as the inquiry officer to conduct disciplinary proceedings against the following accused officer/officials of Higher Education Department, Peshawar under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 (Annex-A): -

- 1) Muhammad Hayat, Associate Professor of Physics (BS-19) Ex-Deputy Secretary (Admn) in Higher Education Department.
- 2) Rahmani Gul, Section Officer (PMS BS-17) Higher Education Department
- 3) Imtiaz Ali, Superintendent/Accountant (BS-17) Higher Education Department.

2. According to the Statements of Allegations/Charge Sheets served upon the accused Officers/Officials vide the Higher Education Department, Govt of Khyber Pakhtunkhwa, Peshawar letter No.SOG/HE/ADP-545/150025/2015-16 dated 06.02.2018 (Annex-B), they have been charged respectively as under: -

A. Muhammad Hayat, Associate Professor of Physics (BS-19) Ex-Deputy Secretary (Admn) in Higher Education Department (Annex-C):

- i. You were directed in a meeting of the Purchase Committee held on 12.02.2016 to confirm the approved rates from the concerned supplier i.e M/S Toyota Abbott Motors, Abbottabad but you failed to report in black & white as to whom did you contact in Toyota Abbott Motors. Had this been done carefully, the fraud would have been surfaced long before issuance of cheque to the wrong person.
- ii. Pursuance to the first meeting of purchase committee, you entered into an agreement on 03.03.2016 with the Supplier as per record available in shape of the Note Sheet but the Agreement is missing from the file which you caused to be removed from the file maliciously in an effort to benefit the fraudulent Supplier by signing another Agreement (beneficial to the Supplier) on 02.07.2016; after issuance of Supply Order.
- iii. The Supply Order issued to Toyota Abbott Motors mention obtaining 25% Security but in violation, you signed an Agreement with 10% Security. You neither approved the agreement from the higher Hierarchy nor was opinion of Law Department obtained. Resultantly, you signed a faulty agreement having no penalty and arbitration clauses; thereby causing loss to government exchequer.

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- iv. Toyota Abbott Motors issued a number of letters stating that they have withdrawn the quotation and that you have made payment to a wrong person but you failed to take cognizance to avoid this huge loss to the government. This amounts to collusion with Mr. Jawad Ashraf in fraudulently withdrawing Rs.100 Million by concealment of facts and tempering of record at your disposal.
- v. When on 26.09.2016, Toyota Abbott Motors claimed again that they have not received any supply order or payment; you, heading a committee, were asked by the purchase committee to probe the matter and report. You visited Abbottabad alongwith the members of the Committee but you failed to report as to whether Toyota Abbott Motors has received the supply order and payment or otherwise. Instead, you only reported that Mr. Zia Nabi, MD of the firm is a friend of Jawad Ashraf. This shows connivance with Mr. Jawad Ashraf and concealment of facts.
- vi. The Cheque was issued to M/S Toyota Abbott Motors, Rawalpindi instead of Indus Motors under your supervision. All this means that you facilitated the public money to go into wrong hands for ulterior motives.
- vii. Mr. Jawad Ashraf had no Vendor Number for issuance of the Cheque. You used your personal influence in obtaining a vendor number for him overnight in your struggle to facilitate him.
- viii. The NTN number of Toyota Abbott Motors Abbottabad as mentioned in the Quotation and pre-receipt bill is 7143699-3 while that for Mr. Jawad Ashraf is 2672698-0. It could be confirmed from online Tax payer verification that the NTN number is of Toyota Abbott Motors situated at Rawalpindi and not at Abbottabad. You failed even to apply this ordinary prudence in safeguarding public money.
- ix. Even the backside of the stamp paper signed by you with Mr. Jawad Ashraf on 02.07.2016 bears signature of the licensee from Rawalpindi which you failed to understand.
- x. From 13.12.2016 till 07.08.2017, you never took approval or guidance from the higher hierarchy intentionally and kept on playing with the public money. This shows a strong connivance with the fraudulent supplier which you supported for ulterior motives.
- xi. You issued another Supply order to Toyota Khyber Motors Peshawar on 22.02.2017 without taking approval of the competent authority or the purchase committee without cancelling the earlier supply order and entered into another agreement.
- xii. Being at the middle management in the department, you never pointed out that as per KPPRA Rules, the purchase to be made from the authorized dealer at Peshawar instead of going for Quotations which led to the disastrous situation.

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B. Rahmani Gul, Section Officer (PMS BS-17) Higher Education Department (Annex-D).

- i. You prepared the cheque number 1352571 dated 24.06.2016 for a huge amount of Rs.91287000/- in the name of Toyota Abbott Motors instead of Indus Motors. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50 vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent Supplier.
- ii. While processing bill in the name of Toyota Abbott Motors, Abbottabad; you failed to ask for the verified vendor number of the Firm; instead you helped in obtaining a vendor number for the fraudulent Firm situated at Rawalpindi and hence the cheque went into the wrong hands.

C. Imtiaz Ali, Superintendent/Accountant (BS-17) Higher Education Department (Annex-E).

- i. You prepared the cheque number 1352571 dated 24.06.2016 for a huge amount of Rs.91287000/- in the name of Toyota Abbott Motors instead of Indus Motors. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50 vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent Supplier.
- ii. While processing bill in the name of Toyota Abbott Motors, Abbottabad; you failed to ask for the verified vendor number of the Firm; instead you helped in obtaining a vendor number for the fraudulent Firm situated at Rawalpindi and hence the cheque went into the wrong hands.

BACKGROUND/HISTORY

3. It has originated from the procurement case/process of 25 vehicles under the Higher Education Department's ADP scheme titled "Transport Facility to the Staff of Government Colleges" approved by the Provincial Development Working Party (PDWP) at the total cost of Rs.100.00 Million for financial year 2015-16. Procurement process for purchase of 25 Toyota Hiace Vehicles was initiated back in February 2016. The accused Muhammad Hayat, originally Associate Professor of Physics (BS-19), belonging to Teaching Cadre of Higher Education Directorate, was serving as Deputy Secretary (Admn), Higher Education Department, whereas accused Rahmani Gul and accused Muhammad Imtiaz were then posted respectively as Section Officer (General) and Accountant in Higher Education Department.

4. The Supply Order was placed to M/S Toyota Abbott Motors, Mansehra Road, Abbottabad and an agreement was executed with its Managing

Director, Sardar Zia Nabi. However, subsequently another agreement was signed with Mr. Jawad Ashraf, Toyota Abbott Motors, who was neither an authorized representative of nor was holding any official position in the actual supplying firm (M/S Toyota Abbott Motors, Mansehra Road, Abbottabad). The payment of Rs.9,12,87,000/- on that account was also irregularly made to Mr. Jawad Ashraf instead of M/S Toyota Abbott Motors, Mansehra Road, Abbottabad. Subsequently, a Schedule of Repayment was executed with him (Mr. Jawad Ashraf) for retrieval of the wrongfully paid money. Afterwards another supply order for procurement of 25 vehicles was issued on 22.02.2017 to Toyota Khyber Motors, Peshawar after, interestingly, execution of Agreement Deed with the said authorized dealer on 16.02.2017. Seemingly, all these actions were taken and transactions made at the level of the accused officers/officials without formal processing and approval of the competent authority/higher authorities.

5. On surfacing of the irregularities committed in the said procurement case, the instant disciplinary proceedings have been initiated against the three accused officers/official charge sheeted by Higher Education Department, Govt of Khyber Pakhtunkhwa. Mr. Muhammad Yasin, Section Officer (General), Higher Education Department has been assigned as the Departmental Representative for the instant inquiry. The disciplinary proceedings were held on 09.02.2018, 13.02.2018, 14.02.2018, 15.02.2018, 16.02.2018 and 19.02.2018.

6. During the course of the inquiry the following officers/officials/persons, also including the 03 accused officials, were heard, examined, cross questioned and their statements recorded: -

- i) Accused Muhammad Hayat, the then Deputy Secretary (Admn) in Higher Education Department (**Annex-F**). (His replies to the Questionnaire is at **Annex-G**).
- ii) Accused Rahmani Gul (PMS BS-17), the then Section Officer (General) Higher Education Department (**Annex-H**). (His replies to the Questionnaire is at **Annex-I**).
- iii) Accused Imtiaz Ali, the then Accountant Higher Education Department (**Annex-J**) (His replies to the Questionnaire is at **Annex-K**).
- iv) Mr. Muhammad Ayaz Khan, Deputy Secretary (Admn), Higher Education Department (**Annex-L**). He was also heard and questioned in the presence of the accused officials and the Departmental Representative.
- v) Mr. Khushi Muhammad, Section Officer (Litigation) Higher Education Department (**Annex-M**). He was also heard in person and questioned in the presence of the accused officials and the Departmental Representative.
- vi) Mr. Aziz Muhammad, originally AD Accounts at Directorate of Higher Education, presently serving as Section Officer (B&A)

Higher Education Department (**Annex-N**). He was also heard in person and questioned in the presence of the accused officials and Departmental Representative.

vii) Mr. Abdul Ghafoor Baig, Commissioner D.I.Khan (the then Special Secretary, Higher Education Department). He was engaged telephonically as well as through a formal questionnaire for ascertaining factual position (**Annex-O**).

viii) Mr. Jawad Ashraf, so called owner of the Toyota Abbott Motors, Rawalpindi. He was heard in person and cross examined in the presence of the Departmental Representative (Mr. Muhammad Yasin, Section Officer General, Higher Education Department), accused Muhammad Hayat and accused Rahmani Gul.

FACTS

7. In the light of the statements/examination of the three accused functionaries as well as other officers/officials/persons and perusal of the relevant record, the following facts have come out: -

- i) An ADP (2015-16) Scheme titled "Transport Facility to the Staff of Government Colleges" with total cost of Rs.100.000 million was approved by the PDWP forum on 08.10.2015. The scheme provided for the purchase of 25 Toyota Hi-ace Vehicles for transport/pick & drop facilities to the teaching staff of the Government Colleges (Male/Female) (**Annex-P**).
- ii) Higher Education Department, Govt of Khyber Pakhtunkhwa constituted a Departmental Committee for Works and Service in vide its Notification No.SOG/HE/Purchase/2015-16/75 dated 04.01.2016 (**Annex-Q**).
- iii) Meanwhile, Finance Department, Govt. of KP released the funds amounting to Rs.25.00 Million through its letter No.SO(Dev-1)/FD/3-1/HE/2015-16 dated 26.11.2015 and Rs.75.00 Million vide No.SO(Dev-1)/FD/3-1/HE/2015-16 dated 25.01.2016, where after Higher Education Department issued the requisite sanction for the said scheme vide No. SO(Dev-1)FD/3-1/HE/2015-16 dated 12.02.2016 (**Annex-R**).
- iv) Initiating the procurement process, Higher Education Department obtained Quotations from different authorized dealers of Toyota and a comparative statement was prepared for the Departmental Purchase Committee (**Annex-S**).
- v) First Meeting of the Departmental Purchase Committee was held on 12.02.2016, which was chaired by Special Secretary Higher Education Department.
- vi) Out of the five contending parties, the rates offered by M/S Toyota Abbott Motors, Mansehra Road, Abbottabad were approved for

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being the lowest i.e. Rs. 37,80,000/- per vehicle and 75% Advance Payment (Annex-T) (Minutes of the meeting dated 12.02.2016 is attached at Annex-U).

- vii) Accordingly, the supply order was issued to Managing Director, Toyota Abbott Motors, Mansehra Road, Abbottabad vide the Higher Education Department, Govt. of Khyber Pakhtunkhwa letter No.SOG/HE/Procurement/2015-16 dated 24.02.2016 for supply of 25 Toyota Hi-ace Vehicles (Annex-V).
- viii) Subsequently, an agreement was executed between the Higher Education Department and M/S Toyota Abbott Motors, Mansehra Road, Abbottabad on 03.03.2016 for supply of 25 Toyota Hi-ace Vehicles. It was signed by the accused Muhammad Hayat, the then DS (Admn), on behalf of Higher Education Department and Sardar Zia Nabi, MD from the other side.
- ix) Higher Education Department approached Finance Department Govt. of KP through its letter No.SOG/HE/Procurement/2015-16 dated 04.03.2016, seeking sanction for 100% advance payment to the supplying firm on that account (Annex-W).
- x) The requisite sanction of Finance Department was accorded vide its letter No.SO (Dev-I)FD/3-1/HE/2015-16 dated 10.06.2016 for 100% advance payment to the suppliers concerned (Annex-X).
- xi) Higher Education Department issued sanction order bearing No.SOG/HE/ADP-545/150025/2015-16 dated Nil accordingly (Annex-Y).
- xii) Subsequently, the cheque No.1352571 dated 24.06.2016 for Rs.9,12,87,000/- in the name of M/S Toyota Abbott Motors on account of the cost (100% advance payment) of 25 Toyota Hi-ace vehicles, accompanied with the Higher Education Department covering letter No.SOG/HE/Accounts/2015-2016 dated 28.06.2016 addressed to M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, was handed over to Mr. Jawad Ashraf on 28.06.2016 (Annex-Z).
- xiii) Subsequently, a second Agreement Deed was executed on 02.07.2016 by the accused Muhammad Hayat, the then DS (Admn), at his own level with Mr.Jawad Ashraf, purportedly representing so called M/S Toyota Abbott Motors and not the original suppliers, M/S Toyota Abbott Motors, Mansehra Road, Abbottabad.
- xiv) A reference dated 06.09.2016, addressed to DS (Admn) Higher Education Department, was received from M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, quoting their previous letter dated 01.05.2016 and intimating about non-receipt of supply order & payment, and hence withdrawal of their Quotation (Annex-AA).

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- xv) Afterwards, another letter dated 13.10.2016 was received from M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, informing that Higher Education Department falls under the PRA of Toyota Khyber Motors Peshawar, so they could not entertain its request (Annex-BB). Yet again another letter dated 04.11.2016 was received from them, reiterating withdrawal of their quotation (Annex-CC). In response, Higher Education Department through its letter dated 09.11.2016 sought clarifications from M/S Toyota Abbot Motors, Abbottabad (Annex-DD).
- xvi) Meetings of the Purchase Committee were held on 20.10.2016 (Annex-EE), 02.12.2016 (Annex-FF) and 06.12.2016 (Annex-GG). The last meeting was also attended by Mr. Jawad Ashraf, while the representative of Toyota Abbott Motors, Mansehra Road, Abbottabad (Sardar Zia Nabi) did not turn up.
- xvii) An agreement was executed with Mr. Jawad Ashraf for retrieval/repayment of the irregularly paid amount of Rs.9,12,87,000/- (Annex-HH).
- xviii) Meanwhile, Higher Education Department vide its letter No.SOG/HE/Procurement/2015-16 dated 16.01.2017 solicited a Quotation from M/S Toyota Khyber Motors, Peshawar for purchase of 25 Toyota Hi-ace Vehicles (Annex-II).
- xix) Subsequently, the supply order, with 25% Advance Payment, was issued to M/S Toyota Khyber Motors vide the Higher Education Department letter No. SOG/HE/Procurement/2015-16 dated 22.02.2017 (Annex-JJ).
- xx) Accordingly, on 16.02.2017 an agreement was executed by the accused Muhammad Hayat, the then DS (Admn) Higher Education Department, with the MD of Toyota Khyber Motors, Peshawar for supply of 25 Toyota Hi-ace Vehicles (Annex-KK).
- xxi) Higher Education Department was requested, interalia, through the M/S Toyota Khyber Motors Peshawar letter dated 21.08.2017 for making payment of the remaining amount of Rs.5,21,95,385/- as 20 vehicles had arrived at the Karachi Dry Port (Annex-LL).
- xxii) Higher Education Department asked M/S Toyota Khyber Motors Peshawar on 20.09.2017 to provide 12 Toyota Hi-ace Vehicles against the payment of Rs.4,81,29,615/- already made to them (M/S Toyota Khyber Motors) (Annex-III).
- xxiii) The department also sent a letter to Mr. Jawad Ashraf, for providing 100% payment till 02.10.2017 (Annex-NN).

FINDINGS

8. As a result of the interviews/hearings of the accused officers/officials as well as other functionaries/officers/persons concerned,

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perusal of their statements and examination of the relevant record, the following findings have come-out: -

- i) Respective tenures of the incumbents of the positions of Secretary Higher Education, Govt. of KP, Special Secretary Higher Education Department (Mr. Abdul Ghafoor Baig) and the three accused officials in the context of and corresponding to the said procurement process/case were as under: -

A) SECRETARY HIGHER EDUCATION

S.No.	Name of Officer	From	To
1.	Farah Hamid Khan	04.02.2016	16.05.2016
2.	Muhammad Saleem	16.05.2016	10.11.2016
3.	Muhammad Faheem Wazir (Dual Charge)	01.08.2016	09.11.2016
4.	Syed Zafar Ali Shah	10.11.2016	Till Now.

B) SPECIAL SECRETARY HIGHER EDUCATION

S.No.	Name of Officer	From	To
1.	Abdul Ghafoor Baig	11.02.2013	27.09.2017

C) TENURES OF THE ACCUSED OFFICERS/OFFICIALS

S.No.	Name of Officer	From	To
1.	Muhammad Hayat, Ex-DS (Admn)	31.07.2015	15.08.2017
2.	Rahmani Gul Ex-Section Officer (General)	28.08.2012	27.01.2017
3.	Imtiaz Ali (Superintendent/Accountant)	01.08.2001	Till Now.

- ii) The Departmental Committee for procurement of Works and Services, constituted by the Higher Education Department, Govt. of Khyber Pakhtunkhwa vide its Notification No.SOG/HE/Purchase/2015-16/75 dated 04.01.2016, was headed by the Administrative Secretary (Annex-Q) but its meetings convened in connection with the procurement of 25 Toyota Hi-ace Vehicles, under the ADP (2015-16) Scheme titled "Transport Facility to the Staff of Government Colleges" with total cost of Rs.100.000 million (Annex-P), since its first sitting dated 12.02.2016, were never chaired by the Secretary Higher Education. The first meeting was in fact assigned to Mr. Abdul Gahfoor Baig, Special Secretary HED, who chaired on behalf of the Administrative Secretary.

✓ iii)

- As per the provision of sub-rule (c)(iv) of Rule 10 of the Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules 2014, for procurement of 25 Toyota Hi-ace Vehicles a single

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quotation should have been called from and supply order placed with the local authorized dealer of the sole manufacturer (Indus Motors), which was M/S Toyota Khyber Motors, Peshawar in this case. Instead the accused Muhammad Hayat, the then DS (Admn) HED obtained quotations, through telephonic contact, from different dealers of M/S Indus Motors. He has admitted the fact but claims that the quotations had been collected, seven to ten days prior to the first meeting of the purchase committee held on 12.02.2016, at the verbal instructions of Mr. Abdul Ghaffor Baig, the then Special Secretary HED (please peruse reply to Question No.6 of Questionnaire (at Annex-G)). However, Mr. Abdul Ghaffor Baig, the then Special Secretary HED has denied giving any such verbal direction on his part and instead asserts that the quotations seemed to have been collected well before the first meeting of the Departmental Purchase Committee, held on 12.02.2016, was entrusted to him as per orders of the Administrative Secretary passed on through her Private Secretary, (please peruse Mr. Abdul Ghaffor Baig's replies to Questions No.2, 3, 4 & 5 of the Questionnaire (Annex-O)). Nothing is available on record to substantiate the claim of the accused Muhammad Hayat as to calling the quotations at the verbal direction of the then Special Secretary HED.

- iv) As mentioned earlier, the first meeting of the Departmental Purchase Committee, held on 12.02.2016, was chaired by Special Secretary HED on the direction of the Administrative Secretary whose minutes were also formally submitted to the latter and approved by her (please peruse reply of Mr. Abdul Ghaffor Baig to Question No.3 of the Questionnaire at Annex-O). During the course of meeting, the accused Muhammad Hayat was verbally directed by the chair to confirm the approved rates from M/S Toyota Abbott Motors, Mansehra Road, Abbottabad. As per the accused Muhammad Hayat's own statement at Annex-F and Annex-G (please perused his reply to Question No.8 of the Questionnaire), he got the rates telephonically confirmed from Sardar Zia Nabi, MD Toyota Abbott Motors, Mansehra Road, Abbottabad but did not report the confirmation in writing to the Chairman of the Purchase Committee; the accused officer asserted that he informed the Special Secretary verbally.
- v) The Purchase Committee in its said meeting approved, out of the five contenders, the Offer/Quotation of M/S Toyota Abbott Motors, Mansehra Road, Abbottabad for being the lowest i.e. Rs. 37,80,000/- per vehicle and 75% Advance Payment (Annex-T). Had the Department followed the relevant rules, the supply order would have been placed directly with the Indus Motors (the sole actual manufacturer) or its authorized local dealer, M/S Toyota Khyber Motors, Peshawar.
- vi) Subsequently, Higher Education Department, Govt. of Khyber Pakhtunkhwa vide its letter No.SOG/HE/Procurement/2015-16

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dated 24.02.2016 issued the supply order to Managing Director, Toyota Abbott Motors, Mansehra Road, Abbottabad for supply of 25 Toyota Hi-ace Vehicles with the direction, interalia, to submit **25% security** in shape of CDR/Bank Guarantee (**Annex-V**). The supply order was handed over to Sardar Zia Nabi MD Toyota Abbott Motors, Mansehra Road, Abbottabad personally. It is worth noting that formal approval for issuance of the supply order was not obtained from the Competent Administrative Authority, rather it was done at the level of the accused Muhammad Hayat, the then DS (Admn).

- vii) Accordingly, Higher Education Department inked a contract with M/S Toyota Abbott Motors, Mansehra Road, Abbottabad on 03.03.2016 for supply of 25 Toyota Hi-ace Vehicles. It was authenticated/executed by the accused Muhammad Hayat, the then DS (Admn) HED, at his level **without prior approval of the Secretary HED/Principal Accounting Officer** and legal vetting of the (draft) agreement by the Finance Department or Law Department. Sardar Zia Nabi, MD Toyota Abbott Motors, Mansehra Road, Abbottabad signed the agreement from the other side. The original copy of the Agreement Deed dated 03.03.2016 is not available in the relevant file/record; which according to the statement of the accused Imtiaz Ali (Accountant), and endorsed by the accused Rahnani Gul (the then SOG, HED), had been returned by the accused Muhammad Hayat, the then DS (Admn) in his presence to Mr. Jawad Ashraf in the former's Office (DS Admn HED office), after executing a subsequent Agreement Deed with the latter (Mr. Jawad Ashraf) on 02.07.2016 (please peruse reply to the Question No.5 of the Questionnaire at **Annex-K** and reply to Question No.7 of the Questionnaire at **Annex-I**).
- viii) Subsequently, Higher Education Department requested Finance Department, Govt. of KP through its letter No.SOG/HE/Procurement/2015-16 dated 04.03.2016, for sanction of **100% advance payment, instead of 75% as per the relevant Quotation**, to the supplying firm on that account (**Annex-W**). Moreover, **instead of the full title of the suppliers i.e. M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, only M/S Toyota Abbott Motors was mentioned** in the said letter dated 04.03.2016. This omission, whether deliberate or inadvertent, was manipulated at later stage. The said reference was made to Finance Department, at the behest of the accused Muhammad Hayat (the then DS Admn), again without formal approval of the Competent Authority.
- ix) Finance Department conveyed the requisite sanction vide its letter No.SO (Dev-I)FD/3-1/HE/2015-16 dated 10.06.2016 for 100% advance payment to the suppliers concerned, naming them as M/S Toyota Abbott Motors instead of M/S Toyota Abbott Motors, Mansehra Road, Abbottabad (**Annex-X**). As stated earlier, this omission helped making payment to a wrong person/unauthorized

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individual (Mr. Jawad Ashraf) instead of the actual party, namely M/S Toyota Abbott Motors, Mansehra Road, Abbottabad.

- x) Later on, an undated sanction order bearing No.SOG/HE/ADP-545/150025/2015-16 was issued by Higher Education Department accordingly (Annex-Y).
- xi) An incomplete/deficient photo copy of another Agreement Deed dated 21.06.2016, seemingly about the same transaction, has been found in the relevant file; the original copy thereof is, however, not available/traceable. Nevertheless, the accused Rahmani Gul, the then SOG HED (please see his reply to Question No.8 of the Questionnaire at Annex-I) and the accused Imtiaz Ali, Accountant (please peruse reply to Question No. 7 of the Questionnaire at Annex-K) have denied to have any knowledge about its existence (execution) or having seen original copy thereof but they are aware of the presence of its photo copy in the file. So is the statement of the accused Muhammad Hayat, the then DS Admn. (Please see his reply to Question No.18 of the Questionnaire at Annex-G).
- xii) The accused Imtiaz Ali, Accountant prepared a bill, which was signed by the accused Rahmani Gul (the then SOG), in the name of M/S Toyota Abbott Motors, instead of M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, for payment of Rs.9,12,87,000/- on account of cost of 25 Toyota Hi-ace Vehicles for submission to the Accountant General, Khyber Pakhtunkhwa for pre audit (please see reply to Question No. 12 of the Questionnaire at Annex-K and reply to Question No.13 of the Questionnaire at Annex-I). Both the accused officials have admitted that in a previous supply of 50 Vehicles they had processed the case and prepared the bill in the name of the original manufacturer (M/S Indus Motors) and cheque had also been issued to the M/S Indus Motors but in this case ignoring the previous experience/practice they prepared the bill in favour of an unauthorized dealer and a wrong party (please peruse the reply to Question No. 14 of the Questionnaire at Annex-I and reply to Question No.13 of the Questionnaire at Annex-K).
- xiii) For preparation of the bill, Vendor No. was not solicited from the actual suppliers (M/S Toyota Abbott Motors, Mansehra Road, Abbottabad). Nobody from the Higher Education Department contacted, directly or indirectly, the suppliers concerned for that purpose. The accused Rahmani Gul, SOG in his reply to Question No.15 of the Questionnaire at Annex-I and the accused Imtiaz Ali, Accountant in his response to Question No.14 of the Questionnaire at Annex-K have admitted this omission on their part (also peruse reply of the accused Muhammad Hayat to the Question No.20 of the Questionnaire at the Annex-G). They have also admitted that the case for generation of vendor number was submitted to the AG Khyber Pakhtunkhwa on the basis of the documents respecting

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Toyota Abbott Motors (and not M/S Toyota Abbott Motors, Mansehra Road, Abbottabad) furnished by Mr. Jawad Ashraf, an un-authorized/unconcerned person. All the three accused officials have failed to exercise due diligence on their respective part as otherwise required, under the relevant rules including the General Financial Rules, from them.

- xiv) It is also worth noting that the actual suppliers (M/S Toyota Abbott Motors, Mansehra Road, Abbottabad) in their Pre-receipt dated 24.02.2016 had clearly mentioned their NTN number as 7143699-3, while Mr. Jawad Ashraf had given his NTC as 2672698-0 but none of the three accused officials tried to ascertain the credentials of Toyota Abbott Motors (Rawalpindi) or Mr. Jawad Ashraf as has been admitted by the accused Muhammad Hayat himself in his reply to Question No.21 of the Questionnaire at Annex-G. The accused Imtiaz Ali, Accountant has confirmed, endorsed by the accused Rahmani Gul, SOG during the inquiry proceedings in the presence of the Departmental Representative and the accused Muhammad Hayat the then DS (Admn) that the latter (accused Muhammad Hayat) had personally accompanied him when he visited the office of Accountant General Khyber Pakhtunkhwa in connection with generation of vendor number in respect of Mr. Jawad Ashraf, using his (accused Muhammad Hayat) influence for that purpose.
- xv) On clearance of the Bill submitted by the department, the Cheque No.1352571 dated 24.06.2016 for Rs.9,12,87,000/- was prepared and issued by the Accountant General Khyber Pakhtunkhwa, in the name of M/S Toyota Abbott Motors (and not M/S Toyota Abbott Motors, Mansehra Road, Abbottabad) on account of the cost (100% advance payment) of 25 Toyota Hi-ace vehicles. The cheque accompanied with the Higher Education Department covering letter No.SOG/HE/Accounts/2015-2016 dated 28.06.2016 addressed to M/S Toyota Abbott Motors, Mansehra Road, Abbottabad (Annex-Z), was handed over to Mr. Jawad Ashraf, instead of an authorized representative of the actual suppliers, on 28.06.2016 in person by the accused Imtiaz Ali in the presence of the accused Muhammad Hayat, the then DS (Admn), in the latter's office (please see the accused Rahmani Gul's, the then SO Admn HED, reply to Question No.16 of the Questionnaire at Annex-I, the accused Imtiaz Ali's own admission in his reply to Question No.15 of the Questionnaire at Annex-K and the accused Muhammad Hayat the then DS Admn statement through his reply to Question No.17 of the Questionnaire at Annex-G).
- xvi) Subsequently, second Agreement was executed/signed by the accused Muhammad Hayat, the then DS (Admn), at his own level with Mr. Jawad Ashraf, purportedly representing so called M/S Toyota Abbott Motors (Rawalpindi) and not the original supplying party namely M/S Toyota Abbott Motors, Mansehra

18. Road, Abbottabad. However, the second Agreement was executed without rescinding, revoking or superseding the first Agreement dated 03.03.2016 as well as the supply order dated 24.02.2016 and without prior approval of the Administrative Secretary (Secretary Higher Education). Moreover, the draft or original document of the second Agreement Deed dated 02.07.2016 was neither initiated by the section concerned nor processed on the relevant file. These facts have been admitted by the accused Muhammad Hayat in his replies to Question No. 10, 11, 12 & 14 of the Questionnaire at Annex-G, confirmed by the accused Rahmani Gul, the then SOG in his reply to Question No.6 & 9 of the Questionnaire at Annex-I, endorsed by the accused Imtiaz Ali, Accountant in his replies to Question No.5 & 8 of the Questionnaire at Annex-K and substantiated by Mr. Abdul Ghafoor Baig, the then Special Secretary HED in his replies to Question No.7, 10 & 11 of the Questionnaire at Annex-O. Furthermore, the Higher Education Department supply order dated 24.02.2016 issued to the suppliers mentioned requisite depositing of 25% Security by the latter (the suppliers) but the agreement executed by the accused Muhammad Hayat spoke of 10% Security (please peruse replies of the accused Muhammad Hayat, the then Deputy Secretary (Admn) to Questions No.13 & 14 of the Questionnaire at Annex-G. All this was quite irregular, violative, unjustifiable and unlawful acts and conduct on the part of the accused Muhammad Hayat, the then DS (Admn).

- xvii) Like the first Agreement Deed 03.03.2016, the second Agreement executed on 02.07.2016 also did not contain provisions/clauses regarding penalty or arbitration in case of any infringement, violation, dispute or default on the part of the suppliers. Though the accused Muhammad Hayat has tried to pass the buck, in his reply to Question No.15 of the Questionnaire at Annex-G, on others, as both the Agreements were authenticated/executed by him at his own level and without prior approval of the Administrative Secretary, he cannot absolve himself of the entire responsibility for the omission in this behalf. During the cross examination when asked that had he even looked at the back side of the stamp paper of the second agreement dated 02.07.2016 executed by him with Mr. Jawad Ashraf he would have seen the signature of the licensee/stamp vendor from Rawalpindi, which would have divulged the compromise credentials of the latter (Jawad Ashraf) being not the genuine representative of the actual suppliers, the accused Muhammad Hayat verbally stated that such non judicial stamp papers could be obtained from the licensee vendors of any city/town.
- xviii) M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, through their reference dated 26.09.2016, addressed to the DS (Admn) (the accused Muhammad Hayat), Higher Education Department, referring to their previous letter dated 01.05.2016, intimated about

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neither receiving the supply order dated 24.02.2016 nor the payment and hence withdrawal of their Quotation (**Annex-AA**). Their assertion as to not receiving the supply order dated 24.02.2016 does not look tenable because the (first) Agreement dated 03.03.2016 was signed by Sardar Zia Nabi, MD of M/S Toyota Abbott Motors, Mansehra Road, Abbottabad himself as a sequel to the said supply order. Anyway, their previous letter dated 01.05.2016 seemed to have not been received at the Higher Education Department because not only the relevant record does not contain a copy of any such reference but the accused officials have also expressed their unawareness there-about (please peruse the detailed note dated 07.10.2016 moved, through para 64-75 of the Note Part of the relevant file, by the accused Imtiaz Ali, Accountant and onwardly submitted by the accused Rahmani Gul, the then SOG HED, available annexed with the Q & A Statement at **Annex-O**).

- xix) Afterwards, another letter dated 13.10.2017 was received from M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, informing that Higher Education Department falls under the PRA of Toyota Khyber Motors Peshawar, so they could not entertain its request (**Annex-BB**). Yet again another letter dated 04.11.2016 was received from them, reiterating withdrawal of their quotation (**Annex-CC**). In response, Higher Education Department through its letter dated 09.11.2016 sought clarifications from M/S Toyota Abbot Motors, Abbottabad (**Annex-DD**).
- xx) Seemingly, the withdrawal letters from the suppliers stirred the department, which convened meetings of the Purchase Committee on 20.10.2016 (**Annex-EE**), 02.12.2016 (**Annex-FF**) and 06.12.2016 (**Annex-GG**). A subcommittee comprising (1) accused Muhammad Hayat, Ex-DS (Admn), HED (2) Mr. Aziz Muhammad SO (B&A), HED and (3) Mr. Wajid Ali, DD (P&D), Directorate of Higher Education, constituted in the purchase committee's meeting dated 20.10.2016 (**Annex-EE**), visited M/S Toyota Abbott Motors, Mansehra Road, Abbottabad on 20.10.2016 and met its Manager Finance Mr. Sajjad and Mr. Jawad Ashraf (the one who had received the cheque and to whose account the cheque was issued). The subcommittee also met with its Managing Director, Sardar Zia Nabi, on 23.10.2016, upon his return from Karachi (Report of the subcommittee is placed at **Annex-OO**). However, the report submitted by the subcommittee did not mention whether the actual suppliers (M/S Toyota Abbott Motors, Mansehra Road, Abbottabad) had received the supply order and the payment or not. Impliedly, the subcommittee seemed to have not in fact ascertained the factual position from the party/suppliers concerned during their visit to Abbottabad, which was a glaring omission on their part.
- xxi) In the Departmental Purchase Committee's meeting chaired by the accused Muhammad Hayat, Ex-DS (Admn) on 02.12.2016, it was decided to call Mr. Jawad Ashraf (the receiver of the cheque of

payment) and a representative of M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, in the next sitting. Accordingly, the next meeting of the Purchase Committee, presided over by the accused Muhammad Hayat, the then DS (Admn.), on 06.12.2016 was also attended by Mr. Jawad Ashraf, while nobody from the M/S Toyota Abbott Motors, Mansehra Road, Abbottabad (Sardar Zia Nabi) came up. In the meeting Mr. Jawad Ashraf reportedly claimed that he was partner of Sardar Zia Nabi, MD M/S Toyota Abbott Motors, Mansehra Road, Abbottabad and had participated in quotation process (Minutes at Annex-GG). The assertion made by Mr. Jawad Ashraf was far from reality.

- xxii) As a result of firefighting, an agreement was reached/executed by the accused Muhammad Hayat, the then DS (Admn) with Mr. Jawad Ashraf for retrieval/repayment of the irregularly paid amount of Rs.9,12,87,000/- (Annex-HH). It was done again without prior approval of the Competent Authority/Secretary Higher Education as admitted by the accused Muhammad Hayat, the then DS (Admn) in reply to Question No.22 of the Questionnaire at Annex-G and confirmed by Mr. Muhammad Ayaz Khan present, Deputy Secretary (Admn) in his reply to Question No. 9 of the Questionnaire at Annex-L. However, the then Special Secretary HED (Mr. Abdul Ghafoor Baig) was in the know as stated by him in his reply to Question No. 11 of the Questionnaire at Annex-O (please also peruse the reply of the accused Muhammad Hayat to Question No.22 of the Questionnaire at Annex-G).
- xxiii) As a result of the deal struck with Mr. Jawad Ashraf, the entire amount of the irregular payment (Rs.9,12,87,000/-) made to him alongwith the difference of the higher cost per vehicle was to be repaid/returned by him in toto by 30th June, 2017. However, he has failed to make full repayment; reportedly only sum of Rs.4,81,29,615/- has so far been retrieved from him for onward payment to M/S Toyota Khyber Motors, Peshawar to whom subsequent the supply order dated 22.02.2017 was placed for procurement of 25 Toyota Hi-ace Vehicles. As such a sum of Rs.4,31,57,385/- is still outstanding against Mr. Jawad Ashraf besides a sum of Rs.7,60,725/- being a difference of the higher cost of 25 Vehicles (please peruse the accused Muhammad Hayat's reply to Question No.27 of the Questionnaire at Annex-G and the reply of Mr. Muhammad Ayaz Khan, present DS (Admn) to Question No. 7 & 8 of the Questionnaire at Annex-L).
- xxiv) In the wake of the aforementioned development, Higher Education Department through its letter No.SOG/HE/Procurement/2015-16 dated 16.01.2017 called for fresh Quotation from M/S Toyota Khyber Motors, Peshawar for supply of 25 Toyota Hi-ace Vehicles (Annex-II). Subsequently, the accused Muhammad Hayat, the then DS (Admn) HED, executed an agreement with the MD, Toyota Khyber Motors, Peshawar on 06.02.2017 for supply of 25 Vehicles

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(Annex-KK). It was followed by the issuance of the supply order, with 25% Advance Payment, to M/S Toyota Khyber Motors vide the Higher Education Department letter No. SOG/HE/Procurement/2015-16 dated 22.02.2017 (Annex-JJ). All these acts/activities were done at the level of the accused Muhammad Hayat, the then DS (Admn) without prior approval/sanction of the Administrative Secretary. Moreover, ordinarily issuance of Supply Order precedes and not follows the execution of agreement in procurement cases. But in this case it happened the other way, which is surprising.

- xxv) M/S Toyota Khyber Motors Peshawar, interalia, requested Higher Education Department, through their letter dated 21.08.2017 for making payment of the remaining amount of Rs.5,21,95,385/- as 20 vehicles had arrived at the Karachi Dry Port (Annex-LL). Thereupon, Higher Education Department asked the suppliers on 20.09.2017 to provide 12 Toyota Hi-ace Vehicles against the payment of Rs.4,81,29,615/- already made to them (M/S Toyota Khyber Motors Peshawar) (Annex-MM). Reportedly, only 12 Toyota Hi-ace Vehicles have been supplied to the Higher Education Department against the supply order for 25 vehicles, obviously, because of non-payment of the balance amount/cost to the suppliers.
- xxvi) Moreover, the Higher Education Department through its letter No.SOG/HE/ADP-545/150025/2015-16 dated 21.09.2017 also urged Mr. Jawad Ashraf to make 100% remaining amount on or before 02.10.2017 (Annex-NN); however, no payment/repayment of the remaining amount has so far been made. The fact has not only been admitted by the accused Muhammad Hayat, the then DS (Admn) and other accused officials as well as Mr. Muhammad Ayaz Khan, the incumbent DS (Admn) Higher Education Department but also by Mr. Jawad Ashraf himself during his verbal statement before this Inquiry Officer.
- xxvii) The accused Muhammad Hayat, the then DS (Admn) HED himself has admitted that throughout the period from 13.12.2016 to 07.08.2017, he did not ever ascertain or get it confirmed that the authority being exercised by him with respect to the said procurement process at his level was in accordance with or consistent with the delegation of financial powers invested in him (as DS Admn, HED) being a **Category-II Officer** (please peruse his reply to Question No. 25 of the Questionnaire placed at Annex-G and the replies of Mr. Abdul Ghafoor Baig, the then Special Secretary HED to the Questions No. 6, 7, 8, 10, 11 & 12 of the Questionnaire at Annex-O).
- xxviii) After transfer of the accused Muhammad Hayat from the post of Deputy Secretary (Admn.), Higher Education Department through its Notification No.SOG/HE/ADP-545/150025/2015-16 dated 03.11.2017 ordered a fact finding inquiry through Mr. Muhammad

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Kabir Afridi, Additional Secretary (Annex-PP). The Inquiry Officer submitted its Report through letter No.PA/AS/HED/Inquiry/2017 dated 08.12.2017 (Annex-QQ). Perusal of the fact finding inquiry report signifies that real hard work was put in on the part of the Inquiry Officer to dig out factual position and ascertain the truth. It brought out different facts of the procurement process in question, pointing out multiple irregularities, omissions and violations of the relevant rules, prescribed procedures and set practices etc. committed in this case specifically on the part of the accused Muhammad Hayat, the then Deputy Secretary (Admin). Statements and replies of the accused officials and other officers/persons to the questions/cross examination, during the course of the instant disciplinary proceedings, by and large endorse the findings of the fact finding inquiry officer.

- xxix) It was also brought into the knowledge of the Inquiry Officer (the undersigned) that a case had also been referred by the Higher Education Department to the Khyber Pakhtunkhwa Ehtesab Commission for investigation/prosecution.
- xxx) During the instant disciplinary proceedings, Mr. Jawad Ashraf also appeared in person on 19.02.2018. He was heard in detail for his part of the story and was found straight forward in accepting the facts of the case/process. As gathered from his verbal statement, Mr. Jawad Ashraf was willing to repay the remaining amount outstanding against him, excluding the amount in the shape of CDR, with the penalty on the remaining sum of Rs.2,12,00,000/- which comes to around Rs.8,64,000/- (Rs.1,68,000/- per vehicle). However, he seeks certain facilitation/favour from the Higher Education Department.
- xxxi) The formal written statements of all the three accused officials submitted to the undersigned (Inquiry Officer), and placed at Annex-F, H & J respectively, are too simplistic and unconvincing. However, their replies, during the examination/cross examination in the course of disciplinary proceedings, available at Annex-G, I & K respectively are significantly clear, candid and meaningfully elaborate.

CONCLUSIONS

9. In the light of the statements/examination of the accused officers/official as well as the other officers/persons concerned, the above stated FACTS, FINDINGS and scrutiny of the relevant record, the following conclusions have been drawn: -

1. The case for procurement of 25 vehicles by Higher Education Department, Government of Khyber Pakhtunkhwa has been mis-handled/mis-managed from the very beginning. The process was conducted and authority/powers were exercised in irregular way.

which was inconsistent with and in violation of the relevant rules, prescribed procedure and set practices.

- 2. It seems that the whole process and the related affairs were left to the sweet will of the then Deputy Secretary (Admn) HED (accused Muhammad Hayat), who was calling the shots. He was from the teaching cadre having no experience of administrative matters and with no knowledge of financial rules and regulations etc. By virtue of his posting as Deputy Secretary (Admn), he was invested with the financial powers of Category-II Officer under the Khyber Pakhtunkhwa Delegation of Financial Powers and Powers of Re-appropriation Rules. However, in this procurement case he would act, perform job, exercise authority and decide matters, which otherwise fell under the competency and powers of the Administrative Secretary/Category-I Officer/Principal Accounting Officer. More intriguing is the inaction or nonchalance on the part of Administrative Secretary throughout this episode, not intervening to check unbridled exercise of irregular authority by the accused Muhammad Hayat, the then DS (Admn).
- 3. As regards the respective allegation/charges brought up against the accused officials, specific conclusions are as under: -

A) Accused Muhammad Hayat, then DS (Admn) HED:

- i) Charge No.1 stands proven.
- ii) Charge No.2 stands proven.
- iii) Charge No.3 stands proven.
- iv) The payment was made to a wrong and unauthorized person at the behest of the accused officer indeed. No conscious efforts was made to ensure the payment to right party and no timely cognizance was taken to avoid this irregular transaction. Charge No.4 stands proven.
- v) Charge No.5 stands proven to the extent that the subcommittee headed by the accused officer failed to ascertain and report as to whether the suppliers (M/S Toyota Abbott Motors, Mansehra Road, Abbottabad) had received the supply order dated 24.02.2016 and the payment or otherwise.
- vi) Charge No.6 stands proven.
- vii) Charge No.7 stands proven.
- viii) Charge No.8 stands proven.
- ix) Charge No.9 stands proven.
- x) Charge No.10 stands proven.
- xi) Charge No.11 stands proven.
- xii) Charge No.12 stands proven.

B) Accused Rahmani Gul, the then SOG HED.

- i) The accused officer did not prepare the Cheque No.1352571 dated 24.06.2016 for Rs.9,12,87,000/-.

[Handwritten signature]

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which was in fact issued, after requisite pre audit clearance of the bill, by the AG Khyber Pakhtunkhwa. However, he being the Drawing & Disbursing Officer of Higher Education Department did process and sign the bill for payment on account of the said procurement of 25 vehicles without ensuring conformity to the prescribed procedures/ requirements etc. Charge No.1 stands partially proved.

- ii) No collusive role on the part of the accused officer is detectable in this case. However, he did omit to exercise due diligence by not reflecting/mentioning the full nomenclature and vendor number of the actual suppliers, namely M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, in the bill processed and signed by him, as the DDO concerned. Charge No.2 stands partially proved.

C) Accused Imtiaz Ali, Accountant, HED

- i) The accused official did not prepare the Cheque No.1352571 dated 24.06.2016 for Rs.9,12,87,000/-, which was in fact issued, after requisite pre audit clearance of the bill submitted by the department, by the AG Khyber Pakhtunkhwa. However, he being the Accountant concerned did prepare and process the bill for payment on account of the said procurement of 25 vehicles without ensuring conformity to the prescribed procedures/requirements etc. Charge No.1 stands partially proved.
- ii) The accused official did fail to exercise due diligence by, interalia, not reflecting/mentioning the full nomenclature and vendor number of the actual suppliers, namely M/S Toyota Abbott Motors, Mansehra Road, Abbottabad, in the bill prepared and processed by him as the dealing Accountant concerned. However, at a later stage he belatedly made certain attempts to bring up the position to the notice of the higher authorities but in vain. Charge No.2 stands partially proved.

RECOMMENDATIONS

10. In the light of the scrutiny of the relevant record, the statements/examination of the accused officials as well as the other officers/persons concerned, and the above stated FACTS, FINDINGS and CONCLUSIONS, the following recommendations are made: -

- i. Keeping in view the CONCLUSIONS at Para-9 ante, the competent authority may decide imposition, in addition to the recovery of the pecuniary loss caused to the government in case the remaining/receivable sum is


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not retrieved from Mr. Jawad Ashraf as given in forthcoming sub para (iii), of one of the penalties prescribed in sub rule (1) (b) of Rule-4 of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 upon the accused Muhammad Hayat (the then Deputy Secretary Admn. HED), Associate Professor of Physics BS-19, Government of Khyber Pakhtunkhwa, Higher Education Department.

- ii. The Competent Authority may decide imposition of one or more appropriate penalties from sub rule (1) (a) of Rule 4 of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 upon the remaining two accused officials, namely Rahmani Gul, the then Section Officer (General) HED and Imtiaz Ali, Accountant HED.
- iii. Higher Education Department may engage Mr. Jawad Ashraf, to whom the irregular payment had been made for an early retrieval of the remaining sum alongwith the cumulative differential amount of the current per unit market cost of 13 Toyota Hi-ace Vehicles. The administrative authorities concerned may make all possible efforts in order to ensure early procurement of the remaining vehicles in the larger public interest.
- iv. The Administrative Department may, in consultation with Law Department, reconsider/review the referral of case to Khyber Pakhtunkhwa Ehtesab Commission, which has not been actively functional for sometimes, and instead the case may be referred to the NAB Khyber Pakhtunkhwa.
- v. In future it may be ensured by Higher Education Department that in procurement cases of substantial value, meetings/proceedings of the purchase/procurement committee are chaired by the Administrative Secretary or Special Secretary himself and such processes are not left to the middle level or junior officers.

Dated 17.04.2018


(Syed Kamran Shah)
PCS-SG (BS-20) 17/04
Inquiry Officer



26 Annex-A

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT**

Dated 06-02-2018

NOTIFICATION

NO. SOG/HE/ADP-545/150025 (2015-16) In pursuance of approval of the Chief Secretary, Khyber Pakhtunkhwa, the Competent Authority is pleased to appoint Syed Kamran Shah (PCS SG BS-20), Secretary Finance, FATA Secretariat, Peshawar as Enquiry Officer for initiation of Enquiry against the following accused officers, under Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 in connection with irregularities in purchase of 25 Nos. of Hiaces under ADP No. 545/150025 (2015-16):-

1. Mr. Muhammad Hayat, Ex-Deputy Secretary (Admn) HED
2. Mr. Rahmani Gul, Ex- Section Officer (General) HED
3. Mr. Imtiaz Ali, Superintendent/Accountant HED

**SECRETARY
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT**

Endst: No & Date even.

Copy forwarded to the:-

- 1- Syed Kamran Shah (PCS SG BS-20), Secretary Finance, FATA Secretariat, Peshawar with the request that finding/report may be submitted within a period of 30 days please.
- 2- PS to Chief Secretary, Khyber Pakhtunkhwa.
- 3- PS to Secretary, Higher Education Department.
- 4- PS to Special Secretary, higher Education Department.
- 5- PA to DS (Admn), Higher Education Department.


**(MUHAMMAD YASIN)
SECTION OFFICER (General)**



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GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

NO.SOG/HE/ADP-545/150025/2015-16
Dated 06-02-2018

To,

Syed Kamran Shah,
Inquiry Officer (PCS SG BS-20),
Secretary Finance,
FATA Secretariat,
Peshawar.

Subject: **IRREGULARITIES IN PURCHASE OF 25 NOS. HIACES UNDER ADP NO. 545/150025 (2015-16).**

Dear Sir,

I am directed to refer to the subject noted above and to state that Chief Secretary, Khyber Pakhtunkhwa (Competent Authority) has approved to initiate an Inquiry against the following officers of this department under Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011:-

1. Mr. Muhammad Hayat, Ex-Deputy Secretary (Admn) HED
2. Mr. Rahmani Gul, Ex- Section Officer (General) HED
3. Mr. Imtiaz Ali, Superintendent/Accountant HED

Consequently, the competent authority has further been pleased to appoint you as Inquiry Officer to investigate the charges and conduct an inquiry under provision of the said Rules against the aforesaid officers in light of the attached Charge Sheets/Statements of Allegations.

I am further directed to request that findings/report may be submitted within a period of 30 days.

Yours Sincerely,

(MUHAMMAD YASIN)
SECTION OFFICER (General)

Endst: No & Date even.

Copy forwarded to the:-

- 1- Mr. Muhammad Yasin, Section Officer (General) HED (contact No.0314-9124148) is appointed as Departmental Representative alongwith relevant record to assist the Inquiry Officer during the inquiry proceedings.
- 2- Mr. Muhammad Hayat, Ex-Deputy Secretary (Admn) now Deputy Director (Monitoring) HEMIS Cell, Higher Education Department.
- 3- Mr. Rahmani Gul, Ex-Section Officer (General) now Section Officer (UE-II), Higher Education Department.
- 4- Mr. Imtiaz Ali, Superintendent/Accountant, Higher Education Department.
- 5- PS to Secretary, Higher Education Department.
- 6- PS to Special Secretary, Higher Education Department.
- 7- PA to DS (Admn), Higher Education Department.

alongwith Charge sheets & Statement of Allegations with the direction to appear before the Inquiry Officer on the date, time & venue fixed by the Inquiry Officer for the purpose and submit reply within stipulated time.

SECTION OFFICER (General)

DISCIPLINARY ACTION

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority am of the opinion that Mr. Muhammad Hayat, Associate Professor of Physics (BS-19) while posted as Ex-Deputy Secretary (Admin) has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 03 of the Khyber Pakhtunkhwa Govt; Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- i. You were directed in a meeting of the Purchase Committee held on 12-02-2016 to confirm the approved rates from the concerned supplier i.e M/S Toyota Abbott Motors, Abbottabad but you failed to report in black & white as to whom did you contact in Toyota Abbott Motors. Had this been done carefully, the fraud would have been surfaced long before issuance of cheque to the wrong person.
- ii. Pursuant to the first meeting of purchase committee, you entered into an agreement on 03.03.2016 with the Supplier as per record available in shape of the Note Sheet but the Agreement is missing from the file which you caused to be removed from the file maliciously in an effort to benefit the fraudulent Supplier by signing another Agreement (beneficial to the Supplier) on 02.07.2016, after issuance of Supply Order.
- iii. The Supply order issued to Toyota Abbott Motors mention obtaining 25% Security but in violation, you signed an Agreement with 10% Security. You neither approved the agreement from the higher Hierarchy nor was opinion of Law Department obtained. Resultantly, you signed a faulty agreement having no penalty and arbitration clauses; thereby causing loss to government exchequer.
- iv. Toyota Abbott Motors issued a number of letters stating that they have withdrawn the quotation and that you have made payment to a wrong person but you failed to take cognizance to avoid this huge loss to the government. This amounts to collusion with Mr. Jawad Ashraf in fraudulently withdrawing Rs. 100 Million by concealment of facts and tempering of record at your disposal.
- v. When on 26.09.2016, Toyota Abbott Motors claimed again that they have not received any supply order or payment; you, heading a committee, were asked by the purchase committee to probe the matter and report. You visited Abbottabad alongwith the members of the Committee but you failed to report as to whether Toyota Abbott Motors has received the supply order and payment or otherwise. Instead, you only reported that Mr. Zia Nabi, MD of the firm is a friend of Jawad Ashraf. This shows connivance with Mr. Jawad Ashraf and concealment of facts.
- vi. The Cheque was issued to M/S Toyota Abbott Motors, Rawalpindi instead of Indus Motors under your supervision. All this means that you facilitated the public money to go into wrong hands for ulterior motives.
- vii. Mr. Jawad Ashraf had no Vendor Number for issuance of the Cheque. You used your personal influence in obtaining a vendor number for him overnight in your struggle to facilitate him.

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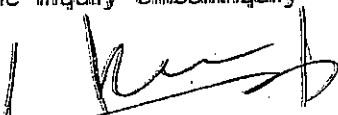
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- viii. The NTN number of Toyota Abbott Motors Abbottabad as mentioned in the Quotation and pre-receipt bill is 7143699-3 while that for Mr. Jawad Ashraf is 2672698-0. It could be confirmed from online Tax payer verification that the NTN number is of Toyota Abbott Motors situated at Rawalpindi and not at Abbottabad. You failed even to apply this ordinary prudence in safeguarding public money.
- ix. Even the backside of the stamp paper signed by you with Mr. Jawad Ashraf on 02.07.2016 bears signature of the licensee from Rawalpindi which you failed to understand.
- x. From 13-12-2016 till 07-08-2017, you never took approval or guidance from the higher hierarchy intentionally and kept on playing with the public money. This shows a strong connivance with the fraudulent supplier which you supported for ulterior motives.
- xi. You issued another Supply order to Toyota Khyber Motors Peshawar on 22.2.2017 without taking approval of the competent authority or the purchase committee without cancelling the earlier supply order and entered into another agreement.
- xii. Being at the middle management in the department, you never pointed out that as per KPPRA Rules, the purchase has to be made from the authorized dealer at Peshawar instead of going for Quotations which led to the disastrous situation.

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

- i. Mr. Mansoor Ghani (D.O. No. 35-20) Secretary, FATI
- ii. _____

3. The inquiry officer/inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/inquiry committee.


(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

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CHARGE SHEET

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Mr. Muhammad Hayat, Associate Professor of Physics (BS-19) Ex-Deputy Secretary (Admin) in Higher Education Department as follows:-

- i. You were directed in a meeting of the Purchase Committee held on 12-02-2016 to confirm the approved rates from the concerned supplier i.e M/S Toyota Abbott Motors, Abbottabad but you failed to report in black & white as to whom did you contact in Toyota Abbott Motors. Had this been done carefully, the fraud would have been surfaced long before issuance of cheque to the wrong person.
- ii. Pursuant to the first meeting of purchase committee, you entered into an agreement on 03.03.2016 with the Supplier as per record available in shape of the Note Sheet but the Agreement is missing from the file which you caused to be removed from the file maliciously in an effort to benefit the fraudulent Supplier by signing another Agreement (beneficial to the Supplier) on 02.07.2016; after issuance of Supply Order.
- iii. The Supply order issued to Toyota Abbott Motors mention obtaining 25% Security but in violation, you signed an Agreement with 10% Security. You neither approved the agreement from the higher Hierarchy nor was opinion of Law Department obtained. Resultantly, you signed a faulty agreement having no penalty and arbitration clauses; thereby causing loss to government exchequer. RAT#
- iv. Toyota Abbott Motors issued a number of letters stating that they have withdrawn the quotation and that you have made payment to a wrong person but you failed to take cognizance to avoid this huge loss to the government. This amounts to collusion with Mr. Jawad Ashraf in fraudulently withdrawing Rs. 100 Million by concealment of facts and tempering of record at your disposal. D
- v. When on 26.09.2016, Toyota Abbott Motors claimed again that they have not received any supply order or payment; you, heading a committee, were asked by the purchase committee to probe the matter and report. You visited Abbottabad alongwith the members of the Committee but you failed to report as to whether Toyota Abbott Motors has received the supply order and payment or otherwise. Instead, you only reported that Mr. Zia Nabi, MD of the firm is a friend of Jawad Ashraf. This shows connivance with Mr. Jawad Ashraf and concealment of facts.
- vi. The Cheque was issued to M/S Toyota Abbott Motors, Rawalpindi instead of Indus Motors under your supervision. All this means that you facilitated the public money to go into wrong hands for ulterior motives.
- vii. Mr. Jawad Ashraf had no Vendor Number for issuance of the Cheque. You used your personal influence in obtaining a vendor number for him overnight in your struggle to facilitate him.
- viii. The NTN number of Toyota Abbott Motors Abbottabad as mentioned in the Quotation and pre-receipt bill is 7143699-3 while that for Mr. Jawad Ashraf is 2672698-0. It could be confirmed from online Tax payer verification that the NTN number is of Toyota Abbott Motors situated at Rawalpindi and not at Abbottabad. You failed even to apply this ordinary prudence in safeguarding public money.

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- ix. Even the backside of the stamp paper signed by you with Mr. Jawad Ashraf on 02.07.2016 bears signature of the licensee from Rawalpindi which you failed to understand.
- x. From 13-12-2016 till 07-08-2017, you never took approval or guidance from the higher hierarchy intentionally and kept on playing with the public money. This shows a strong connivance with the fraudulent supplier which you supported for ulterior motives.
- xi. You issued another Supply order to Toyota Khyber Motors Peshawar on 22.2.2017 without taking approval of the competent authority or the purchase committee without cancelling the earlier supply order and entered into another agreement.
- xii. Being at the middle management in the department, you never pointed out that as per KPPRA Rules, the purchase has to be made from the authorized dealer at Peshawar instead of going for Quotations which led to the disastrous situation.
2. By reason of the above, you appear to be guilty of misconduct and corruption under rule 03 (b) & (c) of the Khyber Pakhtunkhwa, Peshawar, Govt; Servants (Efficiency and Discipline) Rules 2011 and have rendered yourself liable to all or any of the penalties specified in rule 04 of the Rule ibid.
3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Inquiry Officer/Committee, as the case may be.
4. Your written defense, if any, should reach the Inquiry Officer/Committee within the specific period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. You are required to intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.


(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

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Annex-D

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DISCIPLINARY ACTION

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority am of the opinion that Mr. Rahmani Gul, Section Officer (PMS BS-17) Higher Education Department has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 03 of the Khyber Pakhtunkhwa Govt; Servants (Efficiency and Discipline) Rules, 2011.


STATEMENT OF ALLEGATIONS

- i. You prepared the cheque number 1352571 dated 24.06.2016 for a huge amount of Rs. 91287000/- in the name of Toyota Abbott Motors instead of Indus Motors. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50 vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent Supplier.
 - ii. While processing bill in the name of Toyota Abbott Motors, Abbottabad; you failed to ask for the verified vendor number of the Firm; instead you helped in obtaining a vendor number for the fraudulent Firm situated at Rawalpindi and hence the cheque went into the wrong hands.
2. For the purpose of formal inquiry against the said accused with reference to the above allegations, an inquiry officer/inquiry committee, consisting of the following, is constituted under rule 10(1) (a) of the ibid rules.

i. Chief Secretary, (PMS BS-17) Secy, HED, PWT

ii. _____

3. The inquiry officer/inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/inquiry committee.


(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

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CHARGE SHEET

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Mr. Rahmani Gul, Section Officer (PMS BS-17) Higher Education Department as follows:-

- i. You prepared the cheque number 1352571 dated 24.06.2016 for a huge amount of Rs. 91287000/- in the name of Toyota Abbott Motors instead of Indus Motors. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50 vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent Supplier.
 - ii. While processing bill in the name of Toyota Abbott Motors, Abbottabad, you failed to ask for the verified vendor number of the Firm; instead you helped in obtaining a vendor number for the fraudulent Firm situated at Rawalpindi and hence the cheque went into the wrong hands.
2. By reason of the above, you appear to be guilty of corruption and misconduct under rule 03 (b) & (c) of the Khyber Pakhtunkhwa, Peshawar, Govt; Servants (Efficiency and Discipline) Rules 2011 and have rendered yourself liable to all or any of the penalties specified in rule 04 of the Rule ibid.
 3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Inquiry Officer/Committee, as the case may be.
 4. Your written defense, if any, should reach the Inquiry Officer/Committee within the specific period, failing which it shall be presumed that you have no defense to put in and in that case exparte action shall be taken against you.
 5. You are required to intimate whether you desire to be heard in person.
 6. A statement of allegations is enclosed.


(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

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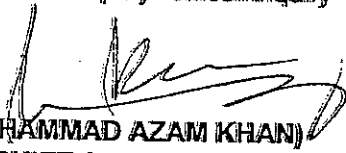
Annex-E 30

DISCIPLINARY ACTION

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority am of the opinion that Mr. Imtiaz Ali, Superintendent/Accountant (BS-17) Higher Education Department has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 03 of the Khyber Pakhtunkhwa Govt, Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- i. You prepared the cheque number 1352571 dated 24.06.2016 for a huge amount of Rs. 91287000/- in the name of Toyota Abbott Motors instead of Indus Motors. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50 vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent Supplier. plus
 - ii. While processing bill in the name of Toyota Abbott Motors, Abbottabad; you failed to ask for the verified vendor number of the Firm; instead you helped in obtaining a vendor number for the fraudulent Firm situated at Rawalpindi and hence the cheque went into the wrong hands. plus
2. For the purpose of formal inquiry against the said accused with reference to the above allegations, an inquiry officer/inquiry committee, consisting of the following, is constituted under rule 10(1) (a) of the ibid rules.
- i. Syed Kamran Shah (PUS S9 BS 20) Secretary PATA
 - ii. _____
3. The inquiry officer/inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/inquiry committee.


(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

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CHARGE SHEET

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Mr. Imtiaz Ali, Superintendent/Accountant (BS-17) Higher Education Department as follows:-

- i. You prepared the cheque number 1352571 dated 24.06.2016 for a huge amount of Rs. 91287000/- in the name of Toyota Abbott Motors instead of Indus Motors. As per past practice, almost a year ago, you prepared a similar cheque for even higher amount for purchase of 50 vehicles in the name of Indus Motors. The deviation from the laid down procedure can be interpreted as connivance with the fraudulent Supplier.
- ii. While processing bill in the name of Toyota Abbott Motors, Abbottabad; you failed to ask for the verified vendor number of the Firm; instead you helped in obtaining a vendor number for the fraudulent Firm situated at Rawalpindi and hence the cheque went into the wrong hands.
2. By reason of the above, you appear to be guilty of corruption and misconduct under rule 03 (b) & (c) of the Khyber Pakhtunkhwa, Peshawar, Govt; Servants (Efficiency and Discipline) Rules 2011 and have rendered yourself liable to all or any of the penalties specified in rule 04 of the Rule ibid.
3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Inquiry Officer/Committee, as the case may be.
4. Your written defense, if any, should reach the Inquiry Officer/Committee within the specific period, failing which it shall be presumed that you have no defense to put in and in that case exparte action shall be taken against you.
5. You are required to intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.


(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

To

Syed Kamran Shah Secretary Finance,
FATA Secretariat Peshawar

Subject: Irregularities in pursuance of 25 Nos. Hiace under AOP No. 545/150025 (2015-16)

Dear Sir,

Please refer to the Government of Khyber Pakhtunkhwa, Higher Education Department letter bearing NO.SOG/HE/AOP-545/150025 (2015-16) DATED 6TH OF February, 2018 on the subject noted above through which I have been directed to submit my written reply to your honor regarding the charges levelled against me in the charge sheet in statement of allegations. Annotated reply to the charges is submitted as under:-

- I. You are directed in a meeting of purchase committee held on 12/02/2016 to confirm the approved rates from the concerned supplier M/S Toyota Abbott Motor Abbottabad, but you fail to report in black and white as to how did you contact in Toyota Abbott motors. Had this been done carefully the fraud would have been surface long before issuance of check to wrong person.

ANS: Admitted to the extent that I was verbally directed by the chair to contact the concern supplier with regard to confirmation of the approved rate through telephone (as evident from the minutes duly circulated on 19/02/2016) which I compiled a letter and spirit and the confirmation report was given verbally to the chairman purchase committee. Therefore supply order was issue to the firm on 24/02/2016 (Copies of minute and supply order are enclosed on Annex A and B). So the charge levelled against on is quit baseless and fabricated.

- II. Pursuant to the first meeting of purchase committee you enter into an agreement on 03/03/2016 with the supplier as per record available in the shape of note sheet but the agreement is missing from the file, which you cause to remove from the file maliciously in an effort you benefit the fraudulently supplier by signing another agreements (beneficial to the supplier) on 02/07/2016, after issuance of supply order

Ans: Not admitted. It is quite clear from the note sheet Para No 69-71 sign by accountant that meeting was held on 27/04/2016, under the chairmanship of special Secretary it was decided to release the 25% CDR, because the sanctioned was delayed in finance department. This department will again made agreement deed on the same term and condition with sole manufacture will be made and CDR @ of 10% will deposited by the company, which is also clear from the note sheet Para 43 and 44/N which shows 25% CDR was released by accountant/SOG. The Agreement deed has nothing illegal. Human error and mistake on the part of record keeper cannot be made a case against me being responsible officer. (Annexure attached on Flag Z)

- III. The supply order issued to Toyota Abbott Motors mentioned obtaining 25% Security but in violation you signed an Agreement with 10% Security. You neither approved the agreements from the Higher Hierarchy nor were opinioned of Law department obtained reluctantly. You signed a faulty agreement having no penalty an arbitration clauses thereby causing lost to Government exchequer.

Ans: Not admitted the agreement was signed in accordance with the KIPRA rules with 10% Security as per recommendation of the accountant and SOG vides Para 27 and 28 of the note sheet dated 03/03/2016. The agreement was signed as per practice in vogue.

Also discussed in reply of Para 2

36 Annex-F
written statement 7/32
[Signature]

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The Agreement contained all the relevant clauses which are required for a legal deed. (Copies of Agreement deed & Note Sheet are attached at Annex-C & D). Thus the charge is malafide and baseless.

iv. Toyota Abbott Motors issued a number of letters stating that they have withdrawn the quotation and that you have made payment to a wrong person but you failed to take cognizance to avoid this huge loss to the government. This amounts to collusion with Mr. Jawad Ashraf in fraudulently withdrawing Rs. 100 Million by concealment of facts and tempering of record at your disposal.

Ans:- Not admitted. Toyota Abbott Motors issued withdrawal of the Quotation letter on 06-09-2016. A prompt action was taken and meeting of the purchase committee was called on to come up with further course of action. The purchase Committee in its meeting dated 20-10-2016 constituted a sub-committee to visit Toyota Abbott Motors Abbottabad to inquire about the matter. The Committee submitted detailed report alongwith enclosure (Copies of relevant NoteSheet, minutes of the meeting & report of the sub-committee are enclosed at Annex-E, F & G).

It is behind comprehension to charge some body for action or any illegal activity committed. No loss has been incurred to Government Exchequer as identification and issuance of the Cheque/Payment and verification of the individual receiving payment cheque is the responsibility of Accountant/SO(G). No orders verbal/written is passed to issue cheque or money to unauthorized person. Nothing has been mentioned or practiced material evidence to prove concealment of facts and tempering of records against the undersigned. The charge is void of material facts.

v. When on 26-09-2016, Toyota Abbott Motors claimed again that they have not received any Supply order or Payment; you, heading a committee, were asked by the Purchase Committee to probe the matter and report. You visited Abbottabad alongwith the members of the Committee but you failed to report as to whether Toyota Abbott Motors has received the supply order and payment otherwise. Instead, you only reported that Mr. Zia Nalbi, MD of the firm is a friend of Jawad Ashraf. This shows connivance with Mr. Jawad Ashraf and concealment of facts.

Ans:- Not admitted. Being member of the Sub Committee nominated by the purchase committee, I alongwith other members of the committee visited Toyota Abbott Motors Abbottabad and submitted a detailed report along with relevant documents and written statement of all the concerned with the case. The same was presented to purchase committee wherein no reservation/observation or additional requirements were directed by the purchase committee. So the purchase Committee was quite satisfied with the report submitted by sub-committee. The charge is misleading and against material facts.

vi. The Cheque was issued to M/S Toyota Abbott Motors, Rawalpindi instead of Indus Motors under your supervision. All this mean that you facilitated the public money to go into wrong hands for ulterior motives.

Ans:- Not admitted. There is nothing on cheque about Toyota Abbott Motors Rawalpindi. The cheque was issued by SO(G)/ Accountant to M/S Toyota Abbott Motors Abbottabad. (Copy of Cheque is enclosed at Annex-H). The charge is incorrect and malafide.

vii. Mr. Jawad Ashraf has no Vendor Number for issuance of the Cheque. You used your Personal influence in obtaining a vendor number for him overnight in your struggle to facilitate him.

Ans:- Misleading/ Not True and baseless. The charge is without merit and tangible evidence. If any proof is provided that I have misused my authority for obtaining vendor No. for the firm, I may be held responsible, so the charge is totally based on imagination and just to tease and drag the undersigned.

The NTN number of Toyota Abbott Motors Abbottabad as mentioned in the Quotation and pre-receipt bill is 7143699-3 while that for Mr. Jawad Ashraf is 2672698-0. It could be confirmed from online Tax payer verification that the NTN number is of Toyota Abbott Motors situated at Rawalpindi and not in Abbottabad. You failed even to supply this ordinary prudence in safeguarding public money.

Ans. Not admitted. The bill of payment was processed by the Accountant HED in the Accountant General office and the GST was deducted from M/S Toyota Abbot Motors as evident from the Certificate issued by AG KPK (Copy enclosed at Annex-I).

iv. Even the backside of the Stamp Paper signed by you with Mr. Jawad Ashraf on 02-07-2016 bear signature of the licensee from Rawalpindi which you failed to understand.

Ans:- Not admitted. The back side of the stamp paper only reflects the residential address or office of Mr. Jawad Ashraf, obtaining Stamp paper from Zeeshan Qureshi Licensee No. 849 Rawalpindi is a Stamp vender and there is no restriction of obtaining Stamp Paper from any authorized Vender.

x. From 13-12-2016 till 07-08-2017, you never took approval or guidance from the higher hierarchy intentionally and kept on playing with the public money. This shows a strong connivance with the fraudulent supplier which supported for ulterior motives.

Ans:- Not admitted. Note sheet is quite visible evidence showing so many activities such as recovery of Millions Rupees, its further payment to Khyber Motors Peshawar, and taking commitment of Mr. Jawad Ashraf for early recovery and obtaining original documents of his property as a guarantee amounting approximately 300 Millions with the consultancy of S/O (Litigation) HED (placed on record with Accountant HED). (Copy of agreement is enclosed at Annex-J) As a result of it Khyber Motors Peshawar has supplied 12 HHCs so far. Further added that Mr. Jawad Ashraf and the firm was compelled and committed to provide interest to Government on the remaining amount as per policy/rules of the Recovery.

The above step is a clear indication and a positive approach to record and make it a transparent transaction. For further confirmation statement of Mr. Jawad Ashraf or any relevant person about the stated narration could be recorded on oath. The Charge is totally wrong, baseless and maintainable.

xi. You issued another Supply order to Toyota Khyber Motors Peshawar on 22-02-2017 without taking approval of the competent authority or the purchase committee without cancelling the earlier supply order and entered into another agreement.

Ans:- Admitted to the Extent that Previous meetings/process of purchase was done in good faith. Quotations were solicited from different authorized dealers of Indus Motors Karachi in the province to purchase vehicles for different colleges of the province in accordance with rules & regulations. The earlier agreement with Toyota Abbott Motors Abbottabad was automatically become invalid when recovery was started. The Sales Manager, Khyber Motors Peshawar visited my office several time and was agree upon supply of vehicles on the same terms & conditions. Thus agreement deed was executed with the firm being sole distributor in the best public interest (copy of agreement deed is enclosed at Annex-K).

xii. Being at the middle management in the department, you never pointed out the KPRA Rules, the purchase has to be made from the authorized dealer at Peshawar instead of going for Quotations which led to the disastrous situation.

Ans:- Not Admitted. The Purchase was made for different colleges of the Province and the said firm was also authorized dealer of Sole Distributor (i.e. Indus Motors Karachi) and was agreed upon delivery of vehicles at specific stations where required. It is worth mentioning that neither notified territorial jurisdiction for procurement of vehicles was mentioned in KPRA Rules, nor the Procurement of vehicles was meant only for Peshawar District. Besides this, the rates quoted

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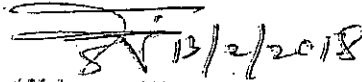
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the firm were the lowest one and duly approved by the Purchase Committee (copy of comparative statement is enclosed at Annex-L). The charge is baseless and misleading.

In view of the foregoing factual position, it is humbly prayed that I may kindly be exonerated from the charges levelled against me and oblige.

Sincerely yours



(Muhammad Hayat)
Associate Professor (B-19)
Ex-Deputy Secretary (Admin) IED

2

OF THE DEPARTMENTAL PURCHASE COMMITTEE MEETING HELD ON 12-02-2016 AT 1000 HOURS UNDER THE CHAIRMANSHIP OF SPECIAL SECRETARY, HIGHER EDUCATION DEPARTMENT

W/ Annexure A (33) 36

The subject meeting was held on 12-02-2016 at 1000 hours under Chairmanship of the Special Secretary Higher Education Department in his office, in order to scrutinize different rates collected through quotations from various authorized dealers of the sole proprietor i.e. (Toyota Motors). List of the Participants is attached at Annexure-I.

2. The meeting started with the name of Almighty Allah and thereafter, on the direction of the chair, the Deputy Secretary (Admin) apprised the participants regarding the background of the subject matter by mentioning that fund are allocated in the ADP 2015-16 released for procurement of 25-Hiace's Van for provision of transport facilities to the staff of different colleges in Khyber Pakhtunkhwa, at the tune of Rs. 100.00 million.

3. The Departmental Purchase Committee deliberated at length. The Director Archives and Libraries appreciated the Navigation System of the Hiace Van. The Additional Director Higher Education said that 100% advance payment for prompt delivery. The following decisions were made:-

- i. The Committee approved the lowest rate of the dealer "Toyota Abbott Motors" quoted per unit to the tune of Rs. 3780000/- on the following condition:-
 - (a) Pre-shipment inspection of vehicles will be made by the Committee.
 - (b) In case of any damage during shipment, the supplier will be bound to replace vehicle instead of repaired one.
- ii. Deputy Secretary (Admin) was directed by chair to confirm the following measures approved rate from concerned Supplier on telephone;
- iii. The Director Archives & Libraries and Director HEATA were directed by chair to constitute their respective Procurement Committees, decided in the Departmental Procurement Committee meeting held on 07-01-2016.

The meeting ended with the vote of thanks.