

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1212/2014

Date of Institution ... 26.09.2014
Date of Decision ... 16.02.2018

Sher Khan,
Ex-Data Processing Supervisor,
Office of the Advocate General,
Khyber Pakhtunkhwa, Peshawar.
R/O Lalazar Colony, University Campus, Peshawar.

(Appellant)

VERSUS

The Secretary Government of Khyber Pakhtunkhwa, Law, Parliamentary
Affairs and Human Rights Department Peshawar & others.

(Respondents)

Mr. Khush Dil Khan,
Advocate

For appellant.

Mr. Muhammad Jan
Deputy District Attorney

For respondents.

MR. GUL ZEB KHAN

MEMBER

MR. MUHAMMAD HAMID MUGHAL

MEMBER

JUDGMENT

GUL ZEB KHAN, MEMBER. The aforesaid appeal dated 26.09.2014 has been lodged by Sher Khan, Ex-Data Processing Supervisor, hereinafter referred to as the appellant, under Section-4 of the Khyber Pakhtunkhwa Services Tribunal Act 1974, wherein he has impugned the office order dated 30.04.2014 vide which he was dismissed from service. The appellant preferred departmental appeal on 30.05.2014 which was not responded.

3. Learned counsel for the appellant argued that the appellant was initially appointed as Data Processing Supervisor in the office of Respondent No.2 on recommendations of the Public Service Commission vide order dated 28.05.2003 and has performed his duties honestly and efficiently with unblemished service

ord for more than 10 years. That the appellant, while working in the office of Advocate on Record (AOR), was charge sheeted on the allegation of delaying / time barring the filing of CPLA in the Supreme Court of Pakistan of about 36 court cases of various administrative departments. That a very prejudiced and defective enquiry was conducted wherein no opportunity of cross examination was provided to the appellant. That the appellant was allegedly held responsible for a task, which, under the job description of the organization, was not assigned to him. That the enquiry committee has not bothered to record the statement of the then AOR who was the directly supervising officer of the appellant. That the appellant is basically functioning as a data processing supervisor which is a computer related job and not a legal hand. That technically speaking it is the sole responsibility of the AOR to draft or dictate the case first, and not the task of the appellant. As regards the four specific cases at Serials No 4, 20, 31 and 34 of the list, the enquiry committee has not been able to put forth any evidence for it, rather those responsible have very clearly been mentioned in the last column of the list. That the impugned order being illegal and not entertain able under the law, may be set aside.

4. On the other side learned Deputy District Attorney argued that the impugned punishment was awarded after consulting all the facts and record vis-à-vis the gravity of the charges and in accordance with law. That the due process of providing opportunity of personal hearing has been duly provided. That the appeal may be rejected with cost.

5. We have heard arguments of the learned counsel for the appellant and learned District Attorney for the respondents and have gone through the record available on file.

Mainly charge against the appellant is that he did not process the cases in time to be filed in the august Supreme Court of Pakistan and thus the same became badly barred by time.

7. In the present case charge sheet and statements of allegation were admittedly served upon the appellant. The appellant also attended the inquiry proceedings. Show cause notice was also issued and replied by the appellant. The inquiry officer in the inquiry report held that the charges against accused stood proved. However it is also an admitted fact that the inquiry committee has not recorded the statement of then AOR, under whom the appellant was directly working and whose statement would have been of a deciding nature in the instant enquiry. The statement of the then AOR was also essential due to the fact that under the prevailing circumstances it was their joint responsibility to dispose of their office work, because the nature of very drafting of the CPLA cases require technical and legal input of the AOR. In the light of stated circumstances this Tribunal is of the view of that the impugned punishment is excessive/harsh. Resultantly for the purpose of safe administration of justice the impugned punishment is converted to minor penalty of censure. The intervening period shall be treated as leave of the kind due. The present service appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCE

16.02.2018



(Muhammad Hamid Mughal)
Member



(Gul Zeb Khan)
MEMBER

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1212 /2014

Sher Khan,
Ex-Data Processing Supervisor,
Office of the Advocate General,
Khyber Pakhtunkhwa, Peshawar.
R/o Lalazar Colony, University Campus, Peshawar.....Appellant

1221
26/9/2014

Versus

- 1: The Secretary,
Govt. of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and
Human Rights Department Peshawar.
2. The Advocate General,
Khyber Pakhtunkhwa, Peshawar.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 30.04.2014 PASSED BY RESPONDENT NO.2 THEREBY APPELLANT WAS DISMISSED FROM SERVICE WITH IMMEDIATE EFFECT AGAINST WHICH HE FILED DEPARTMENTAL APPEAL ON 30.05.2014 UNDER REGISTERED POST BEFORE THE RESPONDENT NO.1 BUT THE SAME WAS NOT DISPOSED OFF WITHIN STATUTORY PERIOD OF NINETY DAYS.

Respectfully Sheweth,

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

1. That appellant initially appointed as Data Processing Supervisor (BPS-14) in the office of Respondent No.2 on the recommendation of Khyber Pakhtunkhwa Public Service Commission, Peshawar by an office order dated 28.05.2003 (**Annex: A**) and since then he was performing his duties efficiently and honestly without any complaint and rendered more than 10 years service with unblemished record of service.

26/9/14

That in view of work load of the office of Advocate On Record a senior computer skilled official was demanded in response to which the attachment of appellant was ordered with the office of Advocate On

as submitted to
and filed.

2/10/14

Record vide office order dated 17.05.2007 (**Annex: B**). Then by general office order dated 23.08.2013 (**Annex: C**) he was transferred to Writ Petition Branch of the office of Respondent No.2.

3. That when Mian Saadullah Jandoli newly appointed as Advocate On Record brought the time barred cases into the notice of Respondent No.2 thereupon, he ordered for inquiry and appointed Mr. Waqar Ahmad Adl. Advocate General as inquiry officer for the scrutinization the time barred cases which he did and submitted report on 26.09.2013 (**Annex: D**)
4. That all of sudden, show cause notice was issued to appellant vide dated 24.12.2013 (**Annex: E**) therein blamed him for two cases not submitted within time i.e. Govt of Khyber Pakhtunkhwa ...Vs... Rabnawaz and others submitted in the office of Respondent No.2 on 01.07.2013 and Govt of Khyber Pakhtunkhwa ...Vs... Jehandar Shah and others on 15.07.2013 and became time barred in the office of Advocate On Record thereto appellant submitted a detailed reply on 01.01.2014 (**Annex: F**).
5. That then an office order was issued on 01.01.2014 (**Annex: G**) by the Respondent No.2 thereby an inquiry committee was appointed, charge sheet with statement of allegations alongwith a list of time barred cases was served upon the appellant containing following charges:

(i) *That the cases of various department/offices of the Provincial Government, as displayed in the annexed list, have not been processed in time to be filed in the august Supreme Court of Pakistan and thus have become badly barred by time.*

(ii) *That the section you are posted in needs full attention and devotion towards your official duties. However, you have proved to be inefficient and having non-serious attitude in discharging your official responsibilities.*

(iii) *That your negligence and inefficiency within the meaning of 3(a) (b) and (c) of the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011 have rendered the Government Exchequer to suffer a lot in terms of money.*

The appellant submitted the requisite reply within time on 08.01.2014 (**Annex: H**) before the inquiry committee but meanwhile more additional charges were communicated to appellant on 18.01.2014 (**Annex: I**) without any legal justification.

6. That Respondent No.2 then served upon appellant a show cause notice dated 08.03.2014 (**Annex: J**) alongwith the copy of the findings of the inquiry committee to which the appellant submitted his reply (**Annex: K**).
7. That Respondent No.2 issued an office order dated 30.04.2014 (**Annex:L**) thereby appellant was dismissed from service with immediate effect against which he filed departmental appeal (**Annex: M**) under registered post on 30.05.2014 which was not disposed off within statutory period of 90 days by the Respondent No.1

Hence this appeal is submitted on the following amongst other grounds:

Grounds:

- A. That appellant is quite innocent and malafidely involved him in the case for ulterior motives for the reasons that he was the holder of the post of Data Processing Supervisor (BPS-14) description of his job is quite clear from his designation. His immediate boss was the then Advocate On Record namely Mian Shaukat Hussain. Secondly, the then Advocate On Record was authority to examine each one case and to frame questions, facts and grounds which are the requirements for filing CPLAs or CAs etc. in the Hon'ble Supreme Court of Pakistan in view of the Supreme Court of Pakistan Rules, 1980. Therefore, the then Advocate On Record was responsible for the alleged laxity if committed on the part of the office of Advocate On Record. Therefore, the Respondent No.2 has malafidely held appellant responsible for the job, responsibility and work of his boss.
- B. That neither Respondent No.2 has taken bother to ask about the alleged time barred cases from the then Advocate On Record (Mian Shaukat Hussain) nor the inquiry committee has associated him in the inquiry proceedings who was the main responsible/competent authority in such

cases, it indicates the malafide of the Respondent No.2 as well the inquiry committee to keep the then Advocate On Record out of the proceedings and favoured him unfairly, unjustly and unlawfully held the appellant responsible for his act and omission being a small poor official of the department.

- C. That most of the alleged time barred cases were already submitted with delay by the departments concerned which is also candidly admitted by the inquiry committee in its findings while the alleged time barred cases as stated time barred during the pendency in the office of Advocate On Record for which the then Advocate On Record was responsible as it comes in the ambit of his authority and power as per the Supreme Court of Pakistan Rules, 1980 to examine each and every case from all the angles and the fit case then drafted and dictated to Stenographer/Data Processing Supervisor. Therefore, the Respondent No.2 has acted in arbitrary manner and held the appellant responsible for his no fault.
- D. That Respondent No.2 has not acted fairly and justly in the matter, he was under legal obligation to make inquiry in those cases which were already time barred by the departments concerned and similarly to examine the cases which became time barred in the office of Respondent No.2 and then fix responsibilities upon each one according to their role, responsibility, job, power and authority but malafidely he held responsible the poor appellant for all such alleged irregularities committed by the departments concerned or on the part of then Advocate On Record which is not warranted by law.
- E. That appellant remained in the office of Advocate On Record for a period of six years three months and six days i.e. from 17.05.2007 to 23.08.2013 and during this period he worked with three Advocates On Record namely Mirza Abdul Qayoom Mazhar (Late), Tasleem Hussain and Mian Shaukat Hussain but non of them has ever made any complaint against the appellant regarding his inefficiency, ⁱⁿ competency, conduct and work rather they have furnished good remarks in his Annual Confidential Reports for the said period. Thus in such circumstances the alleged allegations leveled against him by the Respondent No.2 and the impugned findings have no legal sanctity and not tenable under the law and rules on subject.

- F. That in this case, earlier an inquiry was carried out by Mr. Waqar Ahmad Adl. Advocate General but for unknown reasons the Respondent No.2 has totally ignored his findings, recommendations/suggestions without cogent reasons and after a lapse of three months he appointed an inquiry committee and issued him charge sheet with statement of allegations containing of baseless and ambiguous charges which are devoid of legal sanctity and of no legal effect and liable to be set aside.
- G. That the inquiry committee has conducted the inquiry in slipshod manner neither any cogent evidence has been brought on the record in support of alleged charges nor recorded the statement of any officer/official concerned and only relied on the oral statement of Mr. Ayaz Office Assistant of the office of Respondent No.2 who was not examine in the presence of appellant and deprived the appellant from his right of cross examination. Therefore, the inquiry was not carried out as per the requirements of law and rules on subject and thus the findings of the inquiry committee has no legal sanctity, not sustainable and liable to be set aside and the impugned order based on it is also of no legal effect and liable to be aside.
- H. That the inquiry committee has not associated the then Advocate On Record during the inquiry proceedings who was the main officer and authority in the case and his association was very necessary for fair inquiry. Therefore, the findings of the inquiry committee is defective being not carried out fairly and thus of no legal effect and untenable.
- I. That the two cases titled Govt. of KP ...Vs... Rabnawaz and others and Govt. of KP ...Vs... Jehandar Shah and others were allegedly shown by the Respondent No.2 in his letter dated 18.01.2014 as filed in the office of Advocate On Record within time and became time barred in the office of Advocate On Record which is totally incorrect and contrary to the record as provided by the departments concerned and office of the Respondent No.1. The copies of letters dated 19.06.2013, 23.06.2013 and 25.07.2013 in respect of case titled Govt. KP ...Vs... Rabnawaz and others **Annex: N1-N3** and letters dated 30.04.2013, 19.06.2013, 20.06.2013, 15.07.2013, 22.07.2013, 28.12.2013 and 12.02.2014 in respect of the case titled Govt. of KP ...Vs... Jehandar Shah and others **Annex: O1-O7**.

- J. That in the impugned inquiry report, the inquiry committee has candidly admitted that most of the cases were submitted by the departments concerned time barred except four cases which referred as at S.No. 04, 20, 31 and 34 which is incorrect and contrary to the facts and record which showed that these cases were also submitted after inordinate delay and time barred by the department as evident from letters (**Annex: P1 to P5**).
- K. That no proper and regular inquiry has been conducted by the inquiry committee though the matter in question is pertaining to factual controversies which could not be resolved without cogent evidence which is not available in this case. Moreover, the inquiry committee has not taken bother to record the statement or seek the views of the then Advocate On Record who was also the responsible authority being his boss.
- L. That the impugned dismissal order was passed at the back of appellant and condemn unheard neither his statement was recorded nor provided any opportunity of cross examination. Therefore, the impugned order is illegal, without lawful authority being violative of principle of natural justice.
- M. That the impugned punishment of dismissal awarded to appellant is excessive, harsh, unjust and unfair not commensurate with the alleged fault if any.
- N. That the impugned order has been passed in arbitrary manner without affording an opportunity of personal hearing. Moreover, the Respondent No.2 has ignored the recommendations of the inquiry officer made in earlier inquiry without cogent reason and legal justification.
- O. That Respondent No.1 has malafidely and unnecessarily kept the departmental appeal of appellant without any action within statutory period of ninety days which is unlawful and unfair.
- P. That the post of Data Processing Supervisor (BPS-14) is to be filled in by initial recruitment as per rules on subject and falls in the purview of Khyber Pakhtunkhwa Public Service Commission Peshawar against which appellant was but when this post fallen vacant on eve of dismissal

appellant; the Respondent No.2 malafidely issued an office order dated 10.06.2014 (**Annex: Q**) thereby one Mr. Ahmad Khan, Computer Operator (BPS-12) was promoted to the said post with immediate effect which is illegal and not sustainable being violative of rules of recruitment.

It is therefore humbly prayed that on acceptance of this service appeal the impugned order dated 30.04.2014 thereby appellant was dismissed from service with immediate effect may kindly be set aside and appellant may graciously be reinstated into service with all back benefits.

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

Through

Appellant

Khush Dil Khan,
Advocate,
Supreme Court of Pakistan


Dated: 24 / 09/ 2014


16.02.2018

Learned counsel for the appellant present. Mr. Muhammad Jan, DDA for the respondents present. Vide separate judgment of today of this Tribunal placed on file, this Tribunal is of the view of that the impugned punishment is excessive/harsh. Resultantly for the purpose of safe administration of justice the impugned punishment is converted to minor penalty of censure. The intervening period shall be treated as leave of the kind due. The present service appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

16.02.2018



(Muhammad Hamid Mughal)
Member


(Gul Zeb Khan)
Member

17.11.2017

Counsel for the appellant and Addl. AG alongwith Muhammad Khursheed Superintendents for the respondents present. Learned Addl. AG Seeks adjournment for the reason that they want to compare certain documents with the original in order to verify the genuineness of the documents relied upon by the appellant. To come up for arguments on 20.12.2017 before the D.B.

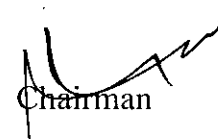

Member


Chairman

20.12.2017

Counsel for the appellant and Mr. Muhammad Riaz Painsa Khel, Asstt. AG alongwith Muhammad Arshad Khan, Admn Officer for the respondents present. Learned AAG seeks further adjournment. Last opportunity granted with the direction to positively argue the case on the next date. In case the respondents fail to compare the documents then the arguments shall be heard on the basis of available record. To come up for arguments on 08.02.2018 before the D.B.



Member


Chairman

08.02.2018


Counsel for the appellant present. Mr. Muhammad Jan, DDA for the respondents present. Arguments heard. To come up for order on 16.02.2018 before D.B.


(Gul Zohra Khan)
Member


(Muhammad Hamid Mughal)
Member

08.03.2017

Appellant with counsel and Mr. Usman Ghani, Sr. GP for respondents present. Learned Sr. GP requested for adjournment. To come up for arguments on 16.05.2017 before D.B.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

16.05.2017


Counsel for the appellant and Mr. Khurshid Khan, Supdt alongwith Mr. Kabir Ullah Khattak, Assistant AG for the respondent present. Counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 17.07.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

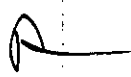
17.07.2017

Counsel for the appellant present. Mr. Muhammad Shoab, Junior Clerk alongwith Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. The Learned Executive Member Mr. Gul Zeb Khan is away for interviews in the office of Khyber Pakhtunkhwa Public Service commission therefore, due to incomplete bench the case is adjourned for arguments to 17.11.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member

28.04.2016


Agent of counsel for the appellant and Mr. Muhammad Arshed, Admin Officer alongwith Mr. Muhammad Adeel Butt, Addl: AG for respondents present. Due to strike of the Bar learned counsel for the appellant is not available today before the Court, therefore, case is adjourned for rejoinder and arguments to 23.9.16.


Member


Member

23.09.2016

Appellant in person and Mr. Muhammad Arshad, A.O alongwith Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to general strike of the Bar. To come up for arguments on 18.11.2016.


Member


Member

18.11.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Learned counsel or the appellant requested for adjournment. Request accepted. To come up for arguments on 8.3.17 before D.B.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

29.10.2015

Agent of counsel for the appellant and Mr. Muhammad Arshed, A.O alongwith Addl: A.G for respondents present. Written reply submitted. Cost of Rs. 200/- paid to the Reader of the Court. Since appellant and his counsel is not in attendance as such the Reader is directed to pay the same to appellant or his counsel subject to receipt. The appeal is assigned to D.B for rejoinder and final hearing for 23.2.2016.


Chairman

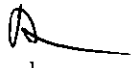
30.10.2015

Appellant in person present and submitted application for fixation of the instant appeal alongwith connected appeal No.1211/2014 which is fixed for 3.12.2015. To come for rejoinder and final hearing before D.B on 3.12.2015 instead of 23.2.2016. Parties be informed accordingly.


Chairman

03.12.2015

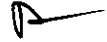
Appellant in person, M/S Muhammad Ismail, SO (lit) and Arif Khan, Stenographer alongwith Mr. Muhammad Jan, GP for respondents present. Appellant requested for adjournment due to non-availability of his counsel. To come up for rejoinder and arguments on 28.4.16.


Member


Member

07.05.2015

Appellant in person, M/S Muhammad Ismail, SO and Muhammad Arshad, Administration Officer alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for further time to submit written reply. To come up for written reply on 24.6.2015 before S.B.



MEMBER

8 24.06.2015

Appellant in person and Mr. Muhammad Arshed, Admin Officer alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 1.9.2015 before S.B.



Chairman

9 01.09.2015

Appellant in person, M/S Muhammad Ismail, SO (lit.) and Muhammad Arshad, A.O alongwith Assistant A.G for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 200/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 29.10.2015 before S.B.



Chairman

5.
09.02.2015

Appellant deposited process fee
O. S. S. S. S.

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 30.04.2014, vide which the major penalty of dismissal from service with immediate effect has been imposed upon the appellant. Against the above referred impugned order appellant filed departmental appeal on 30.05.2014 which was not responded within the statutory period of 90 days, hence the instant appeal on 26.09.2014. He further stated that no proper and regular inquiry has been conducted. No chance of personal hearing has been given to the appellant, therefore, the impugned order is illegal, without lawful authority being violative of principle of natural justice.

Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 24.03.20 before the learned Bench-III.


Member

6

24.03.2015

Appellant in person, M/S Muhammad Ismail, SO for respondent No. 1 and Muhammad Arshad, AO for respondent No. 2 alongwith Addl. A.G present. Requested for adjournment. Adjourned for submission of written reply/comments to 7.5.2015 before S.B.


Chairman

3
Reader Note:

11.12.2014

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 20.01.2015 for the same.


Reader

4
Reader Note:

21.01.2015

Since 20th January has been declared as public holiday by the provincial government, therefore, case is adjourned to 09.02.2015 for the same.


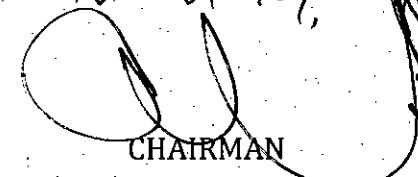

Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1212 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02/10/2014	<p>The appeal of Mr. Sher Khan resubmitted today by Mr. Khush Dil Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	14-10-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on 11-12-2014</p> <p style="text-align: right;"> CHAIRMAN</p>


The appeal of Mr. Sher Khan Ex-Data Processing Supervisor of the Advocate General Peshawar received today i.e. on 26.09.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1425 /S.T,

Dt. 26/9 /2014.

Mr. Khushdil Khan Adv. Pesh.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Resubmitted
the needful done
2/10/2014

*Khush Dil Khan Advocate
Supreme Court of Pakistan
Ex Deputy Speaker, Provincial
Assembly K.P
Office: 9-B, Haroon Menson
Khyber Bazar Peshawar Ph: 2213445*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1212/2014

Sher Khan..... Appellant

Versus

The Secretary Govt. of KP & others..... Respondents

INDEX

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3.	Copy of office order whereby appellant was posted to the office of Advocate On Record	17.05.2007	B	0-9
4.	Copy of office order whereby appellant was then transferred to Writ Petition branch of the office of Respondent No.2	23.08.2013	C	0-10
5.	Copy of inquiry report conducted by inquiry officer Mr. Waqar Ahmad Adl. Advocate General Peshawar.	26.09.2013	D	11-14
6.	Copy of show cause notice in respect of two cases titled Govt. of KP ...Vs... Rab Nawaz and others and Govt. KP ...Vs... Jandar Shah.	24.12.2013	E	0-15
7.	Copy of reply to show cause notice submitted by appellant	01.01.2014	F	16-20
8.	Copy of office order whereby Respondent No.2 appointed an inquiry committee and also served charge sheet with statement of allegations alongwith list of time barred cases.	01.01.2014	G	21-29
9.	Copy of reply furnished by the appellant in respect of charge sheet and statement of allegations	08.01.2014	H	30-35
10.	Copy of letter whereby additional charges was communicated subsequently	18.01.2014	I	36-37
11.	Copy of show cause notice with the findings of inquiry carried out by inquiry committee.	08.03.2014	J	38-42

12.	Copy of reply submitted by appellant in respect of show cause notice.		K	43-54
13.	Copy of the impugned order thereby appellant was dismissed from service with immediate effect.	30.04.2014	L	0-55
14.	Copy of the departmental appeal filed by appellant before the Respondent No.1 against the impugned dismissal order under registered post. (Receipts attached)	30.05.2014	M	56-62
15.	Copies of letters pertaining to the case titled Govt. of KP ...Vs... Rabnawaz and others	19.06.2013 23.06.2013 25.07.2013	N1-N3	63-65
16.	Copy of letters pertaining to the case titled Govt. of KP ...Vs... Jehandar Shah and others	30.04.2013 19.06.2013 20.06.2013 15.07.2013 22.07.2013 28.12.2013 12.02.2014	O1-O7	66-74
17.	Copy of the letters		P1-P5	75-79
18.	Copy of the office order thereby the post of Data Processing Supervisor was filled in by promotion of Mr. Ahmad Khan, Computer Operator (BPS-12)	10.06.2014	Q	0-80
19.	Wakalat Nama			

Through

Appellant

Khush Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 24 / 10/ 2014

Annex A - Pg

OFFICE OF THE ADVOCATE-GENERAL, N.W.F.P., PESHAWAR.

OFFICE ORDER

Consequent upon selection and recommendation of the NWFP., Public Service Commission, Mr. Sher Khan S/O Lal Mohammad, DPO/KPO, (B-11) Agency Education Officer, Khyber Agency, Jamrud, is hereby appointed as Data Processing Supervisor (B-14) against the existing vacancy on contract basis from the date of assumption of charge for a period of three (3) years in this office.

He would remain on probation for a period of one year.

The expenditure involved is debitable to the functional classification "6-00000-General Administration 6-01000-Organs of State 6-01106-Justice Law Department 6-01106-Advocate-General" and would be met out from within the sanctioned budget grant for the year 2002-03.

sd/-

ADVOCATE-GENERAL, N.W.F.P.,
PESHAWAR.

No. 3041-45 /A.G., dated Peshawar the 28 / 5 /2003.

A copy is forwarded for information and necessary action to the :-

- 01- Secretary to Govt. of NWFP, Law Department for information w/r to his letter No.E&A(LD) 2-12/03/3362, dated 27-05-2003.
- 02- Accountant-General, N.W.F.P., Peshawar.
- 03- Director Recruitment, NWFP., Public Service Commission w/r to his letter No.9883, dated 14-05-2003.
- 04- Agency Education Officer, Khyber Agency, Jamrud. He is requested to relieve Mr. Sher Khan, DPO / KPO (B-11) of his duties as soon as possible enabling him to join his new assignment. His service record may also be supplied to this office.
- 05- Mr. Sher Khan, DPO/KPO, office of the Agency Education Officer, Khyber Agency, Jamrud.

ATTN

[Signature]
ADVOCATE-GENERAL, N.W.F.P.,
PESHAWAR. *Agri*

OFFICE OF THE ADVOCATE GENERAL, NWFP, PESHAWAR.

Annex B
P.9

OFFICE ORDER

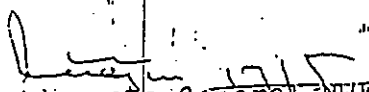
As opinion work load is heavy on the learned Advocate on Record and he is to be provided with a senior Computer skilled official, therefore, Mr. Sher Khan, DPS shall perform his duties with learned A.O.R. and Mr. Manzoor Hussain, KPO/Computer Operator shall work in the office of the undersigned. The two officials are directed to perform duties on the aforesaid seats forthwith.

Advocate-General, NWFP,
Peshawar.

No. _____ /AG., dated Peshawar, the 17.05 /2007.

Copy to:-

- 1- The A.O.R. of this office.
- 2- Mr. Sher Khan, DPS.
- 3- Mr. Manzoor Hussain, KPO/
Computer Operator.


Advocate-General, NWFP,
Peshawar.

ATTESTED

Better Copy

Annex B / *Ag*

OFFICE OF THE ADVOCATE GENERAL, NWFP, PESHAWAR

OFFICE ORDER

As opinion work load is heavy on the learned Advocate on Record and he is to be provided with a senior Computer skilled official, therefore, Mr. Sher Khan, DPS shall perform his duties with learned A.O.R. and Mr. Mansoor Hussain, KPO/Computer Operator shall work in the office of the undersigned. The two officials are directed to perform duties on the aforesaid seats forthwith.

**Advocate General NWFP,
Peshawar**

No. _____ AG,

dated Peshawar, the 17.05.2007

Copy to :-

- 1- The A.O.R. of this office.
- 2- Mr. Sher Khan, Data Processing Supervisor.
- 3- Mr. Mansoor Hussain, KPO/ Computer Operator

Sd/-
**Advocate General NWFP,
Peshawar**

ATTESTED

OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA,
PESHAWAR

OFFICE ORDER

Annex-C B
P-10

The following postings/transfers are hereby ordered with immediate effect till further orders in the public interest.

S. No	NAME AND DESIGNATION	ATTACHED WITH
1.	Mr. Mohammad Shafi, S.S.Steno	Mr. Wiqar Ahmed Khan, Addl. Advocate General ---do--- ---do---
2.	Mr. Asif Sikander, Driver	
3.	Mr. Azeem Khan, Naib Qasid	
4.	Mr. Abdul Azeem, S.S. Steno	Syed Qaisar Ali Shah, Additional Advocate General ---do--- ---do---
5.	Mr. Mir Alam, Driver	
6.	Mr. Usman Ali, Naib Qasid	
7.	Mr. Rehman Gul, S.S. Steno	Mr. Naveed Akhtar, Additional Advocate General ---do--- ---do---
8.	Mr. Musa Khan, Driver	
9.	Mr. Wali Khan, Naib Qasid	
10.	Mr. Imran Khan, S.S. Steno	Mr. Rab Nawaz Khan, Additional Advocate General ---do--- ---do---
11.	Mr. Rooh-ul-Amin, Driver	
12.	Mr. Ibrahim Khan, Naib Qasid	
13.	Mr. Muhammad Aakif Sofi, Jr. S. Steno	Mr. Arshad Ahmad Khan, Deputy Advocate General ---do---
14.	Mr. Abdul Rehman, Naib Qasid	
15.	Mr. Marjan Ali, S.S. Steno	M. Riaz Pinda Khel, Deputy Advocate General ---do---
16.	Mr. Yaqoob Khan, Naib Qasid	
17.	Mr. Muhammad Arif, Jr. S. Steno	Mohammad Sohail, Deputy Advocate General ---do---
18.	Mr. Wilayat Khan, Naib Qasid	
19.	Mr. Yasir Mohammad, Computer Operator	Advocate-on-Record
20.	Mr. Sher Khan, D.P.S.	Writ Petition Branch
21.	Mr. Kiramat Khan, Naib Qasid. Mr. Bilal Ahmad, Naib Qasid. Mr. Haleem Khan, Naib Qasid. Mr. Yousaf Ali Khan, Naib Qasid.	Attached with Superintendent.

[Signature]
ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Endst: 11636 /AG

Dated Peshawar, the 23-8 /2013

Copy to the dispatcher with the direction to circulate it among all the officials concerned for their information.

ATTACHED

[Signature]
ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA, PESHAWAR



OFFICE OF ADDL: ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

Dated 26 / 9 / 2013.
Address: High Court Building, Peshawar.
Tel. No. 091-9211013

Exchange No 9213833
Fax No. 091-9210270

Annex-D

12.11

The Advocate-General,
Khyber Pakhtunkhwa,
Peshawar.

Subject:- ENQUIRY REPORT.

Dear Sir,

Please refer to subject noted above.

Enclosed please find herewith a self explanatory enquiry report alongwith enclosures, pertaining to the matter of time barred cases lying in the office of learned AOR, for kind perusal and necessary action.

ATTACHED

(WIKAR ALI MIED) 26/9/2013
Addl: Advocate-General/Enquiry Officer,
Khyber Pakhtunkhwa, Peshawar.

Subject:- ENQUIRY REPORT.

In pursuance to letter dated 10.9.203 received by the learned Advocate-General, Khyber Pakhtunkhwa, Peshawar from the learned Advocate-on-Record in this office, the undersigned was tasked for holding enquiry in the matter of time barred cases lying in the office of the learned A.O.R. for drafting and filing before the August Supreme Court of Pakistan. During the proceedings of enquiry statements of Mr. Sher Khan, Data Processing Supervisor and Mr. Muhammad Tufail, Junior Clerk presently posted in the office of learned A.O.R. were perused and requisite information regarding these cases were obtained from the office of learned A.O.R. through the above named two officials and the said information was shown in the form of proforma annexed with this enquiry as Annexure "A". Besides the reasons for condonation of delay mentioned in various applications which were available in some cases were also obtained and placed on file. The record of the cases was also perused. Mr. Khurshid Kundi, Superintendent Judicial was also associated in the enquiry with whom the matter was discussed. The undersigned reached to the following conclusion.

FINDINGS

- A) As is evident from the annexed proforma Annex: "A" almost all the appeals were time barred when the requisite sanction was received in the office of learned A.O.R. It is important to be mentioned here that during the proceedings of enquiry the undersigned found that when the sanction was granted by the Scrutiny Committee after that one page letter is sent to this office without any record of the case. Then normally the departments are supposed to provide the record of the case as well as Power of Attorney/Wakalat Nama, in which the department consume considerable time. Thus not only the sanction is normally conveyed to the office of the learned A.O.R. late but procuring of record and Wakalat Nama further makes the appeal delayed and badly time barred.
- B) That it was also found that in the office of learned A.O.R. the appeals have been lying for considerable period of time i.e. for months; the said delay was tried to be explained by the concerned official to the undersigned but the said

ATTESTED

time in the office of learned A.O.R. in cases of some of the appeals he replied that for some time the erstwhile learned A.O.R. had gone for performing Umra while in other days he remained ill. The undersigned cannot comment upon the delay caused in filing of the cases in the Supreme Court due to absence of erstwhile A.O.R. nor would it be appropriate that the reasons or the genuineness of absence of learned former A.O.R. is commented upon because he has not been heard by the undersigned. But one thing is clear that the cases under consideration were received in the office of learned A.O.R. for filing, when they were time barred and it is also clear that same remained in the office of learned A.O.R. for un-reasonably long time and the same could not be filed in August Supreme Court of Pakistan.

SUGGESTIONS

During the course of enquiry the undersigned also pondered over the prevalent procedure of filing of cases before the August Supreme Court and the formalities which has to be undergone before filing of the appeals, and came to the conclusion that unless the present mechanism is changed cases would be getting time barred in future also. For change of procedure the following corrective measures are suggested.

- i. The learned Advocate-General should take up the matter with concerned authorities for shifting of forum of Scrutiny Committee to the office of Advocate General. The said committee should be headed by the learned Advocate-General and should be comprised of the learned A.O.R. and the Law Officer who has conducted the case in the High Court and in cases of appeals from the subordinate Courts any Law Officer nominated by learned Advocate-General and an officer nominated by the Secretary, Government of Khyber Pakhtunkhwa, Law, Parliamentary & Human Right Affairs, Peshawar.
- ii. All departments should be instructed through strict directives issued from the Honourable Chief Minister or Worthy Chief Secretary that they should not waste a single day in filing of applications for obtaining attested copies and in contacting the above mentioned committee for filing of appeal after verbal announcement of the judgment by the concerned Forum.
- iii. That while obtaining the attested copies of judgment the copies of the whole record of the case should be obtained alongwith the judgment sought to be appealed against and the same should be communicated to the Advocate-General office within twenty four hours of its receipt from the Court.
- iv. The learned Advocate-General is to obtain daily report from the learned A.O.R. or concerned Law Officer regarding all the cases pending with them for drafting showing details of last date of filing of the appeal and should personally supervise the cases pending for drafting in his office.

ATTESTED

- v. In case any departmental official fails with compliance of directives as mentioned in suggestion (ii) he should be proceeded against under E & D Rules, 2011 by the department concerned, report of which should be communicated to the office of learned Advocate-General and Worthy Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.

Enquiry Report is submitted to learned Advocate-General, Khyber Pakhtunkhwa.

Encl:

1. Statement of Muhammad Tufail, Junior Clerk.
2. Statement of Sher Khan, D.P.S.
3. Proforma.
4. Reasons for condonation of delay.

NOTE

The Enquiry Report comprises 03 pages and every page is seen and signed by the undersigned.

ATTESTED

(WIQAR AHMED)
Addl: Advocate-General/Enquiry Officer,
Khyber Pakhtunkhwa, Peshawar.

20/9/2013

(WIQAR AHMED)
Addl: Advocate-General/Enquiry Officer,
Khyber Pakhtunkhwa, Peshawar.

20/9/2013

P. 14

No. 17820 /AG

dated 24-12/2013

From: Advocate General,
Khyber Pakhtunkhwa,
Peshawar

To: Mr. Sher Khan,
DPS, Advocate General's Office,
Peshawar.

Subject: **SHOW CAUSE NOTICE**


The District Health Officer, Mardan submitted a case in this office titled "Govt: of KPK- vs-Rabnawaz" on 01.07.2013 which was entrusted to you on the same date for filing the same in the Supreme Court of Pakistan Registry Branch at Peshawar. A sum of Rs. 4500 (Four Thousands & Five Hundreds only) was also received as expenses for Court Fee and other relevant expenditures in the instant CPLA.

Similarly another case titled "Govt: of KPK-vs- Jehandar Shah" was also submitted in the Record Section on 15/07/2013 which was also given on the same day. Court Fee including other relevant charges for Rs.12000/- (Rs. Twelve Thousands) has also been received in the said case.

Both the cases have not yet been filed in the Supreme Court inspite of fulfilment of all the requirements. You have by your said act have time barred the cases and thus committed a gross misconduct within the meaning of the E&D Rules, 2011.

You are, therefore, directed to Show Cause within ten (10) days as to why a departmental action should not be initiated against you. In case of failure, you would be proceeded against under the relevant Law and Rules.

ATTENDED


Advocate General
Khyber Pakhtunkhwa
Peshawar

To

The Advocate General,
Khyber Pakhtunkhwa,
Peshawar.



Annex-F
P. 16

Subject: REPLY TO SHOW CAUSE NOTICE

Respected Sir,

Reference Show Cause Notice No. 17820/AG Dated
24-12-2013 on the subject noted above.

Brief History of the cases: 1- Govt. of KPK Vs Jehandar Shah
2- Govt. of KPK Vs Rab Nawaz

1- GOVT. OF KPK VS JEHADAR SHAH

The subject case was decided on 16/10/2012 in the Peshawar High Court Peshawar, the petitioner department i.e. DHO, Mardan forwarded the subject case for opinion to Law Department on 30-04-2013 (Attached as Annexure A) after passing 4 months 14 days and the Law Department given sanction for filing CA/CPLA 19-06-2013. This office received sanction after a week and informed the concerned department through letter dated 20-06-2013 for bring relevant Record (attested copies of all judgment and appeal before the lower Court etc) Attached as Annexure B). After passing two weeks the concerned department approached to this office and got Power of Attorney for signing on 15-07-2013 and returned after signing from the petitioners on 01-08-2013 incomplete (Attached as Annexure C). A complete power of attorney was received on 10-08-2013 with incomplete record. The petitioner department were requested so many time to follow the requirement mentioned in letter dated 20-06-2013 but they failed to bring the relevant record up till now. The subject was intentional badly time barred by DHO office not by this office, the reasons of condonation of delay is attached as Annexure D received on 02/08/2013 through Registry AD without checking by the AOR,

ATTESTED

02/08/2013 through Registry AD without checking by the AOR, without cogent and plausible reasons. As concerned the charges, I got from the petitioner department it was Rs. 6000/- (Rs. 2000 for Court fee, Rs. 300 for Registry AD, Court fee on each annexure, preparing 8 paper books from original one, photostatic charges and binding charges etc).

After passing so many months the concerned department does not supplied the relevant Record to this office for filing Civil Appeal before the Supreme Court of Pakistan up till now, in spite of bringing relevant record the concerned department approached to Learned Advocate General for complaint. In response I submitted the subject case before the Supreme Court of Pakistan for showing the actual reasons that the concerned department does not cooperate with us and after filing the subject Civil Appeal, the same objections raised which this office required in letter dated 20-06-2013 from the concerned department and they do not provide the same up till now. (Objection Memo of Supreme Court dated 28-08-2013 is attached as Annexure E) and seven days are given for doing the needful.

2- **Govt. of KPK Vs Rab Nawaz**

The subject case has been filed in Supreme Court of Pakistan having Civil Petition No.683-P/2013.

The subject case was decided on 03-04-2013 in the Peshawar High Court Peshawar, the petitioner department i.e. DHO, Mardan forwarded the subject case for opinion to Law Department and got sanction on 19-06-2013 (Attached as Annexed F) which self explanatory that the case was time barred by the petitioner department not by this office. This office received sanction after a week and informed the concerned department through letter dated 23-06-2013 for bring relevant Record (attested copies of all judgment and appeal



P. 18

before the lower Court etc) Attached as Annexure G). After passing two weeks the concerned department approached to this office and got Power of Attorney for signing on 01-07-2013 and returned after signing from the petitioners on 25/07/2013 attached as Annexure H. The subject case was time barred and the petitioner department bring the reason of condonation to this office after two weeks, a complete record along with power of attorney received on 05-08-2013. Hence the relevant record (attested copy of judgment Power of Attorney etc) are not received within time. The case was time barred on 03-06-2013. As concerned the charges, I got from the petitioner department it was Rs. 4500/- (Rs. 250 for Court fee, Rs. 1500 for Registry AD (43 respondents each Registry along with envelop is Rs. 28/ per notice , Court fee on each annexure, preparing 4 paper books from original one, photostate charges and binding charges and Better Copies Rs. 300 for urdu better copies and Rs. 200 English better copies etc).

My responsibilities while I was posted in the AOR section:-

I belong to the computer related job i.e. Data Processing Supervisor BPS-14 appointed through Public Service Commission on merit and I was wrongly deputed for filing purpose because it is duty of Assistant or Senior Cler^k etc but I accepted the challenging handed over to me in the AOR section on 17-05-2007 (order is attached as Annexure I). My duties with AOR were:-

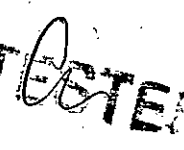
- Typing, composing, drafting given to me by AOR
- Preparing cases (CPLA, CrPLA and CA) according to the instruction given by AOR and removing objections raised by the Supreme Court of Pakistan in filed cases.
- Issuing letters to different department by the direction of AOR
- Preparing Index, paper book, notices according to the Supreme Court.

ATTESTED

- Preparing concise statement, additional documents etc given to me by the AOR and day to day compliance addressed from Supreme Court of Pakistan to the AOR section.
- Receiving documents and required charges for filing CPLA, CA and Cr.PLA in the Supreme Court from petitioners departments.

I performed my duty since 2007 to 23-08-2013 and during that period no one case has been time barred by me and no show cause has been served on me in my that period.

During the year 2013, my immediate boss Mian Shaukat Hussain proceeded to Umra on 23-01-2013 for 30 days and there was no alternative AOR for filing, due to which round about 30 cases sanctioned from law department and most of them have 10-15 days limitation. After his arrival more cases came and he directed me to prepare within time cases only and leave the time barred cases, whenever a moment spare, the said time barred cases will be filed. (Order of vacation is attached as Annexure J). On 30-03-2013 his contract is completed and he gave application for extension of time which was granted, the pendency was increasing day by day and I was directed to file within time cases. Moreover, he was weak and was unable to give time for his duty, about 2-3 hrs he spare for his job due to which only within time cases hardly can be filed. During the month of Ramazan (July 2013) he was seriously ill and gone on vacation and there was no alternative AOR for filing time barred or within time cases. After his departure a newly AOR namely Saadullah Jandoli came and pointed out all the time barred cases by making a list and sent to your good self. The total time barred were cases were 39. An Inquiry was conducted in the supervision of Addl. AG Mr. Waqar Ahmad, he thoroughly examined the cases and took my statement and found the petitioners department responsible for the delay and the inquiry report along with reasons of condonation of the departments

ATTESTED 

gave sanction regarding these cases to file these cases with delay. (Annexed as annexure K). Now I have filed 32 cases, two in objection stage and 5 remains. As there is no spare computer, I am working in the Supreme Court Branch, whereas a huge work on the said computer (issuing letters, preparing appeal stage paper books etc) but in a spare moment I completed my work.

Moreover, the newly appointed AOR is mostly busy filing fresh cases and due to huge work he cannot give full time to these pendency, and hardly one case in day can be prepared and two days take preparing paper book etc and objections if there.

I assured and depose on Oath that the above two cases along other cases were not time barred by me and an inquiry has already conducted in these cases and I found faultless.

In the light of the above detailed facts the undersigned requested that if any sort of adverse opinion/view has been formed by your good self against the undersigned I am sorry for that and I assure your good self that I will be careful in future.

It is, therefore, requested that showcause notice issued to the undersigned may kindly be withdrawn/filed without further proceedings.

ATTACHED

Yours Obediently

Sher Khan,
Data Processing Supervisor.

Annex-GT
P.21

OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR.

OFFICE ORDER

In exercise of the powers conferred upon me under Rule 10(1)(a) of the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011, I, as the Competent Authority, hereby constitute an Enquiry Committee, including the following Officers, to enquire into the allegations leveled against Mr. Sher Khan, Data Processing Supervisor (B-14) of this office regarding thirty six (36) time barred cases of various departments/offices of the Provincial Government.

1. Mian Arshad Jan, Addl: Advocate General, Peshawar.
2. Mr. Mujahid Ali Khan, Dy: Advocate General, Peshawar.

The Enquiry Committee, so constituted, shall conduct the inquiry regarding time barred cases which comes within the responsibility of the above named accused official and the matter falls within the definition of 'misconduct' and 'inefficiency' as provided in the E&D Rules, 2011.

Mr. Ayaz Khan, Assistant (Establishment) of this office is also appointed as departmental representative to assist the inquiry Committee in this regard.

Furthermore, the accused official is hereby directed to submit his written defense, if any, to the Enquiry Committee within 10 days of the receipt of this order.

The Enquiry Committee is directed to take further necessary action in accordance with law and rules and submit its report/findings in light of the provisions of the above rules.

Encl: list of 36 time barred cases.

Advocate General
Khyber Pakhtunkhwa,
Peshawar.

Endst: No. 73-77 /AG

dated Peshawar, the 1/1 2014

Copy to the:-

1. Mian Arshad Jan, Addl. Advocate General, Khyber Pakhtunkhwa, Peshawar-cum-Enquiry Officer, Peshawar.
2. Mr. Mujahid Ali Khan, Deputy Advocate General, Khyber Pakhtunkhwa, Peshawar-cum-Enquiry Officer, Peshawar.
3. Mr. Ayaz Khan, Assistant (Establishment) of this office.
4. Mr. Sher Khan, DPS of this office.
5. Personal file.

ATTACHED

Advocate General
Khyber Pakhtunkhwa,
Peshawar.



OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR.

CHARGE SHEET.

You, Mr. Sher Khan, Data Processing Supervisor (BPS-14), were posted in the Advocate-on-Record section since 17.05.2007. You are hereby charge sheeted as under in 36 time barred Govt: litigation cases, shown in the attached list.

1. *That the cases of various departments/offices of the Provincial Government, as displayed in the annexed list, have not been processed in time to be filed in the august Supreme Court of Pakistan & thus have become badly barred by time.*
2. *That the section you are posted in, needs full attention and devotion towards your official duties. However, you have proved to be inefficient and having non-serious attitude in discharging your official responsibilities.*
3. *That your negligence and inefficiency within the meaning of 3(a) (b) & (c) of the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011 have rendered the Government exchequer to suffer a lot in terms of money.*


Due to the above reasons, you appear to be guilty of misconduct and inefficiency in discharging your duties, for which you are liable to disciplinary action under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.

You are, therefore, required to submit your written defense/reply within ten (10) days of the receipt of this charge sheet & statement of allegations, as to why a departmental action should not be taken against you under the rules, as mentioned above. In case of failure, it will be presumed that you accepted the charges & have no defense.

ATTESTED

Mr. Sher Khan,
D.P.S of this office.

Endst: No _____/AG


ADVOCATE GENERAL
KHYBER PAKHTUNKHWA,
PESHAWAR.


Dated Peshawar the _____ 2013

STATEMENT OF ALLEGATIONS.

You Mr. Sher Khan, Data Processing Supervisor (BPS-14) of this office (now posted in the Writ Petition branch) have appeared to be guilty of inefficiency and having non-serious attitude within the meaning of rule 3(a) (b) & (c) of the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011 in performance of your official responsibilities for the reasons given below:-

1. That 36 cases of various departments/offices of the Provincial Government, as displayed in the annexed list, have not been processed in time to be filed in the august Supreme Court of Pakistan & thus have become badly barred by time.
2. That the section you are posted in, needs full attention and devotion towards your official duties. However, you have proved to be inefficient and having non-serious attitude in discharging your official responsibilities.
3. That your negligence and inefficiency within the meaning of 3(a) (b) & (c) of the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011 have rendered the Government exchequer to suffer a lot in terms of money.

ATTACHED


Advocate General
Khyber Pakhtunkhwa,
Peshawar

P-24

DETAILED LIST OF CASES PENDING FOR FILING CPLAS IN THE AUGUST SUPREME COURT OF PAKISTAN AGAINST THE DECISION OF PESHAWAR HIGH COURT, PESHAWAR (ABBOTTABAD, D I. KHAN, BANNU, DARUL QAZA SWAT BENCHES) AND SERVICE TRIBUNAL. ALONG WITH THE RELEVANT DETAILED OF TIME BARRED CASES.

S.No	Titled	1 DECIDED ON	2 Days extended from court being spent in obtaining copies ays	3 Last date for filing the petitions	4 Date on which sanction received	5 Power of Attorney given to the concerned department for signing or not	6 Reasons of condonation of delay given by the concerned department	7 Office responsible for the delay
02	Secy.E&SE WP SYED IBNE ALI <i>filed</i>	27-05-2013	Not known Record not supplied by the petitioner department up till now	26-08-2013	29.08.2013	Power of Attorney had been given but up till now not returned.	Not yet given	Education Department District Education Officer Kohat
03	SECY; HEALTH VS RUQAYYA BEGUM	06-03-2013	Not known Record not supplied by the petitioner department-up till now	05-05-2013	10.04.2013	Not given as the department not approached to this office uptill now.	Not given	Secretary Health and Director General Health Services
04	SECY; HOME VS M.YAHYA	17-03-2013			03.08.2013	Power of Attorney had been given but up till now not returned	Not yet given	Home and TA department, DPO, Swat
05	Secy.E&SE WP VS KHAN MUHAMMAD	19-05-2013	Not known Record not supplied by the	18-08-2013	05.09.2013	Not given as the department not approached to	-----do-----	Education Department

Handwritten signature

			petitioner department up till now			this office		
06	X SECY; HEAL VS. SHAH FAISAL	20-07-2012	Not known Record not supplied by the petitioner department up till now	19-09-2013	09.02.2013	Not given as the department not approached to this office up till now.	---do---	Health department
07	✓ Secy: E&SE (EDU) VS. MUDASIR SHAH	19-04-2013	Not known Record not supplied by the petitioner department up till now	18-06-2013	13.05.2013	Power of Attorney had been given but up till now not returned	----do----	Education department
08	✗ Secy: HOME-VS-M.IQBAL	06-12-2012	Not known Record not supplied by the petitioner department up till now	05-01-2013		Not given up till now	Given and department requested for not filing Review Petition	Home and TA Department
09	X Secy: IND-VS-ADIL INTER	29-05-2013		28-06-2013	13.07.2013	---as above	Not yet	Industries Department
10	✓ Secy: REV; ESTATE-VS-RAB NAWAZ	03-04-2013	13-04-2013	02-06-2013	20-06-2013		Reason of condonation of delay has been given by the petitioner department	Secretary Health Department, EDO Health, Mardan
11	X Secy: E&SE-VS-M. IAHIR	27-05-2013		26-07-2013			Reason of condonation of delay has been given by the petitioner	Education Department, EDO, Swat

AM

12	✓ Secy:REV,ESTATE-VS JAHNOAD KHAN <i>Incomplete</i>	16-10-2012	15-12-2012	20.05.2013	Reason of condonation of delay has been given by the petitioner department	Secretary Health Department, EDO Health, Mardan
13	Secy:EDUCATION-VS LAIO SHAH <i>Condonation of delay</i>	10-12-2012	09-02-2013	13.05.2013	Reasons of condonation of delay not yet given	Education Department, Peshawar EDO Health Peshawar
14	✓ AKHTAR MUNAIR-VS-CHIEF SECY:	04-01-2013	03-03-2013	13.03.2013	Reason of condonation of delay has been given by the petitioner department	Local Govt. Department, Peshawar
15	✗ Secy:LG&RD-VS-WISAL MUHAMMAD	31-10-2012	30-12-2012	08.01.2013	Reason of condonation of delay has been given by the petitioner department	Local Govt. Department, Peshawar
16	✓ SYED JAFAR SHAH-VS-SECY LG&RD	20-02-2013	19-04-2013	10.04.2013	Reason of condonation of delay has been given by the petitioner department	Local Govt. Department, Peshawar
17	✓ SIKANDAR IQBAL-VS-LG &RD	05-03-2013	04-05-2013	23.05.2013	Reason of condonation of delay has been given by the	Local Govt. Department, Peshawar

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18	✓ Secy:C&W-VS-SARDAR MURAD	23-04-2013	22-06-2013	27.06.2013	petitioner department Reason of condonation of delay has been given by the petitioner department	C&W Department, Peshawar
19	✓ GOVT,-VS-AHMAD ZAREEN	06-05-2013	05-07-2013	04.07.2013	Reason of condonation of delay has been given by the petitioner department	C&W Department, Peshawar
20	✓ Secy:C&W-VS-NIAZ AHMAD	24-04-2013	23-06-2013	05.06.2013	Reason of condonation of delay has been given by the petitioner department	C&W Department, Peshawar
21	✓ SECY; AUQAF-VS-FED OF PAKISTAN			13.05.2013	Constitution Petition	Auqaf Department
22	✓ Secy:E&SE-VS-KHILAFAT JAN	24-04-2013	23-06-2013	27.06.2013	Reason of condonation of delay has been given by the petitioner department	Education Department, EDO, Nowshera
23	✓ Secy:E&SE-VS-FOZIA BIBI	28-05-2013	27-07-2013	25.07.2013	Reason of condonation of delay has been given by the	Education Department, EDO, Swat

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26	✓ Secy:HOME-VS-MUSHTAQ AHMAD	27-12-2012		26-02-2013	07.03.2013	petitioner department Reason of condonation of delay has been given by the petitioner department	Home and TAs Department, Peshawar
28	✓ GOVT,-VS-FAIZ ULLAH KHAN	24-01-2013		23-03-2013	03.04.2013	Reason of condonation of delay has not been given by the petitioner department	Revenue & Estate Department, Peshawar
29	✗ C&W-VS-M.JAMEEL KHAN	17-06-2013	Record not supplied by the petitioner department	16-08-2013	25.07.2013	Reason of condonation of delay has not been given by the petitioner department	C&W Department, Peshawar
30	✓ Secy:HOME-VS-HASAN KHAN	12-09-2012		11-11-2012	03.04.2013	Reason of condonation of delay has been given by the petitioner department	Home & TA Department, Peshawar
31	✓ Secy:MINES-VS-FRONTIER CHEMICAL	02-07-2013		01-09-2013	24.08.2013	Reason of condonation of delay has not been given by the petitioner department	Mines and Mineral Department, Peshawar
32	✓ Secy:C&W-VS-JAMSHED ALI	17-06-2013		16-08-2013	24.08.2013	Reason of condonation of	C&W Department,

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						delay has been given by the petitioner department	Peshawar
33 ✓	Secy:C&W-VS-FAZLE WAHID	26-06-2013		25-08-2013	05.09.2013	Reason of condonation of delay has been given by the petitioner department	C&W Department, Peshawar
35 ✓	Secy:E&SE-VS-AMIR RASHEED	18-04-2013		17-06-2013	13.07.2013	Reason of condonation of delay has been given by the petitioner department	Education Department, Peshawar
36 ✓	Secy:FINANCE-VS-DR NAWAZ	16-05-2013		15-07-2013	15.08.2013	Reason of condonation of delay has been given by the petitioner department	Health Department, Peshawar

Note: All the below cases are barred by the petitioners department and none of the above cases are barred by time by this office. Moreover, the petitioner departments are directed by the Law Department at the time meeting and after getting minutes to approach to the Advocate General office but in spite of that this office mostly sent a letter for information and necessary action for the concerned departments.

ATTC

Annex = H'

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To

The Inquiry Committee

Subject: written defense

Respected Sir,

Reference office order No.73-77 dated 1-1-2014.

With utmost request I submitted my written defense regarding the office order above dated.

A show cause notice was given to me on 24-12-2012 regarding below titled cases:-

- 1- Govt. of KPK Vs Jehandar Shah
- 2- Govt. of KPK Vs Rab Nawaz (Annexed as annexure A)

A 10 days time have given to me for reply of the show cause notice, I gathered all the record regarding these cases and prepared a detailed reply and I was astonished to see that before my submission of reply of the said show cause an office order dated 01-01-2014 was passed. I was totally unheard and without seen my written reply of show cause notice, a statement of allegation, charge sheet have given to me which is un justice, the competent authority should seen my show cause reply, then pass such order if I found guilty. (Reply of Show cause notice along with annexure is attached). A show cause notice is totally different from the office order dated 24-12-2012. I submitted my reply along with personal hearing application on 01-01-2014 at 10:00 am while office order I received on same date ate 9:00 am. (Annexed as Annexure B& C).

ATTN

The allegations leveled against me are incorrect and my written reply are as under:-

36 cases of various departments of provincial Govt. have been processed in time by issuing letter, power of attorney etc by me and the said cases came to this office time barred, an inquiry regarding these cases have already conducted on 26-09-2013 (Annexed as Annexure D) and I was found faultless. It was the duty of the previous AOR that he prepared the said cases after drafting CPLA and then submitted to Supreme Court, if after his drafting I would not filed the said cases, then previous AOR should compliant against me to the Ld Advocate General but nothing such on record. The then AOR have filed 118 CPLAs/CA within time in the year 2013 up to August 2013. If he was not interested and leave the time barred cases unfiled, why the punishment has given to me? The then AOR was aged, ill person and was unable to give 2 or 3 hrs time to Govt. cases due to which these cases are left from filing. For filing of CPLAs or CA signing of petition, affidavits and stay application and appearing in the Supreme Court is mandatory which I cannot do.

My responsibilities while I was posted in the AOR section:-

I belong to the computer related job i.e. Data Processing Supervisor BPS-14 appointed through Public Service Commission on merit and I was wrongly deputed for filing purpose because it is duty of Assistant or Senior Clerk etc but I accepted the challenging handed over to me in the AOR section on 17-05-2007 (order is attached as Annexure F). My duties with AOR were:-

- Typing, composing, drafting according the instruction of AOR.
- Preparing cases (CPLA, CrPLA and CA) according to the instruction given by AOR and removing objections raised by the Supreme Court of Pakistan in filed cases.
- Issuing letters to different department by the direction of AOR.

ATTIESTED

- P-32
- Preparing Index, paper book, notices according to the Supreme Court Rules.
 - Receiving documents and required charges for filing CPLA, CA and Cr.PLA in the Supreme Court from petitioners departments.

I performed my duty since 2007 to 23-08-2013 and during that period no one case has been time barred by me and no show cause has been served on me in my that period.

During the year 2013, my immediate boss Mian Shaukat Hussain, the then AOR proceeded to Umra on 23-01-2013 for 30 days and there was no substitute AOR was appointed for filing CPLAs or CAs etc, due to which round about 30 cases sanctioned from law department and most of them have 10-15 days limitation. After his arrival more cases came and he directed me to prepare within time cases only and leave the time barred cases, whenever a moment spare, the said time barred cases will be filed. (Order of vacation is attached as Annexure G). On 30-03-2013 his contract is completed and he gave application for extension of time which was granted, the pendency was increasing day by day and I was directed to file within time cases. Moreover, he was weak and was unable to give time for his duty, about 2-3 hrs he spare for his job due to which only within time cases hardly can be filed. During the month of Ramazan (July 2013) he was seriously ill and he was on leave and there was no substituted AOR for filing time barred or within time cases. After his departure a newly AOR namely Saadullah Jandoli came and pointed out all the time barred cases by making a list and sent to Advocate General. The total time barred were cases were 36. An Inquiry was conducted in the supervision of Addl. AG Mr. Waqar Ahmad, he thoroughly examined the cases and took my statement and found the petitioners department responsible for the delay and the inquiry report along with reasons of condonation of the departments were sent to the Law Department. in response the law

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department sent gave sanction regarding these cases to file these cases with delay. (Annexed as annexure H). *The facts of circumstances explain above clearly established that the delay in filing the cases are due to the lack of interest Ex-AOR Mian Shaukat Hussain but being subordinate have been held responsible for the act of Ex-AOR.*

Now I have filed 32 cases, two in objection stage and 4 remains which are not entertain able. As there is no spare computer, I am working in the Supreme Court Branch, whereas a huge work on the said computer (issuing letters, preparing appeal stage paper books etc) but in a spare moment I completed my work. Moreover, 8-9 hrs Electricity short fall daily. Moreover, I am/was alone for filing CPLA or CA and there is no junior clerk, senior clerk and Assistant, like present AOR office as there are three officials (one computer operator, senior Clerk and one stenographer) work for the same work.

Moreover, the newly appointed AOR is mostly busy filing fresh cases and due to huge work he cannot give time to these pendency, and hardly one case in day can be prepared and two days take preparing paper book etc and objections if there:

For filing CPLA in Service matter take 2-3 days (1st drafting petition, checking and 2nd day index, notice and given to bidding paper books) while in Civil matter take 5 days if objections from the supreme Court could not raised. The said cases are greatly suffered from deficiency and mostly objectionable and the said objection cannot remove in week. (example annexure I) In this calculation 160 days are required for filing these cases, which I have completed in 60 days after getting the sanctioned from Law Department dated 01-11-2013.

ATTES

department sent gave sanction regarding these cases to file these cases with delay. (Annexed as annexure H). *The facts of circumstances explain above clearly established that the delay in filing the cases are due to the lack of interest Ex-AOR Mian Shaukat Hussain but being subordinate have been held responsible for the act of Ex-AOR.*

Now I have filed 32 cases, two in objection stage and 4 remains which are not entertain able. As there is no spare computer, I am working in the Supreme Court Branch, whereas a huge work on the said computer (issuing letters, preparing appeal stage paper books etc) but in a spare moment I completed my work. Moreover, 8-9 hrs Electricity short fall daily. Moreover, I am/was alone for filing CPLA or CA and there is no junior clerk, senior clerk and Assistant, like present AOR office as there are three officials (one computer operator, senior Clerk and one stenographer) work for the same work.

Moreover, the newly appointed AOR is mostly busy filing fresh cases and due to huge work he cannot give time to these pendency, and hardly one case in day can be prepared and two days take preparing paper book etc and objections if there.

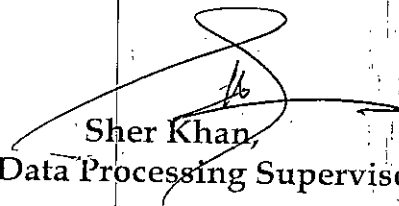
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ATTORNEY

In the light of the above detailed facts the undersigned requested that if any sort of adverse opinion/view has been formed by your good self against the undersigned I am sorry for that and I assure your good self that I will be careful in future.

It is, therefore, requested that inquiry against me may kindly be withdrawn/filed without further proceedings.

Yours Obediently


Sher Khan,
Data Processing Supervisor.

Dated 08/01/2014

ATTACHED

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Annex: 1
P36

OFFICE OF ADVOCATE GENERAL, KHYBER PAKHTUNKHWA,
PESHAWAR

No. 1077 /AG

dated 18/11 /2014

Address: High Court Building, Peshawar.
Tel. No. 091-9210119

Exchange No 091-9213833
Fax No. 091-9210270

Mr. Sher Khan
DPS
Advocate-General's Office
Peshawar

Subject: Enquiry proceedings

As you know that enquiry proceedings in respect of 36 time barred cases of various departments / Offices of the Provincial Government has been initiated against you vide office order No. 73-77/AG, dated 01/01/2014 and statement of allegations and charge sheet have also been served upon you.

On 20-12-2012 the District Health Officer Mardan sent a complaint against you regarding two cases titled as Govt. of KPK Vs. Rabnawaz and Government of KPK Vs. Jehandar Shah, which are not filed / submitted before the Supreme Court of Pakistan. On 24-12-2013 a Show cause notice was also served upon you. Your reply to show cause notice dated 01-01-2014 was found unsatisfactory by the competent authority.

As above referred two cases are also included in the list of 36 time barred cases and the inquiry in the matter is pending to probe the matter, However, due to new development, you are communicated by this order, a new charge which is read as part and parcel of charges and statement of allegation already served upon you and may be added as at serial No. 4 of Charge Sheet and Statement of allegations, that is:

4. The District Health officer, Mardan submitted a case in this office titled as "Govt. of KPK VS. Rabnawaz" on 01-07-2013 which was entrusted to you on the same date for filing the same in the Supreme Court of Pakistan Registry Branch at Peshawar. A sum of Rs. 4500 (Four thousand & five hundred only) was also received by you as expenses for Court fee and other relevant expenditures in the instant CPLs. Similarly another case titled as "Govt. of KPK Vs Jehandar Shah" was also submitted in the Record section on 15-07-2013, which was also given on the same day. Court Fee including other relevant charges for Rs. 12000/- (Rs. Twelve thousand) has also been received in the said case. Both the cases have not yet been filed in the Supreme Court inspite of fulfillment of all the requirements. You have by your said act have time barred the cases and thus committed a gross misconduct with the meaning of E& D Rules, 2011.



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You are, therefore, required to submit your written defence, in respect of above referred charge, within 7 days of receipt of this letter, to the Enquiry Committee.




Advocate General
Khyber Pakhtunkhwa, Peshawar

No. 1078-81/A.G.

A copy is forwarded for information and necessary action to:-

1. Mian Arshad Jan, Additional Advocate-General /Inquiry Officer, Khyber Pakhtunkhwa, Peshawar.
2. Mr Mujahid Ali Khan, Deputy Advocate-General /Inquiry Officer, Khyber Pakhtunkhwa, Peshawar.
3. Mr. Ayaz Khan, Assistant (Establishment) of this office
4. Relevant files.

ATTESTED


Advocate General
Khyber Pakhtunkhwa, Peshawar

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**OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA,
PESHAWAR.**

No. 4775 /AG

dated Peshawar, the 8-3- /2014

SHOW CAUSE NOTICE

I, Abdul Latif Yousafzai, Advocate General, Khyber Pakhtunkhwa, Peshawar as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Sher Khan, Data Processing Supervisor of this office, as follows:

1. (i) That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing on 01-02-2014; and
- (ii) On going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee,-

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

- (a) That the cases of various departments/offices of the Provincial Government, as displayed in the annexed list, have not been processed in time to be filed in the august Supreme Court of Pakistan & thus have become badly barred by time.
- (b) That the section you are posted in, needs full attention and devotion towards your official duties. However, you have proved to be inefficient and having non-serious attitude in discharging your official responsibilities.
- (c) That your negligence and inefficiency within the meaning of 3 (a) (b) & (c) of the Khyber Pakhtunkhwa Govt: Servants (E&A) Rules, 2011 have rendered the Government exchequer to suffer a lot in terms of money.
- (d) The District Health officer, Mardan submitted a case in this office titled as "Govt: of KPK Vs Rabnawaz" on 01-07-2013 which was entrusted to you on the same date for filing the same in the Supreme Court of Pakistan Registry Branch at Peshawar. A sum of Rs. 4500/- (Four thousand and five hundred only) was also received by you as expenses for Court fee and other relevant expenditures in the instant CPLS. Similarly another case titled as "Govt: of KPK Vs Jehandar Shah" was also submitted in the Record section on 15-07-2013 which was also given on the same day. Court Fee including other relevant charges for Rs. 12000/- (Twelve thousand) has also been received in the said case. Both the cases have not yet been filed in the Supreme Court inspite of fulfillment of all the requirements. You have by your said act have time barred the cases and thus committed a gross misconduct with the meaning of E&D Rules, 2011.


(Handwritten signature)

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the **major penalty of dismissal from service** under rule 4 of the said rules.

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

4. If no reply to this notice is received within seven days or not more than fifteen 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 committee is enclosed.


ADVOCATE GENERAL,
Khyber Pakhtunkhwa,
Peshawar.

Mr. Sher Khan,
D.P.S of this office.


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INQUIRY REPORT:

The undersigned Committee has been constituted by the Competent Authority and was assigned with the duties to conduct an impartial departmental inquiry against Mr. Sher Khan, Data Processing Supervisor, Supreme Court Branch (Advocate-General office, Peshawar).

The task given to the Committee was to ascertain the factum of 36 time barred cases and as to why the delay has occasioned from the office of said accused/employee who was also responsible for submitting before the Advocate-on-Record for necessary completion, drafting, preparation etc and then to file before the August Supreme Court of Pakistan.

The Inquiry Committee has also been associated with by Mr. Ayaz Khan, Assistant Establishment who had facilitated the Committee pertaining to the subject case.

BRIEF FACTS:

This Inquiry Committee, during course of proceedings has recorded the statement of one Mr. Muhammad Tufail, Junior Clerk, Advocate-General office, Peshawar who disclosed in his statement that his job is to receive case files, to make its entry into relevant register and submit before the office of Advocate-on-Record i.e. Sher Khan, DPS. He also produced the copies of the relevant register consisting of 25 sheets which are Exp "A". He also produced the detail list of subject mentioned cases which are Exp "B" consisting of 2 sheets

It is worth mentioning that during pendency of inquiry this Committee has received a complaint Exp "C" which was produced by office through Mr. Ayaz Khan, Assistant (Establishment) regarding cases titled at serial No. 10 and 12 in the office and the same is Exp "PB" against Sher Khan. The notice of the same in shape of letter No. 1077 was given to him who submitted a detail reply of the same, which is also placed on file.

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It is also worth mentioning that on dated 24.12.2013, Sher Khan has been served with the Show Cause notice by the Competent Authority, who also submitted detail reply of the same accordingly. The Learned Advocate-on-Record office was also approached by the Committee who verbally informed the undersigned that the matter pertain to the then Advocate-on-Record Mian Shoukat Hussain, that is why his statement was not recorded.

CONCLUSION/FINDINGS:

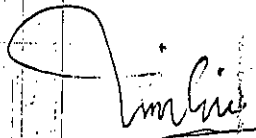
After perusal of the available record and the statement of the above mentioned persons and having a bird eye view of the statement and detail reply of Sher Khan, this fact is established that majority of the cases have been received time barred from the concerned quarters with the exception of few i.e. Serial No.4,20,31, and 34 which subsequently filed before the August Supreme Court of Pakistan. The cases at Sr. No.4,20,31 and 34 got time barred while lying with Sher Khan

So far the complaint received during the pendency of inquiry from the concerned departments is concerned the same appears to be an attempt on part of the concerned departments for saving its skin but at the same time the accused official namely Sher Khan has also contributed to a larger extent in making the already time barred cases badly time barred. In the above mentioned case as well as in other cases which had been received in this office time barred but the same remain in the custody of the accused official Sher Khan for months. A case which is time barred condonation happens to be a possibility as delay of few days may be explained but when the cases become time barred by weeks and months then the said possibility is obviated and something which was earlier difficult is made impossible. The role of the accused official named above is of the same nature where he has been sleeping on files and not letting anybody know as to what has been happening and thus converting a difficult job into an impossible task. So much so that in some of the cases he had received the files as well as money for necessary expenses for making paper books etc, from the departments but even then failed to ensure filing of the cases in a reasonable time. The accused official main defense is that he kept on reminding the then Learned Advocate-on-Record namely Mian Shoukat Hussain but he had not been drafting the cases in time. Had it been the case then he should have brought the said fact in notice of the then Learned Advocate-General. The accused official could neither produce letter, summary or note put to the Advocate-General nor has he verbally

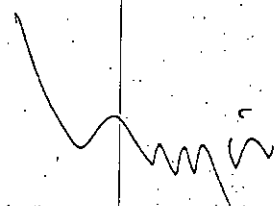
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claimed that he has ever brought the matter into the notice of the then Advocate-General. A large number of cases that can be found in the list of time barred cases are having the issues of land acquisition by the Government as their subject matter. In other cases also substantive stacks of the Provincial Government is involved. In such a situation the above described conduct of the accused official namely Sher Khan not only depicts inefficiency but smell of foul play also arises from the whole transaction. The accused official is thus found to be inefficient and is held guilty of mis-conduct.

We thus hold that the charges against the accused stands proved and established on record and he is found to be guilty of inefficiency and mis-conduct. Inquiry report consisting of three pages is submitted to the learned Advocate-General, Khyber Pakhtunkhwa.



(MUJAHID ALI KHAN)
Deputy Advocate-General/
Member Inquiry Committee,
Khyber Pakhtunkhwa,
Peshawar.



(MIAN ARSHAD JAN)
Additional Advocate-General/
Chairman Inquiry Committee,
Khyber Pakhtunkhwa,
Peshawar.

ATTESTED

To

The Advocate General,
Khyber Pakhtunkhwa,
Peshawar.

Subject: REPLY TO SHOW CAUSE NOTICE

Respected Sir,

Reference Show Cause Notice No. 4775/AG Dated
08-03-2014 on the subject noted above.

Before replying the above mentioned show cause
notice, it is very important to bring in your knowledge sir that the
then AOR Mian Shaukat Hussain did not give any dictation/draft for
typing to his PA/Stenographer in any case mentioned in the show
cause notice on the score above, hence instant proceedings against
me is not maintainable.

REPLY OF SHOW CAUSE NOTICE OF PARA NO. D

Brief History of the cases: 1- Govt. of KPK Vs Jehandar Shah
2- Govt. of KPK Vs Rab Nawaz

A) GOVT. OF KPK VS JEHANDAR SHAH

The subject case was decided on 16/10/2012 in the Peshawar
High Court Peshawar, the petitioner department i.e. DHO,

Annex. K
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Mardan forwarded the subject case for opinion to Law Department on 30-04-2013 (Attached as Annexure A) after passing 4 months. 14 days and the Law Department given sanction for filing CA/CPLA 19-06-2013. This office received sanction after a week and informed the concerned department through letter dated 20-06-2013 for bring relevant Record (attested copies of all judgment and appeal before the lower Court etc) Attached as Annexure B). After passing two weeks the concerned department approached to this office and got Power of Attorney for signing on 15-07-2013 and returned after signing from the petitioners on 01-08-2013 incomplete (Attached as Annexure C). A complete power of attorney was received after two weeks with incomplete record. The petitioner department were requested so many time to follow the requirement mentioned in letter dated 20-06-2013 but they failed to bring the relevant record. The subject was intentional badly time barred by DHO office not by this office, the reasons of condonation of delay is attached as Annexure D received on 02/08/2013 through Registry AD without checking by the AOR, without cogent and plausible reasons . As concerned the charges, I received rupees Rs. 6000/-from the petitioner department as expenses(Rs. 2000 for Court fee, Rs. 300 for Registry AD, Court fee on each annexure, preparing 8

ATTESTED

paper books from original one, photostate charges and binding charges etc).

After passing so many months the concerned department does not supplied the relevant Record to this office for filing Civil Appeal before the Supreme Court of Pakistan, in spite of bringing relevant record the concerned department approached to Learned Advocate General for complaint. By the instruction of your good self, I prepared the subject case after drafting the subject case by the newly appointed AOR Mian Saadullah Jandoli and submitted the subject case before the Supreme Court of Pakistan. After filing the subject Civil Appeal, the same objections rose which this office required in letter dated 20-06-2013 from the concerned department and they do not provide the same. (Objection Memo of Supreme Court dated 28-12-2013 is attached as Annexure E) and seven days are given for doing the needful. The concerned department were strictly directed by the concerned AOR to bring the attested copies of judgment of Civil Judge, Mardan and District Judge Mardan with decree sheet and the concerned department supplied these documents to this office on 12-02-2014 (Attached as Annexure "F"). After supply the attested copies the case was submitted on the same day.

ATTORNEY

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B) Govt. of KPK Vs Rab Nawaz

The subject case has been filed in Supreme Court of Pakistan having Civil Petition No.178-P/2013.

The subject case was decided on 03-04-2013 in the Peshawar

High Court Peshawar, the petitioner department i.e. DHO,

Mardan forwarded the subject case for opinion to Law

Department and got sanction on 19-06-2013 (Attached as

Annexed G) which self explanatory that the case was time

barred by the petitioner department not by this office. This

office received sanction after a week and informed the

concerned department through letter dated 23-06-2013 for bring

relevant Record (attested copies of all judgment and appeal

before the lower Court etc) Attached as Annexure H). After

passing two weeks the concerned department approached to

this office and got Power of Attorney for signing on 01-07-2013

and returned after signing from the petitioners on 25/07/2013

attached as Annexure I. The subject case was time barred and

the petitioner department bring the reason of condonation to

this office after two weeks, a complete record along with power

of attorney received on 05-08-2013. Hence the relevant record

(attested copy of judgment Power of Attorney etc) are not

received within time. The case was time barred on 03-06-2013.

As concerned the charges, I got from the petitioner department

it was Rs. 4500/- (Rs. 250 for Court fee, Rs. 1500 for Registry

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AD (43 respondents each Registry along with envelop is Rs. 28/ per notice , Court fee on each annexure, preparing 4 paper books from original one, photostate charges and binding charges and Better Copies Rs. 300 for urdu better copies and Rs. 200 English better copies etc).

REPLY OF SHOW CAUSE NOTICE OF PARA NO.A & B C

- 1- That allegations leveled against me are incorrect and cases of various Departments of Provincial Govt. have been processed in time by issuing letters, power of attorneys etc by Mian Shaukat Hussain then AOR and the said cases came to this office time barred, an inquiry regarding these cases have already conducted on 26-09-2013 (Annexed as Annexure J) and I was found faultless/exonerated for charges leveled against m.
- 2- That it was the duty of Ex-AOR to prepare and draft the said cases for filing before the Supreme Court of Pakistan, even he did not give any dictation/drafted for typing to his PA/Stenographer; after that my duties started, preparing paper books etc. It is very important to mention here that even he did not compliant regarding my performance before high ups up to his tenure i.e. 23-08-2013.

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3- That my responsibilities while I was posted in the AOR section are as under:-

I belong to the computer related job i.e. Data Processing Supervisor BPS-14 appointed through Public Service Commission on merit and I was wrongly deputed for filing purpose because it is duty of Assistant or Senior Clerk etc but I accepted the challenging handed over to me in the AOR section on 17-05-2007 (order is attached as Annexure K). My duties with AOR were:-

- Composing, and drafting according to the instruction of AOR but not taking any dictation from AOR for typing; for the purpose this office posted a stenographer.
- Preparing cases (CPLA, CrPLA and CA) according to the instruction given by AOR and removing objections raised by the Registry Branch Supreme Court of Pakistan, Peshawar in filed cases.
- Issuing letters to different department on the direction of AOR.
- Preparing Index, paper book, notices according to the Supreme Court Rules.

ATTORNEY

- P.49
- Receiving documents and required charges for filing CPLA, CA and Cr.PLA in the Supreme Court from petitioners departments.

I performed my duty since 2007 to 23-08-2013 with entire satisfaction with the then AOR and during that period no one case was time barred by me and no one office/department file any complaint against my performance.

- 4- That during the year 2013, my immediate boss Mian Shaukat Hussain, the then AOR proceeded to Saudi Arabia for performing Umra on 23-01-2013 for 30 days and there was no substitute AOR was appointed for filing CPLAs or CAs etc, due to which round about 30 cases sanctioned from law department and most of them have 10-15 days limitation. After his arrival from Saudi Arabia more cases came and he directed me to prepare within time cases only and leave the time barred cases, whenever a moment spare, the said time barred cases will be filed. (Order of Ex-Pakistan Leave is attached as Annexure L).
- On 30-03-2013 his contract was completed and he gave application for extension of time which was granted, the pendency was increasing day by day and I was directed to file within time cases. Moreover, he was weak and was unable to give time for his duty; about 2-3 hrs he spare for his job due to which only within time cases hardly can be filed. During the

9/2

8 P.50

month of Ramazan (July 2013) he was seriously ill and he was on leave and there was no substituted AOR was appointed for filing time barred or within time cases.

- 5- That the Ex-AOR has not filed the said cases before the Supreme Court of Pakistan due to which I was punished.
- 6- That then AOR was aged, sick person and was unable to give proper time to Govt. cases due to which these cases are left from filing in the Supreme Court of Pakistan.
- 7- That for filing of CPLAs or CA signing of petition, affidavits and stay application and appearing in the Supreme Court is mandatory which is not in my schedule duty. It is very important to mention here that he always mentioned date after signing petition.
- 8- *The facts of circumstances explain above clearly established that the delay in filing the cases are due to the lack of interest Ex-AOR Mian Shaukat Hussain but being subordinate have been held responsible for the act of Ex-AOR. Therefore, an inquiry should be initiated against the then AOR but unfortunately, even no notice/explanation was given to him and whole responsibility was shifted upon me.*

ATTACHED

P. 51

- 9- After his departure a newly AOR namely Mian Saadullah Jandoli appointed and pointed out all the time barred cases by making a list (in my absence as I was on leave for 10 days) and sent to Learned Advocate General. An Inquiry was conducted in the supervision of Addl. AG Mr. Waqar Ahmad, he thoroughly examined time barred cases and took my statement and found the petitioners department responsible for the delay and the inquiry report along with reasons of condonation of the departments were sent to the Law Department, in response the law department gave sanction regarding these cases to file these cases with delay. (Annexed as annexure M).
- 10- That I have transferred from AOR section to Writ Branch on 28-08-2013 and I was verbally directed to complete said pendency with new appointed AOR with dual duty i.e. in writ Branch and Supreme Court Branch. (Annexure N).
- 11- That most of the cases are time barred and there are no any reasons of condonation of delay application but as result of an inquiry conducted in this office regarding the time barred cases, the law department sanctioned to file the said cases with delay. (Sanction of law department is attached as annexure M).

AT [Signature]

- 12- That I have never done any casual leave, office leave in summer and winter and with my best effort to complete the said pendency.
- 13- That present AOR, drafted one case on daily bases and check on next day, after correction; I prepared Index, better copies if record is dim and I gave for binding paper books, issue notices etc.
- 14- That the newly appointed AOR is mostly busy filing fresh cases and due to huge work he cannot give time to these pendency, and hardly one case in day can be prepared and two days take preparing paper book etc and objections if there.
- 15- That for filing CPLA in Service matter take 2-3 days (1st drafting petition, checking and 2nd day index, notice and given to biding paper books) while in Civil matter take 5 days if objections from the supreme Court could not raised. The said cases are greatly suffered from deficiency and mostly objectionable and the said objection cannot remove in week. (Example annexure E).
- 16- That I always performed my duties with entire satisfaction in AOR Section but my duty started when AOR drafted petition

ATTORNEY

for filing of cases but when petition is not prepared/drafted, then how I performed my duties.

17- I assured and depose on Oath that the above two cases along other cases were not time barred by me and an inquiry has already conducted in these cases and I found faultless.

18- That after conducting second inquiry the finding/conclusion was totally baseless and was based on assumption. The cases which were shown in inquiry at S.No. 04, 30, 31 and 34 were barred by time by the petitioner department and for the proof the reason of condonation of delay provided by the petitioner department are attached as annexure O-R) list of cases are attached as annexure S. Secondly I have never delayed further the subject cases and the detailed for the said delay have already explained above. All the time barred cases have been filed by the present AOR namely Mian Saadullah Jandoli turn by turn because all cases cannot be file simultaneously; require time for preparation (Drafting, preparing paper books etc) for detailed please see para No. 11-15.

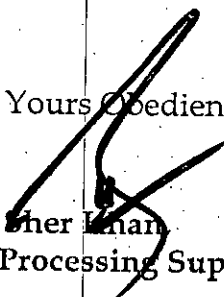
ATTES


19- That the cases mentioned in second inquiry report relating to Land Acquisition are delayed by the petitioner department for detailed please see para No.A&B

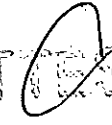
P.54

In the light of the above detailed facts the undersigned requested that if any sort of adverse opinion/view has been formed by your good self against the undersigned I am sorry for that and I assure your good self that I will be careful in future.

It is, therefore, requested that showcause notice issued to the undersigned may kindly be withdrawn/filed without further proceedings.

Yours Obediently

Sheer Khan
Data Processing Supervisor.

 _____

ATTACHED 

Annex L
P-55

ORDER

Whereas vide order No. 73-77/AG dated 01-01-2014 an Inquiry Committee was appointed to inquire into the allegations made in the charge sheet served upon Mr. Sher Khan, Data Processing Supervisor (BPS-14) of this office.

And whereas, the Inquiry Committee in his report has found the charges leveled against the accused official as proved.

And whereas, Show Cause Notice was issued to him vide letter No. 4775/AG dated 08-03-2014.

And whereas, opportunity of personal hearing was given to him on 28-04-2014.

Now, therefore, the competent authority, after having considered the charges, evidence on record the explanation of the accused official and defence offered by the accused official during personal hearing and exercising his power under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, has been pleased to impose major penalty of "dismissal from service" on Mr. Sher Khan, Data Processing Supervisor (PBS-14) with immediate effect.

ADVOCATE-GENERAL
Khyber Pakhtunkhwa,
Peshawar.

Endst. No. 7767-69/A.G Dated Peshawar the 30 / 04 /2014

Copy for information and necessary action to:-

1. The Accountant-General, Khyber Pakhtunkhwa, Peshawar.
2. The Superintendent (Budget and Accounts) of this office.
3. Mr. Sher Khan, Data Processing Supervisor of this office.
4. Relevant file
5. Personal file.

ATTESTED

ADVOCATE-GENERAL
Khyber Pakhtunkhwa,
Peshawar.

To

The Secretary,
Government of Khyber Pakhtunkhwa,
Law, Human Right and Parliamentary Affairs
Department
Peshawar.

Annex. M
P. 56

Through: Proper Channel

Subject:- DEPARTMENTAL APPEAL UNDER SECTION 22 OF KHYBER PAKHTUNKHWA, CIVIL SERVANT ACT, 1973 READ WITH RULE 3 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPEAL) RULES, 1986 AGAINST THE IMPUGNED ORDER DATED 30-04-2014 THEREBY I HAVE BEEN DISMISSED FROM SERVICE WITH IMMEDIATE EFFECT.

Respected Sir,

I have the honour to submit this departmental appeal on the following facts and grounds for your kind consideration and sympathetic and favourable action:-

FACTS

- 1- That I joined the office of Learned Advocate General Khyber Pakhtunkhwa on 28-05-2003 as Data Processing Supervisor (BPS-14) after my selection through Khyber Pakhtunkhwa Public Service Commission, Peshawar and since then I was performing my duties efficiently till the date of passing the impugned order having ten (10) years and 9 (nine) months service at my credit with splendid service record. It is pertinent to mention that in earlier period of my service I was attached with the office of Ld. Advocate General Khyber Pakhtunkhwa and in the year 2007 I was posted to the section of Advocate on Record. On 23-08-2013 by an office order I was posted to Writ Branch. My job description is very well visible from my designated post related to computer work which I have been doing

ATTESTED

(Copies of Appointment orders as annexed "_____", office order 17-05-2007 annexed "A" and office order dated 23-08-2013 annexed "B").

- 2- That when the Ld. Advocate General Khyber Pakhtunkhwa came to know about the time barred cases for filing in the Hon'ble Supreme Court of Pakistan by the present Advocate on Record Mian Saadullah Jandoli then he appointed Mr. Wiqar Ahmad Addi Advocate General as Inquiry officer to probe the matter and accordingly he probed the matter and submitted his report dated 26-09-2013. (Copy of the inquiry report as annexed "C").
- 3- That all of sudden a show cause notice was issued to me on 24-12-2013 by the Ld. Advocate General Khyber Pakhtunkhwa, Peshawar therein alleged that due to my conduct the two cases titled Govt. of Khyber Pakhtunkhwa Vs Rab Nawaz and Govt. of KP etc Vs Jandar Shah have not filed in the Hon'ble Supreme Court of Pakistan within prescribed time of limitation. Resultantly both cases became time barred thereto I submitted detailed reply on 01-01-2014. (Copy of show cause notice is annexed as "E" and reply as annexed "D").
- 4- That by an office order dated 01-01-2014 the Ld. Advocate General Khyber Pakhtunkhwa appointed an inquiry committee and issued me charge sheet with statement of allegations containing the following allegations/charges

1- "That the cases of various department/offices of the Provincial Govt. as displayed in the annexed list, have not been processed in time to be filed in the august Supreme Court of Pakistan and thus have become badly barred by time.

2- That the section you are posted in needs full attention and devotion towards your official duties. However, you have proved to be inefficient and having non serious attitude in discharging your official responsibilities.

3- That your negligence and inefficiency within the meaning of 3(a) (b) and (c) of the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules,

ATTES

On 18-01-2014 another letter of subject "enquiry proceedings" therein other charged allegedly added to earlier statement of allegations to which I submitted the requisite reply on 08-01-2014. (Copies of the of office order dated 01-01-2014 as annexed "G", charge sheet along with statement of allegations as annexed "H", letter dated 18-01-2014 is annexed as "A" and the reply dated 08-01-2014 is annexed as "A").

- 5- That on 08-03-2014 a show cause notice was issued to me along with inquiry report thereto I submitted detailed reply which was ignored by the Ld. Advocate General without cogent reason and passed the impugned order dated 30-04-2014 in arbitrary manner thereby I was dismissed from service with immediate effect. (Copy of show cause notice is annexed as "C" and impugned order of dismissal dated 30-04-2014 as annexed as "D").

Hence neither the enquiry proceedings properly conducted nor the alleged charges have been proved against me and all these acts tainted with malafide intention culminated in impugned order of which I am aggrieved and filing this departmental appeal for your kind consideration.

GROUND:-

- 1- That the alleged 36 time barred cases were of the period of Mr. Shaukat Hussian the then Advocate On Record who is the authority to examine each one case and to frame questions, facts and grounds which are the requirements for filing the CPLAs or CA etc in the Hon'ble Supreme Court of Pakistan in view of the Supreme Court of Pakistan Rules, 1980. Therefore, Ld. Advocate General has misconceived the cases in question and unlawfully held me responsible for the fault of others which is not warranted under the law, rule and justice.


- 2- That most of these cases (thirty cases) sent time barred by the respected departments for which the office of the Advocate On Record could not be held responsible. however, it was the duty

ATTESTE

out each case after due examination and the cases which were already time barred an application for condonation of delay be filed if otherwise fit for the august Supreme Court of Pakistan while the in time cases if any was to be filed without any delay which shows the laxity and lukewarm attitude of the Advocate On Record but for unknown reasons even a single explanation was not called from him and only held me responsible being a subordinate employee of the office and made me goat escaped which is unjustified, unfair and unjust not sustainable in the eye of law. It is pertinent to mention that then Advocate On Record was remained on Ex-Pakistan Leave with effect from 16-01-2013 to 09-02-2013 in addition, he always remained on leave due to his illness and age factor. (Copy of Ex-Pakistan leave is attached as annexed "E").

3- That Ld. Advocate General has not acted fairly and justly in the matter, he was under legal obligation to make inquiry in those cases which were already time barred by the departments concerned and similarly to examine the cases which became time barred in the office of Ld. Advocate General and then fix responsibility upon each one according to their role but malafidly he held responsible me for all such alleged irregularities committed by the departments concerned or on the part of Advocate On Record which is not warranted by law.

4- That in this case in the first stage Mr. Wiqar Ahmad Addl. Advocate General was appointed as inquiry officer who probe the matter and submitted his findings, recommendation/suggestions but all these were ignored by the Ld. Advocate General without cogent reason and after a lapse of 3 months he appointed an inquiry committee and also served charge sheet and statement of allegations upon me which is illegal having no legal sanctity, and of no legal effect and liable to be set aside.

AT 

5- That the impugned charge sheet with statement of allegations have not been framed in accordance with rules and not sustainable, liable to be set aside.

P. 60

6- That the inquiry committee has conducted the inquiry in slipshod manner neither any cogent evidence has been brought on record in support of alleged charges nor conducted the inquiry as per requirements of law and rule of on the subject, therefore, the findings of the inquiry committee have no legal sanctity and the impugned order based on such unfounded findings is of no legal effect and liable to be set aside.

7- That the inquiry committee has failed to make any recommendations regarding the awarding of penalty which is a mandatory requirements of the rules, therefore, the Ld. Advocate General is unlawfully awarded major penalty of dismissal to me which is not sustainable being malafidly.

8- That in the impugned inquiry report, the inquiry committee has candidly admitted that the cases were already time barred by the department concerned except four cases which referred as at S.No. 04, 20, 31 and 34 but these cases were also time barred by the department concerned but misconceived by the inquiry committee and reached to wrong conclusion which is not sustainable under the law. (Copies of letter /applications for condonation of delay of the said cases of S.No. 04, 20, 31 and 34 respectively are annexed as Annexure 16, 17, and 18.)

ATTESTE

9- That no proper and regular inquiry has been conducted by the inquiry committee though the matter in question is pertaining to factual controversies which could not be resolved without cogent evidence which is not available in this case. It is pertinent to mention that the inquiry committee has not taken bother to record the statement or seek the views of the then Advocate On Record who was the responsible authority in the case and also my boss.

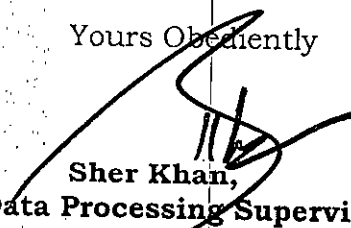
10- That the impugned order has been passed at my back and condemned me unheard neither I was provided an opportunity to record my statement nor recorded any statement of any other witness in my presence or provided me an opportunity of cross examination. Therefore, the impugned order is illegal, without lawful authority being violative of principle of nature justice.

P. 6/6/14

11- That the impugned punishment of dismissal imposed upon me is excessive, unjust and unfair not commensurate with my alleged fault if any.

It is humbly prayed that on acceptance of this departmental appeal the impugned order dated 30-04-2014 thereby I was dismissed from service with immediate effect may kindly be set aside and I may graciously be reinstated into service with all back benefits.

Yours Obediently


Sher Khan,
Data Processing Supervisor.

Dated

30/5/14

Copy:-

The Ld. Advocate General, Khyber Pakhtunkhwa, Peshawar for onward transmission to worthy Secretary, Law Department as Departmental Appellate Authority for necessary action.


ATTESTED


Sher Khan,
Data Processing Supervisor

P. 62

No. 1375 For Insurance Notices see reverse. Rs. Ps. 50
 Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered addressed to Advocate General *Post Stamp*

Initials of Receiving Officer [Signature] *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) 50 (in words) 50

If insured. { Insurance fee Rs. Ps. (in words) } Weight } Kilo Grams

Name and address of sender [Signature]

No. 1376 For Insurance Notices see reverse. Rs. Ps. 50
 Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered* addressed to Secretary Genl of *Post Stamp*

Initials of Receiving Officer [Signature] *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) 50 (in words) 50

If insured. { Insurance fee Rs. Ps. (in words) } Weight } Kilo Grams

Name and address of sender [Signature]

ATTESTED *[Signature]*

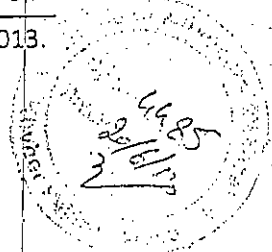


1013
20-6/13

GOVERNMENT OF
KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS
AND HUMAN RIGHTS DEPARTMENT

Annex No.
P. 63

No.Lit/LD/8-11(8)Health/2013/ 93/6-2013
Dated Peshawar the 19/6 /2013.



To

M Advocate General,
Khyber Pakhtunkhwa, Peshawar

SUBJECT:- CR NO.246-P/2013 WITH C.M NO.265-P/2013, GOVERNMENT OF KHYBER PAKHTUNKHWA VS RAB NAWAZ AND OTHERS.

Dear Sir,

I am directed to refer to letter NO.SOH(Lit-I).11-81/2013, dated 27/05/2013 on the subject noted above and to forward herewith minutes of the meeting held on 14-06-2013 under the Chairmanship of Secretary Law Department Khyber Pakhtunkhwa with the request to file Appeal/CPLA along with an application for suspension of execution proceedings and an application for condonation of delay, if any in the Supreme Court of Pakistan against the judgment dated 03/04/2013 passed by the Peshawar High Court, Peshawar in the subject case as decided by the above mentioned Committee.

Yours faithfully,

SECTION OFFICER (Lit)

Endst: NO. & Date even.

Copy along with copy of the minutes is forwarded to the:

1. Secretary to Government of Khyber Pakhtunkhwa, Revenue & Estate Department.
2. Secretary to Government of Khyber Pakhtunkhwa, Health Department with reference quoted above and with the request to direct the departmental representative not below the rank of BPS-17 to attend the office of the Advocate General Khyber Pakhtunkhwa, Peshawar along with the Original/Attested relevant record of the said case forthwith for filing of CPLA / Appeal in the subject case.
3. PS to Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs & Human Rights Department.
4. PA to Deputy Solicitor Law Department.

SECTION OFFICER (Lit)

ATTESTED

MOST URGENT SUPREME COURT MATTER

OFFICE OF THE ADVOCATE GENERAL KHYBER PAKHTUNKHWA, HIGH COURT BUILDING, PESHAWAR.

No. 9024-09 /AG, dated Peshawar, the 23-Jun-13
(Telephone No.091/9210119/9210312: Fax No. 091/9210270)
(Exchange No. 901-9213833) (208) (216).

N2
P.64

- To
- 1 The Secretary Govt. of Khyber Pakhtunkhwa Revenue & Estate Deptt., Peshawar
 - 2- The Secretary Govt. of Khyber Pakhtunkhwa Health Deptt., Peshawar

Attention to: *Litigation Section*

Subject: CR. NO. 246-P/2013 WITH CM NO. 265-p/2013 GOVT. OF KPK VS RAB NAWAZ AND OTHERS

Sir,
Reference Law Department Letter No. lit/LD/8-11/Health/2013 dated 19-06-2013 addressed to this office and copy endorsed to you on the subject noted above.

You are requested to depute an officer well conversant about the facts of the case not below the rank of Grade-17 attend this office along with the following record for filing petition/appeal in the august Supreme Court of Pakistan but subject to law of limitation:

- 1- Certified copy of judgment of Peshawar High Court
- 2- Certified copy of Grounds of Civil Revision
- 3- Certified copies of Judgment of Civil Judge, District Judge
- 4- Plaint, Written Statement and statements of PW, DW etc
- 5- Annexures (legible) in case of dums pages better copies should be prepare from original one but all the annexure should be attested from department.

You should please to execute Power of Attorney in favour of the undersigned after obtaining signature from the petitioner/appellant. You may also arrange a required charges in Rs. in (Cash) After Calculation to be deposited in this office for the purchase of Court Fee, Stamp, the preparation of paper books and the postal charges of service on respondent etc (because the same is not provided for, to this office by the Govt.) The needful may kindly be done within three (3) days from the date of receipt of this letter.

Note: Due to limitation the process should be expedite in case of time barred the department will provide the reasons of the condonation delay i.e. why the case the case have been time barred.

Time barred by

(Mian Shaukat Hussain)
Advocate-on-Record
Supreme Court of Pakistan
AG's Office KPK, Peshawar

ATTESTED

POWER OF ATTORNEY

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)
ORIGINAL JURISDICTION

P. N3
168

District Health Officer, Mardan

PETITIONER(S)

VERSUS

Rab Nawaz etc

RESPONDENTS

I, through Petitioner (Govt. of KPK) in the above Petition, do hereby appoint and constitute Mian *Saeedullah Khan* Advocate-on-Record, Supreme Court, for Govt. of KPK the Attorney for the aforesaid Petitioner(s) to commence and prosecute appear and defend this action/appeal/suit/petition/reference on my/our behalf and all proceeding that may be taken in respect on any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take back documents, to accept the proceeds of the Court, to appoint and instruct Counsel, to represent the aforesaid Petitioner(s) in the above matter and to do all things incidental to such acting for the aforesaid Petitioner(s).

Aforesaid Petitioner(s) hereby agree/agree to ratify all acts done by the aforesaid Attorney in pursuance of this authority.

In witness whereof I/We do hereunto set my/our hand/hands

Accepted

M. Nawaz
(Mian *Saeedullah Khan*)
Advocate-on-Record
Supreme Court of Pakistan
(for KPK) Advocate-General's
Office KPK, High Court Building, Peshawar.
Office Tel. # 091-9210312, 9210119

18/11/13
Advocate-on-Record
Supreme Court of Pakistan
Govt of Khyber Pakhtunkhwa
Peshawar.

Signed with Official seal stamp

[Signature]
Secretary Govt. of Khyber Pakhtunkhwa,
Health Department, Peshawar
Secretary Health,
Govt. of Khyber Pakhtunkhwa,

[Signature]
District Health Officer
Mardan
District Health Officer, Mardan

[Signature]
Deputy Commissioner
Land Acquisition, Mardan (DOR) Mardan

*Recd Person 27
24/11/13
25/11/13*

[Signature]



MOST IMMEDIATE
COURT MATTER.

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

NO. SOH (Lit-I).7-41/2013
Dated Pesh: the, 30-04-2013

To

The Secretary to
Government. of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human Rights Department. Peshawar.

Subject:- R.F.A. NO.292/2010 ORDER DATED 16-10-2012 JEHANDAR SHAH & OTHERS VERSUS LAND ACQUISITION COLLECTOR, MARDAN & OTHERS

Dear Sir,

I am directed to refer to the subject noted above and to state that the above noted case has been decided in favor of the petitioner and against the Government by the Peshawar High Court Peshawar on 17/10/2012 (copies enclosed). This Department intends to file an appeal/RFA in the Supreme Court of Pakistan, against the above judgment in the instant cases (the case has badly time bard).

2. Five (5) sets of the case are enclosed herewith for placing before the committee to consider that whether it is fit case for filing appeal/CPLA/RFA in the Supreme Court of Pakistan and stay application or else. The advice of the Law Department is also solicited in the matter and date fixed for holding the meeting may please be intimated to this Department at the earliest please.

Yours faithfully,

Dilawar Khan
(Dilawar Khan)

Section Officer (Lit.I)

Dated Pesh: the, 04th

NO. SOH (Lit-I).12-91/2012
Jan.2013

Copy forwarded to :-

1. The Director General, Health & Services Peshawar.
2. The District Health Officer Mardan
(With the request to kindly direct your office representative well conversant with the facts of the case along with relevant record of the case to attend the office of the Secretary Law Department to assist Law Officer and provide all relevant information/documents to him as well as attend the meeting as and when scheduled by the Law Department)
3. The Advocate General, Supreme Court of Pakistan Peshawar.
4. The P.S to Secretary Health, Government. of Khyber Pakhtunkhwa, Peshawar.
5. The P.A to Deputy Secretary-IV/Health Department.

1683 24/13/13/31
Dr. Kamal M.O. (Lit.)
Mr. Faris Khan P.A.D Section

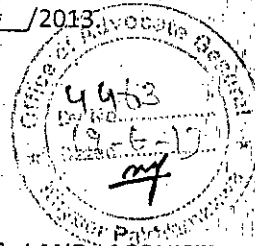


GOVERNMENT OF
KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS
AND HUMAN RIGHTS DEPARTMENT

No.Lit/LD/8-11(7)Health/2013/9503-9507
Dated Peshawar the 17/6/2013

To

me Advocate General,
Khyber Pakhtunkhwa, Peshawar.



SUBJECT:- R.F. A NO.292/2010 JEHANDAR SHAH & OTHERS VS LAND ACQUISITION COLLECTOR, MARDAN AND OTHERS.

Dear Sir,

I am directed to refer to letter NO.SOH(Lit-I).7-41/2013, dated 29/05/2013 on the subject noted above and to forward herewith minutes of the meeting held on 14-06-2013 under the Chairmanship of Secretary Law Department Khyber Pakhtunkhwa with the request to file Appeal/CPLA along with an application for suspension of execution proceedings and an application for condonation of delay, if any in the Supreme Court of Pakistan against the judgment dated 17/10/2012 passed by the Peshawar High Court, Peshawar in the subject case as decided by the above mentioned Committee.

Yours faithfully,

SECTION OFFICER (Lit)

Endst: NO. & Date even.

Copy alongwith copy of the minutes is forwarded to the:

1. Secretary to Government of Khyber Pakhtunkhwa Revenue & Estate Department.
2. Secretary to Government of Khyber Pakhtunkhwa, Health Department with reference quoted above and with the request to direct the departmental representative not below the rank of BPS-17 to attend the office of the Advocate General Khyber Pakhtunkhwa, Peshawar along with the Original/Attested relevant record of the said case forthwith for filing of CPLA / Appeal in the subject case.
3. PS to Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs & Human Rights Department.
4. PA to Deputy Solicitor Law Department.

ATTENDED

SECTION OFFICER (Lit)

169/2013
Kdt. 20-6-13

02
67

MOST URGENT SUPREME COURT MATTER

OFFICE OF THE ADVOCATE GENERAL KHYBER PAKHTUNKHWA, HIGH COURT BUILDING, PESHAWAR.

03
P.68

No. 8866-1 /AG, dated Peshawar, the 20 Jun-13
(Telephone No.091/9210119/9210312: Fax No. 091/9210270)
(Exchange No. 901-9213833) (208) (216).

To

- 1- The Secretary Govt. of Khyber Pakhtunkhwa Revenue & Estate Department, Peshawar
- 2- The Secretary Govt. of Khyber Pakhtunkhwa Health Department, Peshawar.

Subject: RFA NO. 292/2010 JEHANGIR SHAH & OTHER VS LAND ACQUISITION COLLECTOR MARDAN

Sir,

Reference Law Department Letter No. lit/LD/8-11/Health/2013 dated 19-06-2013 addressed to this office and copy endorsed to you on the subject noted above.

You are requested to depute an officer well conversant about the facts of the case not below the rank of Grade-17 attend this office along with the following record for filing petition/appeal in the august Supreme court of Pakistan but subject to law of limitation:

- 1- Certified copy of judgment of Peshawar High Court
- 2- Certified copy of Grounds RFA petition
- 3- Certified copies of Judgment of Civil Judge
- 4- Award, Plaint, Written Statement and statements of PW, DW etc
- 5- Annexures (legible) in case of dums pages better copies should be prepare from original one but all the annexure should be attested from department.

You should please to execute Power of Attorney in favour of the undersigned after obtaining signature from the petitioner/appellant. You may also arrange a required charges in Rs. in (Cash) After Calculation to be deposited in this office for the purchase of Court Fee, Stamp, the preparation of paper books and the post. charges of service on respondent etc (because the same is not provided for, to this office by the Govt.) The needful may kindly be done within three (3) days from the date of receipt of this letter

Note: Due to limitation the process should be expedite in case of time barred the department will provide the reasons of the condonation delay i.e. why the case the case have been time barrcc.

(Mian Shaukat Hussain)
Advocate-on-Record
Supreme Court of Pakistan
AG's Office KPK, Peshawar.

Time Barred

ATTESTED

04
P-69

POWER OF ATTORNEY
IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)
ORIGINAL JURISDICTION

Land Acquisition Collector, Mardan

PETITIONER(S)

VERSUS

Jehadar Shah etc

RESPONDENTS

I, through Petitioner (Govt. of KPK) in the above Petition, do hereby appoint and constitute Mian Shaukat Hussain, Advocate-on-Record, Supreme Court, for Govt. of KPK the Attorney for the aforesaid Petitioner(s) to commence and prosecute appear and defend this action/appeal/suit/petition/reference on my/our behalf and all proceeding that may be taken in respect on any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take back documents, to accept the proceeds of the Court, to appoint and instruct Counsel, to represent the aforesaid Petitioner(s) in the above matter and to do all things incidental to such acting for the aforesaid Petitioner(s).

Aforesaid Petitioner(s) hereby agrees/agree to ratify all acts done by the aforesaid Attorney in pursuance of this authority.

In witness whereof I/we do hereunto set my/our hand/hands

Signed with Official seal stamp

Accepted

Mian Shaukat Hussain
15/7/2013
(Mian Shaukat Hussain)
Advocate-on-Record
Supreme Court of Pakistan
(for KPK) Advocate-General
Office KPK, High Court Building, Peshawar.
Office Tel. # 091-9210312, 9210119

Amir Shah
Land Acquisition Collector, Mardan
Now Deputy Commissioner Mardan
Deputy Commissioner
Mardan

Amir Shah
District Collector, Mardan
Now Deputy Commissioner Mardan
Deputy Commissioner
Mardan

Abdul
Executive District Officer (Health), Mardan
Now District Health Officer, Mardan
District Health Officer
Mardan

ATTACHED

Secretary Health Govt. of KPK, Peshawar



District Health Department – Mardan
DISTRICT HEALTH OFFICER
Mardan (Khyber Pakhtunkhwa)

Ph: # (0937) 9230030 Fax: # (0937) 9230349
Email: edohmr@yahoo.com

No. 84/19 /DHO Dated: 22/07/2013



The Advocate-on-Record, Supreme Court of Pakistan,
Advocate General's Office, Khyber Pakhtunkhwa,
Peshawar.

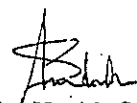
Subject: REASONS OF CONDONATION OF DELAY IN FILING CPLA IN CASES
JEHANDAR SHAH & OTHERS VERSUS LAND ACQUISITION COLLECTOR
MARDAN & OTHERS R.F.A NO. 292/20110 AND RFA NO. 335/10 GOVT: VS
JEHANDAR SHAH

It is to inform your good self that the high court decision regarding above cited subject was received to the undersigned on 16/10/2012 and was then sent to SO litigation for further appealing in the supreme court of Pakistan in the best interest of Health Department, Mardan. SO litigation was informed this office through telephone that a meeting will be held on 31/05/2013 and you have to attend the meeting with Secretary Law at Peshawar. In this connection three meetings were held under the chairmanship of Secretary Law on dated 31/05/2013, 07/06/2013 & 14/06/2013 respectively which were attended by this office, the case was then declared fit vide Law department letter No. SO (LIT) LD/S-11 (7) Health/2013/9503-07 dated 19/06/2013. The meeting was held on 17/06/2013 in which the cases were decided with consensus as fit for filling of CPLA before the Supreme Court of Pakistan, refer to letter No. SOH (LIT-I) 12(2) 7-41/2013 dated Peshawar the, 25/06/2013.

Advocate General Office informed this office on 15/07/2013 for filling of petition in the above titled cases against the said judgments where as the department approached to the Advocate General office at that time the limitation of cases have been expired. The reasons for the said delays is that the filling of CPLAs the petitions were delayed due to the process of lengthy correspondence taken in the law Department, obtaining attested copies and other annexure were supplied to the office of Advocate General Khyber Pakhtunkhwa. The process's have been taken time and delay was not intentionally, but due to the aforementioned reasons.

Therefore the Supreme Court may please to be requested to condone the delays in felling of CPLAs in the subject petition on behalf of petitioners.

ATTACHED


District Health Officer
District Health Officer,
Mardan

SUPREME COURT OF PAKISTAN
BRANCH REGISTRY PESHAWAR

OBJECTION MEMO

C.P.A. MM P/2013

IN

Impugned Case No. R.F.A. 292/2010

08
P.71

To

Mr. Mian Saadullah Jandali
Advocate-on-Record
Peshawar

D e Mardani etc

(Pet/Appellant's)

VERSUS

Jehandar Shah etc

(Respondent's)

The above titled case filed by you is suffering from the following deficiencies:-

1. Court Fee has not been affixed/is deficient by Rs 6/- on app for condonation of delay.
2. Court Fee Stamps have not been properly affixed on all applications/documents.
3. Documents not properly/separately mentioned in the Index. Index has not been filed.
4. concise statement/Point noted index/Proforma is incomplete/not drawn properly/ has not been filed.
5. All the petitioners have not signed Power of Attorney in favour of AOR.
6. General Power of Attorney is not meant for Supreme Court/is not proper/is not filed.
7. Stamp of Jail Authority is not visible on Power of Attorney.
8. Prescribed proforma duly attested by Jail Authority has not been filed.
9. Party names and their address do not completely tally with those mentioned before the court appealed from.
10. Petitioner/Respondent numbers _____ were themselves party before the court appealed from however, have now been shown as deceased represented through their legal heirs but no application for substitution with their death certificates has been annexed.
11. Petitioner/Respondent number _____ before the court appealed from have not been made party but no application for deletion of their names has been annexed.
12. Petitioner/Respondent numbers _____ were not party before the court appealed from but no application for their impleadment has been filed.
13. In the title of the case Article/Section under which appeal lies to this Court/Impugned judgment number/date of impugned judgment/name of court appealed from is incorrectly/not mentioned. / order. 45 54. no app
14. Prayer clause is not properly drawn/impugned judgment number/date of impugned judgment/name of court appealed from is incorrectly mentioned. appended.
15. Address/Contact number of the counsel has not been mentioned.
16. Certificate that it is the first petition against the impugned judgment has not been given.
17. Certificate that paper books are complete in all respect/prepared in accordance with Supreme Court Rules has not been given.
18. Paper books have not been filed/are not in required number/are not of the approved color.
19. Pages number 28 to 55, 62 to 65, 74 are dim/illegible.
20. All the Photocopies/Better copies of the documents are not duly attested by the Advocate-on-Record.

P.T.O

07
P.72

- 21. Relevant documents such as have not been filed.
- 22. Affidavit of Facts and Service have not been annexed.
- 23. Copy of notice issued to the respondents has not been annexed.
- 24. Postal receipts in proof of issuance of notices to the respondents have not been attached.
- 25. Certified copies of the judgment passed by ADJ-III Mardan on 19/4/10 & ADJ-I Mardan on 21/4/07 have not been filed.
- 26. Memo of valuation certificate has not been filed/is not properly drawn.
- 27. Affidavit of Service/notice issued to the respondents is not showing service of copy of memo of appeal upon the respondents.
- 28. The case is barred by time but application for condonation of delay has not been filed.
- 29. Petition/application(s) for are not signed by Advocate-on-Record.
- 30. Memo of petition is not fairly and legibly drawn/has cuttings and corrections.
- 31. Petition is not properly page numbered as per the index.
- 32. Documents have not been filed in chronological order/arrange properly.
- 33. Documents at page numbers are in a language other than Urdu or English but its attested translation is either of these two languages has not been annexed.
- 34. Printed Paper books of the High Court have not been filed.
- 35. Undertaking by the petitioner to appear and surrender before the Court on each and every date of hearing has not been filed.
- 36. Security Chalkan of Rs.10,000/- has not been annexed alongwith the Review Petition.
- 37. Review Petition is not drawn by the counsel who had argued the case and no application of fitnesses of review petition has been filed.
- 38. Certificate of fitness of review petition has not been filed.
- 39. Copy of NIC of the Petitioner in person has not been annexed.
- 40. Certificate of date of application/presentation for certified copy/date of preparation of copy/date of delivery is missing.
- 41. Paper books should not be contained more than 150 pages.
- 42. Page containing the party names before High Court/Service Tribunal has not been placed before the copy of impugned judgment.

43. (Misc) ~~Direct sheet of High Court, ADJ-III & ADJ-I Mardan have not filed with this appeal.~~
 (a) Seal of the Court is missing on the impugned Judgment.
 (b) Stay Apph. is not signed by AOR

YOU ARE, THEREFORE, required to remove the deficiencies within 7 days/weeks positively.

ATTORNEY ASSISTANT REGISTRAR

Dated: 28/12/13

Annexure

1 Mr Jhaal dealing Asstt. of High Court
DHO office Mandera The following attested
copies to Mr Sher Khan as per his demand
on 12/2/2014

P.B

- 1- Decree sheet of High Court in case Jander shock.
2. Attested copies of judgment of civil judge Mandera. (Decree sheet not available)
- 3- A best copies of judgment of Distt judge Mandera with Decree sheet.

ATTACHED

Jhaal
Jhaal jr clerk
DHO office Mandera
12/2/2014

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RFA-282/10

Jandedi Sukh

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LAC

16/17

On

GS&PD, PK-1583/17-PHC-1 (Old Books-17)

Book No. 285 FORM C.D. 9 No. 57

RECEIPT FOR MONEY DEPOSITED

Receipt No. 10456

Date 17/1/14

Received from V. S. Choud

Rupees 50

on account of Copying Department deposit

entered at Serial No. _____ of Register C.D. 2

Copying Agents

NWFP CD No. 5

23 ¹/₁₄

ATTESTED

To
The Advocate on Record
Supreme Court of Pakistan
Advocate General's Office
Khyber Pakhtunkhwa, Peshawar

Subject: REASONS OF CONDONATION OF DELAY IN FILING CPLAS IN
CASE WRIT PETITION NO. 1255/2013 GOVT. OF KPK VS
MUHAMMAD KHALID CARE TAKER

Dear Sir,

That the above subject case has been decided on 15-06-2013 in favour of respondent.

The decisions of the Court was sent to Khyber Pakhtunkhwa Law Department (Scrutiny Committee) for fitness or otherwise and the committee recommended the above subject case fit for filing CPLA on 02-08-2013

Advocate General office informed this office for filing of CPLA on 04-08-2013 against the Judgment of Peshawar High Court, whereas the department approached to Advocate General Office on 30-08-2013 for taking Power of Attorneys in the above titled case and signed after one week. The reasons for the said delays are that petitioner were directed by the Law Department for filing CPLA and the limitation for Filing CPLA is 60 days. When the petitioners department approached to this AOR office the limitation of the CPLA have been crossed. Moreover, the process of lengthy correspondence taken in Law Department, obtaining attested copies and other annexure were supplied to the office of Advocate General, KPK. This processes had been taken time and the delays were not intensionally but due to the above reasons stated.

Therefore, it is requested that above subject case may please be submitted with condonation if any in the Supreme Court of Pakistan on behalf the petitioner department.

ATTESTED

Executive Engineer
PBMC-C&W Deptt.
Peshawar

P.I.
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5/6

From: The District Police Officer, Swat

To: The Advocate on Record
Supreme Court of Pakistan
Advocate General's Office,
Khyber Pakhtunkhwa, Peshawar

7811
30/12/13
28/12

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No. 9082/P, dated Gulkada the 124-12-2013

Subject: REASONS OF CONDONATION OF DELAY IN FILING CPLA IN CASE TITLE RFA
NO. 82/2011 GOVT. VERSUS MUHAMMAD YAHYA

Memorandum:

It is submitted that the above subject case has been decided on 17-06-2013 in favour of the respondent in the Peshawar High Court Mingora Bench Dar-ul-Qaza Swat along with connected appeal (main appeal) RFA No. 05/2011.

The petitioner department i.e. DPO Swat forwarded the case for filing CPLA or otherwise on 04-07-2013 to the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar. The PPO sent the case to the Secretary Home and TA Department, Peshawar on 22-07-2013. The decisions of the Court were sent to Khyber Pakhtunkhwa Law Department (Scrutiny Committee) for fitness or otherwise and the committee recommended the above subject case fit for filing CPLA on 01-08-2013 for filing CPLA against the judgment of Peshawar High Court Mingora Bench Dar-ul-Qaza Swat (copy of the Law Department letter is attached).

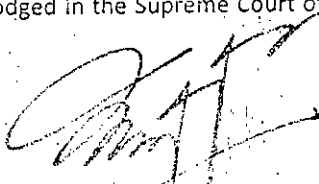
The reasons for the said delays are that the filing of the petitions were delayed due to the process of lengthy correspondence taken in Law Department, obtaining attested copies and other annexure were supplied to the office of Advocate General, KPK. This process had been taken time and the delays was not intentionally but due to the above reasons stated.

Therefore, the august Supreme Court may be requested on behalf of petitioners to condone the delay in filing of CPLA in the above subject petition.

Power of Attorney received in this office on 15-08-2013 and within 02 days signatures of the concerned officers were obtained and sent to Home Department well in time and there is no delay on part of Swat Police.

It is therefore, requested that an CPLA may be lodged in the Supreme Court of Pakistan.

ATTESTED


District Police Officer, Swat

To

The Advocate on Record
Supreme Court of Pakistan
Advocate General's Office
Khyber Pakhtunkhwa, Peshawar

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1277

Subject:- REASONS OF CONDONATION OF DELAY IN FILING CPLAS IN
THE FOLLOWING CASES

- 1- CR No. 290-M/2012 titled Secretary W& S Department, Peshawar Vs Niaz Ahmad
- 2- RFA No. 07/2013 Govt. of KPK etc Vs Sardar Murad
- 3- CR. NO. 335/2012 titled Govt. of KK and others Vs Ahmad Zareen

Dear Sir,

That the above subject cases have been decided on the following dates respectively:-

- 1- 23-04-2013
- 2- 23-04-2013
- 3- 06-05-2013 in favour of the respondents in the Peshawar High Court Darul Qaza Swat Chitral Bench..

The decisions of the Court were sent to Khyber Pakhtunkhwa Law Department (Scrutiny Committee) for fitness or otherwise and the committee recommended the above subject cases fit for filing Civil Appeals in Serial No. 1-2 and at S.No. 3 Civil Petitions.

Advocate General office informed this office for filing of Civil Appeal and Civil petitions in the above titled cases against the said judgment, whereas the department approached to Advocate General Office for taking Power of Attorneys in the above titled cases and signed after two weeks. The reasons for the said delays are that the filing of the petitions were delayed due to the reasons that the petitioner were directed by the Law Department for filing CPLA and the limitation for Filing CPLA is 60 days and for Civil Appeal is 30 days. When the petitioners department approached to this office the limitation of the Civil Appeal have been crossed and remaining CPLA was also time barred. Moreover, the process of lengthy correspondence taken in Law Department, far flung areas of Chitral, obtaining attested copies and other annexure were supplied to the office of Advocate General, KPK. This processes had been taken time and the delays were not intensionally but due to the above reasons stated.

Therefore, the august Supreme Court may be requested to this office to condone the delay in filing of Civil Appeal and CPLA in the subject petition on behalf of petitioners.

ATTESTED


SUB DIVISIONAL OFFICER, C&W
DIVISION CHITRAL



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GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE GENERAL, MINES & MINERALS PESHAWAR
Attached Department Near Judicial Complex, Khyber Road, Peshawar Cantt
PHONE NO. 091-9210275-9211140 FAX NO. 9210236

No. 550 MDW/MA/ML-Salica Sand (3)/86
To

Dated 16.09.2013

The Advocate on Record,
Supreme Court of Pakistan,
Advocate General's Office,
Khyber Pakhtunkhwa, Peshawar.

Subject:- REASONS OF CONDONATION OF DELAY IN FLING CPLAS IN CASE CR NO. 380/2005 GOVERNMENT OF KHYBER PAKHTUNKHAWA ETC V/S FRONTIER CHEMICAL INDUSTRIES.

Dear Sir,

That the above subject case has been decided on 02-07-2013 in favour of the respondents in the Peshawar High Court, Abbottabad Bench.


The decisions of the Court were sent to Khyber Pakhtunkhwa Law Department (Scrutiny Committee) for fitness or otherwise and the committee recommended the above subject cases fit for filing CPLA for filing CPLA against the judgement of Peshawar High Court Abbottabad Bench dated 02-07-2012 (Copy of the letter attached and Minutes of Scrutiny Committee are enclosed).

Advocate General office informed this office for filing of petition in the above titled case against the said judgement, whereas the Department approached to Advocate General Office for taking Power of Attorneys in the above titled cases and signed. The reasons for the said delay is that.

"Assistant Director Mineral Mansehra was transferred vide order dated 17.07.2013 to the office of Assistant Director Kohistan and his place the undersigned was Transferred to the office of Assistant Director Mansehra under the same order. The undersigned took charge on 25.07.2013. The undersigned submitted application to the Registrar High Court for obtaining the judgement on 29.07.2013. As such the judgement was obtained but I was again transferred vide order dated 28.08.2013 to Kohistan I was also assigned dual charge of both the offices i.e Mansehra and Kohistan. On 29.07 on obtaining judgement referred the case to Head Quarter office for filing CPLA in the above titled case. Furthermore, the office Assistant of the office of Assistant Director Mansehra was hit by brain ham ridge and was on leave on Medical Ground and he is still lying ill. These were the reason due to which the said CPLA were time barred" (Copies enclosed).

Therefore, the august Supreme Court may be requested to condone the delay in filing of CPLA in the subject petition on behalf of petitioner please.

Enc: As above


ASSISTANT DIRECTOR (Tech)
Mineral Dev: Mansehra

Dated 16.09.2013

End: No MDW/MA/ML-Salical Sand (3)/86
Copy of the as above is forwarded to The Director General Mines and Mineral Khyber Pakhtunkhwa Peshawar for information please.

-sd-
ASSISTANT DIRECTOR (Tech)
Mineral Dev: Mansehra

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To
The Advocate on Record
Supreme Court of Pakistan
Advocate General's Office
Khyber Pakhtunkhwa, Peshawar

Subject:- REASONS OF CONDONATION OF DELAY IN FILING CPLAS IN
CASE WRIT PETITION NO. 1255/2013 GOVT. OF KPK VS
MUHAMMAD KHALID CARE TAKER

Dear Sir,

That the above subject case has been decided on 15-06-2013 in favour of respondent.

The decisions of The Court was sent to Khyber Pakhtunkhwa Law Department (Scrutiny Committee) for fitness or otherwise and the committee recommended the above subject case fit for filing CPLA on 02-08-2013

Advocate General office informed this office for filing of CPLA on 04-08-2013 against the Judgment of Peshawar High Court, whereas the department approached to Advocate General Office on 30-08-2013 for taking Power of Attorneys in the above titled case and signed after one week. The reasons for the said delays are that petitioner were directed by the Law Department for filing CPLA and the limitation for Filing CPLA is 60 days. When the petitioners department approached to this AOR office the limitation of the CPLA have been crossed. Moreover, the process of lengthy correspondence taken in Law Department, obtaining attested copies and other annexure were supplied to the office of Advocate General, KPK. This processes had been taken time and the delays were not intensionally but due to the above reasons stated.

Therefore, it is requested that above subject case may please be submitted with condonation if any in the Supreme Court of Pakistan on behalf the petitioner department.

ATTESTED

Executive Engineer
PBMC-C&W Deptt.
Peshawar

Annex: Q' 

OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA,
PESHAWAR.

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OFFICE ORDER

On recommendation of the Departmental Promotion Committee, the undersigned, being Competent Authority, is pleased to promote Mr. Ahmad Khan, Computer Operator (BPS-12) to the Post of Data Processing Supervisor (BPS-14) in this office with immediate effect.


ADVOCATE-GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR.


Endst: No 12568-69 /AG

dated Peshawar, the 12/6 /2014

Copy forwarded for information and necessary action to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Mr. Ahmad Khan, Data Processing Supervisor (BPS-14) of this office.
3. Relevant file.
4. Personal file.



ADVOCATE-GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR. 

ATTESTED

WAKALAT NAMA

IN THE COURT OF Khyber Pakhtunkhwa Service Tribunal
Peshawar

Shah Khan

Ex. Data processing supervisor

of the Advocate General Appellant(s)/Petitioner(s)

K.P. P.S. R/o Lalzar colony university campus Peshawar

VERSUS

The Secretary, Govt. of K.P.

Law, Parliamentary Affairs

& Human Rights Deptt Pesh & other Respondent(s)

I/We Shah Khan appellant do hereby appoint
Mr. Khush Dil Khan, Advocate Supreme Court of Pakistan 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

Khush Dil Khan,
Advocate, Supreme Court of Pakistan

Signature of Executants

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

S.W.F PROVINCE
Service Tribunal
Dary No. 432
dated 28/5/15

SERVICE APPEAL NO.1211/2014 & SERVICE APPEAL NO.1212/2014

Sher Khan,
Ex- Data Processing Supervisor,
Advocate General's Office KPK, Peshawar -----APPELLANT.
Versus
Advocate General KPK, Peshawar and another ... RESPONDENTS.

APPLICATION FOR EARLY HEARING IN THE ABOVE SUBJECT
CASES PENDING FOR REPLY SINCE THREE (3) MONTHS

RESPECTFULLY SHEWETH

- 1- That the above titled appeals had been filed by the appellant against the respondent's order of dismissal dated 31-04-2014 before this august Court on 26-9-2014 and the subject cases were admitted on 9-2-2015
- 2- That after passing three (3) months the respondent department i.e Advocate General KPK and Secretary Law Govt of KPK had not filed reply.
- 3- That both departments are filing joint comments/reply against my appeals filed in this Hon'ble Court.
- 4- That both cases are similar in nature, similar ground and having same date (31-04-2014), dismissal orders.
- 5- That, unlike other cases i.e. upgradation, promotion; my case is different i.e. dismissal from service since 31-04-2014.
- 6- That it has necessitated that the above subject cases may graciously be fixed for filing reply on 05-06-2015 or before.

It is, therefore, humbly prayed that the above subject cases may graciously be fixed for filing reply on 05-06-2015 or before in this Hon'ble Court.

filed
09.06.15

APPELLANT.

Sher Khan, Ex-DPS
Advocate General's Office KPK, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. **1212/2014.**

Sher Khan

.....

Appellant

Versus

The Secretary Govt. of Khyber
Pakhtunkhwa Law, Parliamentary
Affairs and Human Rights Department
Peshawar & Others

.....

Respondents

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Service Appeal No. 1212/2014.

Sher Khan Appellant

Versus

The Secretary Govt. of Khyber
Pakhtunkhwa Law, Parliamentary
Affairs and Human Rights Department
Peshawar & Others Respondents

Comments on behalf of Respondents No. 1 & 2

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

- I. That the appellant has got no locus standi to file the instant Appeal.
- II. That the Appeal in hand is hopelessly time barred.
- III. That the appellant has not come to the Hon'able Tribunal with clean hands, hence not entitled for any relief.
- IV. That the appellant has concealed material facts from this Hon'ble Tribunal. Hence the Appeal is liable to be dismissed in-limine.
- V. That the appellant is estopped to file the instant Appeal by his own conduct.
- VI. That the appeal in hand is not maintainable in its present form.

ON FACTS:

1. Pertains to record. Needs no reply.
2. Incorrect. He was not transferred to the AOR Section on demand. As a matter of fact, he was transferred to the AOR section in routine for smooth working of the office. Though he was transferred from the

AOR section in general transfer order dated 23/08/2013 in the public interest but the said order was not complied with by the appellant.

3. Correct to the extent that Mian Saadullah Jandoli after assuming Charge as A.O.R in Respondent No. 2 Office, noticed that a number of time barred Government cases are lying in his office, which were not filed before the august Supreme Court of Pakistan. He forthwith brought the matter into the notice of the Respondent No. 2 vide letter dated 10/09/2013 alongwith list of the time barred cases (**Copies of letter Annex-A**). Rest of the para is misleading, hence denied. Actually after receiving information from the A.O.R, the Respondent No. 2 appointed Mr. Waqar Ahmad, Addl: Advocate General to inquire into the matter for ascertainment of facts, wherein Mr. Waqar Ahmad Addl: Advocate General, Peshawar submitted his report. Hence it was not a regular inquiry, rather facts finding inquiry.

4. Incorrect. That during the facts finding inquiry the Inquiry Officer (Waqar Ahmad, Addl: Advocate General) recorded the statement of Tufail Ahmad (Junior Clerk), who deposed that he received the cases and entered into the relevant register and the same were handed over to the Appellant. Moreover, a letter from D.H.O Mardan was received on 20/12/2013 regarding two cases namely **District Health Officer, Mardan etc versus Rab Nawaz** and **Deputy Commissioner Mardan etc Versus Jandar Shah** that both cases were delivered in office of the AOR in time. The case of Rab Nawaz was submitted on 01/07/2013 and that of Mr. jandar shah on 15/07/2013. Both the cases were declared as fit cases for CPLA before the Hon'able Supreme Court of Pakistan by the Law Department. In the letter, the department concerned leveled serious allegations against the appellant. These two (02) cases were already included in the list of 36 time barred cases provided by the A.O.R. Hence show cause notice was issued to the appellant, reply filed by the appellant was not satisfactory. The Respondent No: 2 Constituted Inquiry Committee and charge sheet was served on appellant. (Copies of letter No.

13958/DHO Mardan Dated: 20/12/2013 and schedule of cases are attached at **Annex-B)**

- 5. Pertains to record.
- 6. Pertains to record. Needs no reply.
- 7. Pertains to record. However the impugned order was issued after fulfilling all the codal formalities.

ON GROUNDS:

A. Incorrect, misleading, concocted, as is evident from the statements recorded in the inquiries that appellant was the custodian of record. Being as such, it was one of his duties to bring these cases into the notice of the then AOR, but he (the appellant) did not do so for ulterior motives. He as matter of fact, sat over the record and got the cases time barred and those received only a few days time barred were further made time barred by months. Moreover, the appellant also admitted in his reply dated **01/01/2014** to show cause about his duties during his posting in A.O.R. office. Concerned para from his reply is reproduced herein below;

“My Responsibilities while I was posted in the AOR section:-

I belong to the computer related job i.e Data Processing Supervisor BPS-14 appointed through Public Service Commission on merit and I was wrongly deputed for filing purpose because it is duty of Assistant or Senior Clerk etc But I accepted the challenging handed over to me in the AOR section on 17/05/2007 (order is attached as Annexure I). My duties with AOR were:-

- Typing, composing, drafting given to me by AOR
- Preparing cases (CPLA, Cr.PLA and CA) according to the instruction given by AOR and removing objections raised by the Supreme Court of Pakistan in filed cases.
- Issuing Letters to different department by the direction of AOR.

- Preparing Index, paper book, notices according to the Supreme Court.
- Preparing concise statement, additional documents etc given to me by the AOR and day to day compliance addressed from Supreme Court of Pakistan to the AOR section.
- Receiving documents and required charges for filing CPLA, CA and Cr.PLA in the Supreme Court from petitioners department.”

“Hence it is manifest from the admission of appellant that he should not save his skin from charge by shifting his burden to the then A.O.R. The Respondent No. 2 acted in accordance with law and in best public interest, no malafide or ill-will is brought on record.”

- B. Incorrect. All the proceedings initiated against the appellant were strictly in accordance with law. Moreover, irrefutable documentary evidence has been brought on record to prove the misconduct of the appellant, which could not be brushed aside with a simple denial.
- C. Incorrect. It does not mean that the then AOR has not examined the cases properly or irrelevant grounds has been added to the cases. The question is that the cases have been made time barred. Most of the cases illustrated in the list appended with the charge sheet, were dismissed by the august Supreme Court of Pakistan on the sole ground of limitation, which cause colossal monetary and irreparable loss to the government of Khyber Pakhtunkhwa. It would not be out of place to mention here that Hon’ble Chief Justice of Pakistan also took serious note of filing time barred cases by Government of Khyber Pakhtunkhwa. These observations were also reported by leading News Papers. **(Copy of clipping of News Paper is attached as Annex-C and order sheet of Hon’able Supreme Court attached as Annex-D).**
- D. Incorrect. As held by the Inquiry Committee that out of 36 time barred cases in list mentioned above, 04 cases were received by the A.O.R office within time. However, the same were not filed due to the reason

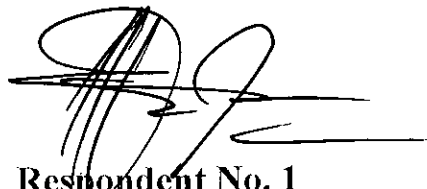
that the appellant sat over the cases and knowingly got them time barred. Due to this gross misconduct on part of the appellant the Government of Khyber Pakhtunkhwa suffered huge loss. Rest of the cases although received time barred by days, but those were not filed forthwith rather kept for long time in A.O.R Office by the appellant to get them more badly time-barred. This fact is evident from the letter from Communication & Works Department Government of Khyber Pakhtunkhwa, Dated: December 29, 2014 (**Copies of letter attached as Annex-F1, E2, E3**) wherein the appellant was held responsible for the same. In this regard one official namely Maqbool-e-Azam, the then SDO C&W Chitral and now posted as SDO, C&W, Dir Upper also submitted written statement. (Schedule of 04 Cases, Letter of Department and Statement are attached as **Annex-F1,F2,F3**)

That Annex P.I of Appeal (page 75 to 79) are concocted, fabricated and prepared by the appellant to save his skin from any action by the Competent Authority, as these letters addressed to A.O.R. are having no Diary, No Monogram and no record in the office of Respondent No. 2 (Dairy and Dispatch Branch) with regard to the receiving of the referred to letters. Moreover the matter was further clarified when office of the Respondent No. 2 sought authenticity of above referred letters from concerned department. In reply, the department concerned not only denied issuance of letters from their offices rather in cases titled "Government vs Muhammad Yahya" in written Statement of Muhammad Ayaz, D.S.P Legal Swat stated that the instant case was filed in time in the A.O.R office and got time barred by the appellant. Similarly in another case "Govt. vs Niaz Muhammad" also submitted written statement, wherein he denied issuance of letter rather categorically stated that he was called by appellant and got his signatures on already prepared letter by appellant in his office. All those facts alone not only depict the gross misconduct on the part of appellant, but also he is guilty of Criminal act. (Copies of letters of this office and replies with statements of officials are attached herewith **Annex-G1-G2**)

- E. Incorrect. Being custodian of record of A.O.R office, the appellant did not bring the matter into the notice of the then A.O.R and kept him ignorant about the time-barred cases. None of his A.O.R. tributed the best performance of the appellant. Due to inefficiency and delinquent attitude of similar nature, the appellant was warned vide order No. 7774/AG, dated 28/05/2013, and adverse entries were also made in A.C.Rs of the Appellant. (Copy of letter etc are attached as **Annex-H**)
- F. Incorrect. The inquiry conducted by Mr. waqar Ahmad, AAG was not a regular inquiry, rather it was a facts finding inquiry to ascertain the facts.
- G. Incorrect. The Inquiry Committee and all other proceedings were conducted in accordance with Law. Cogent and reliable evidence has been placed before the Committee to prove the charge against the appellant.
- H. Incorrect. As mentioned in above paras that allegation against the appellant are pertaining to record and bulky documentary evidence has been placed before the Committee in support of charge sheet. Moreover, during the fact finding inquiry proceeding, statement of Muhammad Tufail, Junior Clerk of A.O.R Office that he (Muhammad Tufail) received the cases and the same were handed over to the appellant. (Copies of letters is attached as **Annex-I**)
- I. Incorrect and misleading. In respect of the cases mentioned in the Para, the department concerned communicated through letter to the respondent No. 2 disclosed the non-filing of cases and also levelled serious allegations against the appellant, although these cases were figured in 36 time barred cases list, hence additional charge was added to charge sheet at Serial No. 4. Vide letter No. 13958/DHO Mardan dated 20/12/2013
- J. Incorrect. Detailed reply is given in above paras.

- K. Incorrect. First facts finding inquiry was conducted and then regular inquiry was carried out strictly in accordance with law.
- L. Incorrect. The appellant requested for personal hearing on 14/03/2014 (diarized on 14/03/2014) and he was personally heard by Respondent No. 2 and accordingly the order of dismissal was passed after adopting all legal requirements, enshrined in E&D Rules, 2011. (Copies of letters is attached as **Annex-J**)
- M. Incorrect. The impugned punishment was awarded in accordance with law after consulting all the facts and record vis-à-vis the gravity of charges against the appellant. Moreover, due to gross misconduct of the appellant, the Government of Khyber Pakhtunkhwa suffered irreparable loss.
- N. Incorrect. The Inquiry Committee held that charges against the appellant has been proved, hence respondent No. 2 passed the impugned order in accordance with law and recommendation of the Inquiry Committee.
- O. Incorrect.
- P. Incorrect. It does not relate to the grievances of the appellant. If he has any grievances in this regard, he may seek remedy from the competent forum. The promotion, by the respondent No: 2 has been made with bonafide intention and in public interest according to the law.

In light of the above, on acceptance of the reply, the appeal may please be dismissed with cost.



Respondent No. 1
 The Secretary to Govt. of Khyber Pakhtunkhwa, Law, Parliamentary Affairs and Human Rights Department Peshawar.



Respondent No. 2
 Advocate General,
 Khyber Pakhtunkhwa,
 Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No: 1212/2014

Sher Khan ... Petitioner.

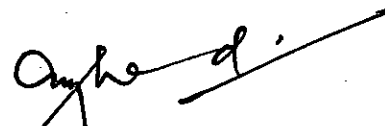
Versus

Government of Khyber Pakhtunkhwa, through
Secretary to Government of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and Human Rights Department
Peshawar and others ... Respondents

AFFIDAVIT

I, Muhammad Arshad Khan, Administrative Officer, Office of the Advocate General, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare on oath that the contents of Parawise Comments on behalf of Respondent No: 1 & 2 are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able Court.

Deponent



Nic: (17101-0252231-1)

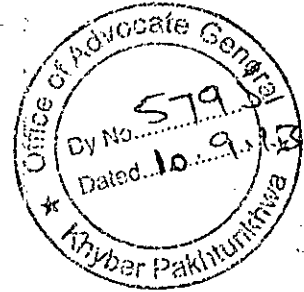
ADMINISTRATIVE OFFICER
Advocate General's Office
Khyber Pakhtunkhwa
Peshawar

Annex
"A"

9

To

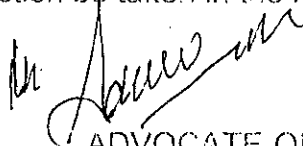
The Advocate General,
Khyber Pakhtunkhwa, Peshawar



SUBJECT: PENDING TIME BARRED CASES.

SIR,

With due respect it is submitted that the cases mentioned in the attached list are pending in the office of undersigned, most of these are badly time barred by the different departments in the period of my predecessor AOR. These cases are mostly suffered from different deficiencies pending on behalf of petitioners department (reasons of condonation of delay, power of attorneys, documents) are in process. The undersigned seeks your good-self advise in the time barred cases, so that appropriate action be taken in the matter.


ADVOCATE-ON-RECORD
SUPREME COURT OF PAKISTAN,
KHYBER PAKHTUNKHAWA, PESHAWAR

Dated 10/09/2013

6



District Health Department – Mardan
DISTRICT HEALTH OFFICER
Mardan (Khyber Pakhtunkhwa)
Ph: # (0937) 9230030 Fax: # (0937) 9230349
Email: edohmr@yahoo.com

Amex
"B"

10

No. 13958 /DHO Dated: 20/12/2013

Advocate General
Peshawar High Court Peshawar
Govt: of Khyber Pakhtunkhwa,
Peshawar.

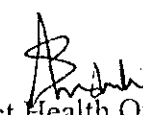
Subject: COMPLAINT AGAINST COMPUTER OPERATOR SHER KHAN FOR NOT SUBMITTING APPEAL IN CASE TITLE RAB NAWAZ VS LAND ACQUISITION COLLECTOR AND JANDAR SHAH VS LAND ACQUISITION COLLECTOR AND OTHERS

I have the honour to inform your good self that the undersigned submitted Rab Nawaz case on 1/07/2013 in the record AG office with Sher Khan but he has not been able to submit the appeal in the Supreme Court so far despite mofy deposited. (Letter and money received letter attached) Annexure "A".

Similarly in Jehandar case appeal is not submitted so far in the Supreme Court despite several visits paid by the representative of the undersigned as the case was submitted in record office Peshawar High Court Peshawar on 15/07/2013 (documents attached).

On account of above delay tactics both appeals has not been submitted in the Supreme Court so far, the undersigned will not be responsible for the time barred as the cases were declared fit by Law affair and parliamentary secretary for submitting appeals in the Supreme Court.

It is therefore requested that the concerned computer operator/personnel should be held responsible for delay submitting of appeals in the Supreme Court for the six (06) months.


District Health Officer
Mardan

No. /DHO

Copy forwarded to the:

1. Registrar Peshawar High Court Peshawar
2. AG on Record Peshawar High Court Peshawar
3. SO Litigation Peshawar
4. Office Copy


District Health Officer

11
Annex
C
B

<http://www.dailymashriq.com.pk>

اللہ ہی کیلئے ہیں مشرق و مغرب القرآن

DAILY MASHRIQ PESHAWAR

روزنامہ
مہذبوں کے ہائی
سید تاج میر شاہ
پشاور

سلسلہ اشاعت کے 48 سال

پشاور اسلام آباد سے یک وقت شائع ہونے والا کثیر الاشاعت قومی اخبار

ABC CERTIFIED

جلد 48
تاریخ 24 ذیقعد 1435ھ 20 ستمبر 2014ء 18 سوچ قیمت 12 روپے
شمارہ 35

چیف جسٹس ناصر الملک کا نام بارقعات دار کے خاتمے پر اٹل ہائپر ٹیکنالوجی

تاجخبر سے آپٹیکل دائرہ کرنے سے انصاف کی فراہمی میں بھی تاخیر اور توجہ نواز نے کو نقصان پہنچ رہا ہے۔ پشاور (کوئٹہ رپورٹ) سپریم کورٹ کے چیف جسٹس، مقدمات کی آئینیں دائر کرنے کی جہاں ت کوڑی ہے۔ ناصر الملک نے نام بار مقدمات دائر کرنے پر سخت۔ چیف جسٹس ناصر الملک نے گزشتہ روز منہائی حکومت توشیخ ظاہر کرتے ہوئے اے بی آفس کو بر وقت (بقیہ صفحہ 10)

بقیہ نمبر 48 چیف جسٹس ناصر الملک

کی جانب سے کتنے مقدمات کے خلاف دائر ہونے کی سہاقت کی ہی دوران چیف جسٹس نے اٹل ہائپر ٹیکنالوجی کوڑی ہے۔ گزشتہ دنوں کے سول پر مقدمات بر وقت توشیخ اٹل ہائپر ٹیکنالوجی اور کہا کہ مقدمات میں تاخیر سے آئینیں دائر کرنے سے قوی نواز نے کوشاں بھی رہا ہے اور عوام کو انصاف کی فراہمی میں تاخیر ہو رہی ہے۔ فیڈوں نے ایڈووکیٹ جنرل خیر، کھنڈر اور برایت کی کندا اس بگڑے ہوئے ہو کر رہی۔

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Diary No: 23310

Date 18-12-2014

Secretary C&W Deptt.
Khyber Pakhtunkhwa

12/1
Annex
"D"

PRESENT:

Mr. Justice Mian Saqib Nisar
Mr. Justice Sh. Azmat Saeed

CIVIL APPEALS NO.7-P TO 9-P OF 2014

(Against the judgments dated 23.4.2013, 6.5.2013
& 26.4.2013 of the Peshawar High Court, Chitral
Bench passed in CR No.290-M/2012, Swat Bench
passed in C.R. No.35/2012 and Chitral Bench
passed in RFA No.7/2013 respectively)

Secretary C & W Department, Peshawar
previously Secretary Works and Service
Government of KPK, Peshawar and others

... Appellant(s)
(in all cases)

Versus

Niaz Ahmed
Ahmed Zareen
Sardar Murad

In C.A. No.7-P/2014
In C.A. No.8-P/2014
In C.A. No.9-P/2014

... Respondent (s)
(in all cases)

For the appellant(s) : Mr. Rab Nawaz, Addl. A.G. KPK
Mr. Ishtiaq Ahmed, Tehsildar, Chitral

Respondent (s) : Mr. Ajmal Khan, AOR
(in C.A. No.8-P/2014)

Date of Hearing : 22.10.2014

ORDER

Mian Saqib Nisar, J.- These appeals are barred by 251, 238 and 225 days respectively. *Vide* applications (C.M.As No.127, 129 & 131-P/2014) seeking condonation of delay are founded upon the ground, that the judgment of the learned High Court is void and against such judgment there is no period of limitation. We have considered the impugned judgment and do not find this to be a void, entailing no period of limitation, thus the ground is baseless. Resultantly, the noted applications are dismissed, with the consequence that the main appeals are also dismissed, as being barred by time.

SD/- MIAN SAQIB NISAR, JUDE
SD/- SH. AZMAT SAEED, JUDE

Certified to be true copy

[Signature]
Deputy Registrar
Supreme Court of Pakistan,
Peshawar.





GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

NO.SO (Lit.)C&W/1-116/2014
Dated Peshawar the December 29, 2014

Amex
"E1"

Most Immediate

To ✓
The Secretary to Govt. of Khyber Pakhtunkhwa
Law Department, Peshawar

Subject: - CA.09-P/2014-GOVT. OF KHYBER PAKHTUNKHWA VS SARDAR MURAD

Dear Sir,

I am directed to refer to the subject noted above and to state that the Peshawar High Court, Chitral Bench passed judgment in the subject case on 23/4/2013 (copy enclosed), certified copy obtained by the XEN, Chitral on 22/5/2013 and forwarded to this department on 7/6/2013. The case was taken up with the Law Department for filing an appeal in the Apex court on 11/6/2013. Accordingly a meeting of the scrutiny committee in the Law Department was held on 21/6/2013. The minutes of the committee were sent to the Advocate General/Advocate-On-Record with copy to this Department on 26/6/2013. A Power of Attorney duly signed by the Secretary C&W Department was also handed over to Advocate-On-Record on 17/7/2013(copy enclosed). Therefore the case was handed over to the AOR after a delay of only 11 days.

However, the Supreme Court of Pakistan now vide judgment dated 22/10/2014(copy enclosed) turn down the appeal saying that the appeal was barred by 225 days, therefore the delay of the subject appeal as asserted in the judgment referred to above is not understandable.

I am therefore directed to request to please look into the matter and the Advocate General Khyber Pakhtunkhwa may be directed to clarify the position that on whose part the delay of filing CPLA/appeal in the Supreme Court of Pakistan was caused, so that further action may be taken accordingly.

Yours faithfully,

(NIAMATULLAH KHAN)
SECTION OFFICER (LITIGATION)

Encl: as above

Endst: No. & Date of even.

Copy forwarded to the PS to Secretary C & W Department Peshawar.

SECTION OFFICER (LITIGATION)

2-1-15

02/11/15
S. J. Khan
Amex 2/1/2015

8-26(8)C&W/2013

23
2/1/15

13

59
2/1/2015

60
2/1/2015



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

NO.SO (Lit.)C&W/1-113/2014
Dated Peshawar the December 29, 2014

Most Immediate

To ✓
The Secretary to Govt. of Khyber Pakhtunkhwa
Law Department, Peshawar

Subject: - CA.07-P/2014-GOVT. OF KHYBER PAKHTUNKHWA VS NIAZ AHMAD.

Dear Sir,

I am directed to refer to the subject noted above and to state that the Peshawar High Court, Chitral Bench passed judgment in the subject case on 23/4/2013 (copy enclosed), certified copy obtained by the XEN, Chitral on 7/5/2013 and forwarded to this department on 22/5/2013. The case was taken up with the Law Department for filing an appeal in the Apex court. Accordingly a meeting of the scrutiny committee in the Law Department was held on 31/5/2013. The minutes of the committee was sent to the Advocate General/Advocate-On-Record with copy to this Department on 4/6/2013. A Power of Attorney duly signed by the Secretary C&W Department was also handed over to Advocate-On-Record on 18/6/2013(copy enclosed). Therefore the case was handed over to the AOR well within the limitation time.

However, the Supreme Court of Pakistan now vide judgment dated 22/10/2014(copy enclosed) turn down the appeal saying that the appeal was barred by 251 days, therefore the delay of the subject appeal as asserted in the judgment referred to above is not understandable.

I am therefore directed to request to please look into the matter and the Advocate General Khyber Pakhtunkhwa may be directed to clarify the position that on whose part the delay of filing CPLA/appeal in the Supreme Court of Pakistan was caused, so that further action may be taken accordingly.

Yours faithfully,

(NIAMATULLAH KHAN)
SECTION OFFICER (LITIGATION)

Encl:as above

Endst: No. & Date of even.

Copy forwarded to the PS to Secretary C & W Department Peshawar.

SECTION OFFICER (LITIGATION)

2-1-15

02/1/15
S.

2/1/2015
ASW

14
Annex "E2"

8-26(S) 2012



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

NO.SO (Lit.)C&W/1-117/2014
Dated Peshawar the December 29, 2014

Annex "E3"

To

The Secretary to Govt. of Khyber Pakhtunkhwa
Law Department, Peshawar

Subject: - CA.08-P/2014-GOVT. OF KHYBER PAKHTUNKHWA VS AHMAD ZAREEN

Dear Sir,

I am directed to refer to the subject noted above and to state that the Peshawar High Court, Chitral Bench passed judgment in the subject case on 6/5/2013 (copy enclosed), certified copy obtained by the XEN, Chitral on 12/6/2013 and forwarded to this department on 18/6/2013. The case was taken up with the Law Department for filing an appeal in the Apex court on 20/6/2013. Accordingly a meeting of the scrutiny committee in the Law Department was held on 28/6/2013. The minutes of the committee were sent to the Advocate General/Advocate-On-Record with copy to this Department on 2/7/2013. A Power of Attorney duly signed by the Secretary C&W Department was also handed over to Advocate-On-Record on 17/7/2013(copy enclosed). Therefore the case was handed over to the AOR after a delay of only 11 days.

However, the Supreme Court of Pakistan now vide judgment dated 22/10/2014(copy enclosed) turn down the appeal saying that the appeal was barred by 238 days, therefore the delay of the subject appeal as asserted in the judgment referred to above is not understandable.

I am therefore directed to request to please look into the matter and the Advocate General Khyber Pakhtunkhwa may be directed to clarify the position that on whose part the delay of filing CPLA/appeal in the Supreme Court of Pakistan was caused, so that further action may be taken accordingly.

Yours faithfully,

(NIAMATULLAH KHAN)
SECTION OFFICER (LITIGATION)

Encl:as above

Endst: No. & Date of even.

Copy forwarded to the:-

1. Chief Engineer(North)C&W Deptt. Peshawar.
2. Exective Engineer, C&W Division Chitral alongwith a copy of judgment dated 22/10/2014 passed by the Supreme Court of Pakistan for information & necessary action.
3. PS to Secretary C & W Department Peshawar.

SECTION OFFICER (LITIGATION)

D/Super
G.M.

2-1-15

02/11/15 S. J. 22/11/2015

Q. 26 (1) C-8 W/2013 -612



OFFICE OF THE EXECUTIVE ENGINEER

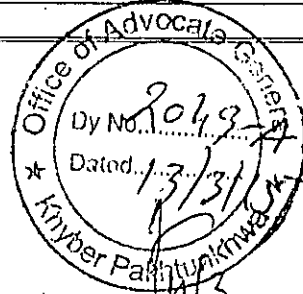
C&W DIVISION CHITRAL

No. 998 / 25E DATED: 13 / 03 / 2015

(16)
Annex
CO F10)

To

The Administrative Officer,
O/o Advocate General,
Khyber Pakhtunkhwa, Peshawar.



Subject:

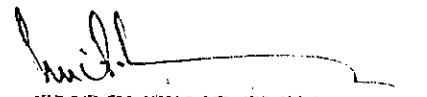
REASONS OF CONDONATION OF DELAY IN FILING CPLAS
IN THE FOLLOWING CASES.

Ref:

Your letter No. 5417-21/AG, dated 11/03/2015.

A detailed reply/written statement of the ^{then} present Sub Divisional Officer of the ~~then~~ office explaining the brief history of the case is submitted herewith for favour of perusal as desired in the letter quoted in reference.

DA/As above.


EXECUTIVE ENGINEER

Copy to:

1. The Chief Engineer (North) C&W Department Peshawar w/r to above for information.
2. The P.S to Chief Secretary to Govt. Of KPK, Peshawar w/r to above for information.
3. The P.S to Secretary to Govt. Of KPK, Law, Parliamentary Affairs & HR Deptt., Peshawar w/r to above for information.
4. The P.S to Secretary to Govt. Of KPK, C&W Deptt., Peshawar w/r to above for information.
5. The P.S to Advocate General, Khyber Pakhtunkhwa Peshawar w/r to above for information.

EXECUTIVE ENGINEER

OFFICE OF THE SUB-DIVISIONAL
OFFICER C&W DIVISION DIR UPPER

No. 2806/14-P

Dated: 12/03/2015

17

102

Annex
"F2"

To

✓ The Executive Engineer,
C&W Divisional Chitral

Subject:- REASONS OF CONDONATION OF DELAY IN FILING CPLAS IN
THE FOLLOWING CASES.

Kindly refer to Advocate General, Khyber Pakhtunkhwa letter No.
5417-2/AG, dated 11/03/2015 on the subject noted above and to enclose
herewith detailed reply/written statement of the undersigned for further
necessary action as desired please.


(Maqbool-e-Azam),

the then SDO C&W Chitral
now posted as SDO C&W Dir Upper.

(DA attached)

Copy forwarded to the Advocate General, Khyber Pakhtunkhwa
Peshawar with reference to his letter number referred above please.

(Maqbool-e-Azam),

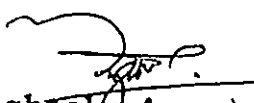
the then SDO C&W Chitral
now posted as SDO C&W Dir Upper.

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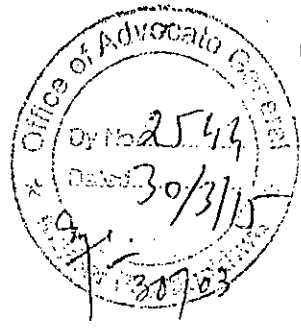
STATEMENT OF MR. MAQBOOL AZAM, THE THEN SUB-DIVISIONAL OFFICER, CHITRAL NOW POSTED AS S.D.O C&W DIVISION DIR UPPER.

1. I Maqbool-e-Azam, the then SDO, C&W Chitral now posted as SDO, C&W Division Dir Upper state on oath that the cases mentioned in the annexed letter was submitted by me as representative of XEN (C&W) office Chitral to the office Advocate General Khyber Pakhtunkhwa, Peshawar well in time within the limitation period of (60) days.
2. That the annexed letter is neither issued by the office of the undersigned under my office monogram, dispatch number and date.
3. No correspondence in black and white was made by office of the Advocate General, Khyber Pakhtunkhwa regarding delay of concerned cases. However, Mr. Sher Khan, Advocate General office telephonically approached the then XEN namely (Mr. Riaz wali Shah) and under his telephonic direction I went the office of the official concerned where he handed over to me a pre-prepared drafted letter by himself for signature which was signed by me according to his verbal instructions that it was a formality for submitting the cases to Supreme Court in all cases as he shown other letters of the same nature of different departments.
4. The cases had been submitted in time but got time barred by the office of Advocate-on-Record. It means that the official concerned has got signed the mentioned letter for his ulterior motives and protection.


(Maqbool-e-Azam),
the then SDO C&W Chitral
now posted as SDO C&W Dir Upper.
C.N.I.C No. 15201-0567346-9
Mobile No. 0333-8174742

From: The District Police Officer, Swat
To: The Muhammad Arshad Khan,
Administration Officer,
Advocate General office,
Khyber Pakhtunkhwa, Peshawar

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"Or 1"

No. 4261 /P, dated Gulkada the 19-03-2015

Subject: REASONS OF CONDONATION IF DELAY IN FILING CPLAS IN CASE TITLED RFA NO. 82/2011 GOVT: VS MUHAMMAD YAHYA

Memorandum:

Kindly refer to your Office Memo No. 5422-26/AG, dated 11-03-2015.

It is submitted that detail report/statement of Muhammad Ayaz Khan the then DSP Legal Swat shows that the letter under reference was forwarded to your office on the telephonic message/information of one Sher Khan an official of advocate general office who being dealing hand official intentionally delayed the submission of subject mentioned CPLA to the Supreme Court of Pakistan. Statement of Muhammad Ayaz Khan the then DSP Legal Swat, report of scrutiny committee and section office litigation letter dated 01-01-2013 is enclosed herewith for ready reference please.

District Police Officer, Swat

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بیان ازاں محمد آواز (سابقہ) ڈی۔ ایس۔ پی۔ لیگل سوات

سلسلہ CPLA / سول کیس حکومت بنام محمد یحییٰ عرض ہے۔ کہ حکم عدالت پشاور ہائی کورٹ بیچ دارلقضاء بہنورہ سوات محررہ

17-06-2013 کی مصدقہ کاپی مورخہ 03-07-2013 کو موصول ہو کر اگلے دن یعنی 04-07-2013 کو بذریعہ DPO

صاحب سوات جناب PPO خیبر پختونخواہ پشاور کو استدعا کی گئی کہ وہ سیکرٹری ہوم پشاور کے وساطت سے سپریم کورٹ آف پاکستان میں بذریعہ ایڈوکیٹ جنرل صاحب اپیل / CPLA لاج کرے۔

اس سلسلہ میں مورخہ 30-07-2013 کو سکروٹنی کمیٹی لاء ڈیپارٹمنٹ میں متفقہ طور پر فیصلہ کیا گیا کہ سول کیس بالا قابل اپیل

ہے۔ لہذا سیکشن آفیسر (LIT) نے بحوالہ چھٹی نمبر SO(LIT/C7/8-12(18) Home 2013/15088-92 مورخہ

01-08-2013 ایڈوکیٹ جنرل خیبر پختونخواہ کو استدعا کی کہ سپریم کورٹ آف پاکستان میں CPLA دائر کی جائے۔ لہذا مندرجہ

بالا کاروائی کی روشنی میں ڈسٹرکٹ پولیس آفس سوات نے بروقت CPLA/Appeal دائر کی ہے۔ اور مورخہ 24-12-2013 کو

شیرخان متعلقہ ڈیلنگ کلرک ایڈوکیٹ جنرل آفس پشاور ہائی کورٹ پشاور نے فون پر کہا کہ ایڈوکیٹ جنرل صاحب پشاور کی ہدایت کے

مطابق DPO سوات کے طرف سے ایک لیٹر دفتر AG صاحب پشاور ارسال کیا جائے اور اس میں دیری / Delay کے وجوہات بھی

بیان کی جائے۔ تاکہ ماضی قریب میں سپریم کورٹ آف پاکستان کے بیچ آنے پر مذکورہ CPLA میں تاریخ مقرر کی جاسکے۔ حالانکہ اس

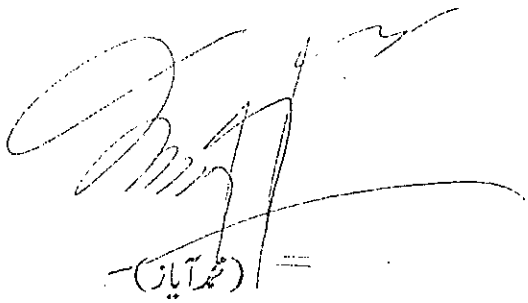
میں پولیس ڈیپارٹمنٹ کی طرف سے کسی قسم کی دیری / Delay نہیں تھی۔ بلکہ Delay کی تمام تر ذمہ داری شیرخان ڈیلنگ کلرک پر عائد

ہوتی ہے۔ جس میں اس کی کوتاہی / غفلت اور بدینتی شامل تھی۔ کیونکہ مذکورہ کلرک نے ان ٹائم اپیل / CPLA کو قصداً عمدہ انٹائم بارڈ کیا۔

دفتر ہذا سے CPLA کی تمام کاروائی بروقت ہوئی تھی۔ اور سکروٹنی کمیٹی نے بھی اس کیس کو اپیل کیلئے فٹ قرار دے کر سیکشن آفیسر (LIT)

نے 01-08-2013 کو ایڈوکیٹ جنرل خیبر پختونخواہ کو CPLA دائر کرنے کی استدعا کی۔ کمیٹی رپورٹ اور چھٹی انگریزی منجانب سیشن

آفیسر (LIT) محررہ 01-08-2013 لف ہے۔


(محمد آواز)

سابقہ ڈی۔ ایس۔ پی۔ لیگل سوات

مورخہ: 18-03-2015

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OFFICE OF THE ADVOCATE-GENERAL, KHYBER
PAKHTUNKHWA, PESHAWAR.

No. 7774 /AG
Address: High Court Building, Peshawar
Tele: No.091-9210119

Dated 28/5/2013
Exchange No 9213833
Fax No.091-9210270

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To
X Mr. Sher Khan,
DPS at AOR Section.

Subject: WARNING

Memo

You are posted/deputed in the AOR section of this office. Filing & preparation of paper books in the Supreme Court of Pakistan is one of your duties. However it has been observed with great concern that you are not taking due interest in performing your duties & paper books, filed by you, are not properly documented. A glaring example of your negligence happened in the case titled: "Govt of Khyber Pakhtunkhwa vs Aftab Qadir" and "Govt vs Attaullah & others". Your such negligence create embarrassing situation for the Law officers in the Supreme Court of Pakistan.

However, leniency is taken this time. You are directed to assist the AOR (your immediate boss) properly & make sure that all the required documents are properly attached/annexed with the paper books. You are further directed to be very much careful in future and if a case got time barred on your negligence, you would be held responsible for the same.

This office order bearing No. 6807-12/AG, dated 14/05/2013 is hereby withdrawn.

Advocate General,
Khyber Pakhtunkhwa, Peshawar

Endst: No. 7775 /AG

Copy to the Secretary, Law Department, Peshawar for information.

Amali
Advocate General,
Khyber Pakhtunkhwa, Peshawar

on file 113

[Signature]
29/5/13
SOLICIT

[Signature]
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STATEMENT OF MR. MUHAMMAD TUFAIL, JUNIOR CLERK, ADVOCATE
GENERAL OFFICE, SUPREME COURT BRANCH.

Stated that I am posted in this office and dealing with the cases to be filed in Supreme Court of Pakistan. My duties are to receive the various cases from the Law Department, to make entry into the relevant register alongwith its detail and submit the same further before the office of Advocate-on-Record. The 36 time barred cases received by me, which have been entered into relevant register and for this purpose I produce the copies of the main register which are Exp-A consisting of 25 sheets. The detail list of the time barred cases are also prepared by Learned Advocate-on-Record which is Exp-B consisting of 02 sheets.

As soon as such like cases are handed over to me, I enter all these into the relevant register immediately and further hand over to the office of Learned Advocate-on-Record i.e Mr. Sher Khan, Data Processing Supervisor of Advocate-on-Record office on the same day.

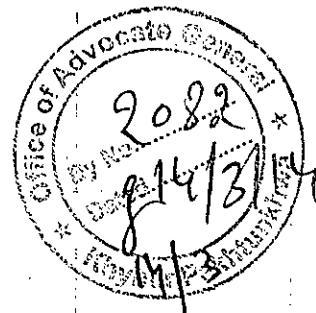

(Muhammad Tufail)
Junior Clerk
Supreme Court branch
Advocate General's office,
Peshawar

To

Annex (23)
11/11

The Advocate General Khyber Pakhtunkhwa,
Peshawar

Subject: - PERSONAL HEARING



Respected Sir,

Please refer to my reply to the show cause notice dated 28-03-2014.

In this regard, I would like to request that I wish to be heard in person in order to explain my position on any date as may convenient to you sir.

Dated 14-03-2014

yours obediently

Enc (s) : Reply along with annexures
of 136 pages.


Sher Khan
Data Processing Supervisor

To

The Chairman,
KP, Service Tribunal, Peshawar.

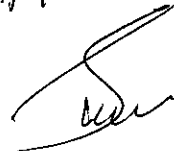
Subject: Appeal No. 1211/2014 and Appeal No. 1212/2014

Sir, - With respect it is submitted that my both cases are similar nature and were fixed both cases on 01-09-2015. The respondent departments filed comments in S.A No 1211/2014 and S.A No. 1212/2014 comments were called for 29-10-2015, the concerned departments filed were directed to file comments on 29-10-2015, which has been filed.

Now according to order sheet dated 1-9-2015 both cases were fixed for argument for 03-12-2015, while due to lack of knowledge of S.A No. 1212/2015 reply, the second case was fixed for 23-02-2016 mistakenly.

Therefore, it is requested that both cases which were already declared clubbed according to order sheet dated 1-9-2015 may please be clubbed for 03-12-2015, and obliged.

Appellant,



Sher Khan, Ex-DPS
AG, Office Peshawar

Dated
30-10-2015

put up with
record

J.
03-10-15