

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1084/2015

Date of Institution ... 21.09.2015

Date of Decision ... 14.12.2018

Mr. Muhammad Bakhsh Malik, Directorate of DG Agriculture Extension,  
Jamrud Road, Peshawar. ... (Appellant)

VERSUS

The Provincial Government through Chief Secretary, Government of Khyber  
Pakhtunkhwa, Civil Secretariat, Peshawar and three others.  
... (Respondents)

-----  
MR. M. ASIF YOUSAFZAI,  
Advocate

--- For appellant.

MR. MUHAMMAD JAN,  
Deputy District Attorney

--- For respondents

MR. AHMAD HASSAN,  
MR. MUHAMMAD HAMID MUGHAL

--- MEMBER (Executive)  
--- MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the  
parties heard and record perused.

ARGUMENTS

2. Learned counsel for the appellant argued that he was proceeded departmentally  
and thereafter penalty of withholding promotion for one year was imposed on him vide  
impugned order dated 26.09.2012, which was received by him on 10.10.2012. He filed  
review petition on 22.10.2012 which was rejected on 08.02.2013. Against the above  
mentioned impugned order he filed service appeal no. 519/2013 in this Tribunal and vide  
judgment dated 02.06.2014 the matter remitted to the respondents to pass proper speaking  
order on his departmental appeal. His departmental appeal was rejected on 27.08.2015  
communicated to him on 02.09.2015, hence, the instant service appeal. The enquiry was  
not conducted in accordance with the procedure laid down in E&D Rules 2011. He had

not misused his authority and as such was not guilty of misconduct. Again proper order was not passed on his departmental appeal so Section-24-A of the General Clauses Act 1897 was violated.

3. Learned Deputy District Attorney argued that on the basis of allegations leveled against the appellant an enquiry was conducted and after observance of all codal formalities punishment as contained in the impugned order was awarded to him. He was treated in accordance with law and rules.

**CONCLUSION.**

4. We have minutely examined the enquiry report and reached the conclusion that charges leveled against the appellant were not proved. Defense offered by the appellant in the shape of reply to questionnaire was not properly analyzed by the inquiry officer. As the enquiry officer did not record the statements of the accused and others, nor opportunity of cross examination was afforded to him so his findings were not based on solid documentary evidence. It would not be out of place that the appellant in his reply alluded to two employees were appointed on the directions of DCO, D.I.Khan but he was not associated with the enquiry proceedings which made the findings disputed.

5. As a sequel to above, the appeal is accepted and the impugned order dated 26.09.2012 and 27.08.2015 are set aside. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)  
Member

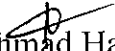


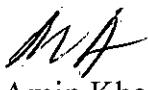
(MUHAMMAD HAMID MUGHAL)  
Member

ANNOUNCED  
14.12.2018

07.12.2018

Counsel for the appellant present. Mr. Sanaullah, Admin Officer alongwith Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. Case to come up for arguments on 14.12.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

Order

14.12.2018

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed on file, the appeal is accepted and the impugned order dated 26.09.2012 and 27.08.2015. ~~File get disposed of accordingly~~  
Parties are left to bear their own cost. File be consigned to the record room.

Announced:  
14.12.2018

  
(MUHAMMAD HAMID MUGHAL)  
Member

  
(AHMAD HASSAN)  
Member

05.06.2018

Appellant in person present. Mr. Ziaullah, DDA alongwith Mr. Tayyab Gul, Supdt for respondents present. Appellant seeks adjournment. Adjourned. To come up for arguments on 20.07.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

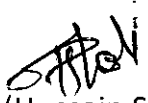
20.07.2018


Due to engagement of the undersigned in judicial proceeding before S.B further proceeding in the case in hand could not be conducted. To come on 11.09.2018 <sup>before</sup> D.B

  
Member (J)

11.09.2018

Junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 29.10.2018 before D.B

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member

29.10.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 07.12.2018.

  
Reader

1084/15

13.12.2017

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Tayyab Gul, Assistant for the respondents present. The court time is over. To come up for arguments on 07.02.2018 before this D.B. ~~Status quo be maintained till the~~

~~date fixed.~~

  
Member

  
Chairman

07.02.2018

Junior to counsel for the appellant and Mr. Riaz Painda Kheil, learned Assistant Advocate General alongwith Tayab Gul Assistant for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel is not available. Adjourned. To come up for arguments on 05.04.2018 before D.B

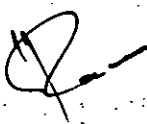
  
(Gul Zeb Khan)  
MEMBER

  
(Muhammad Hamid Mughal)  
MEMBER

05.04.2018

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel is not available. Adjourn. To come up for arguments on 05.06.2018 before D.B

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

16.03.2017

Mr. Taimur Khan, junior counsel for appellant, M/S Jalal-ud-Din, SMS and Tayab Gul, Officer Assistant alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Junior counsel for appellant requested for adjournment as senior counsel for appellant is stated busy in the Hon'ble Peshawar High Court. Adjournment granted. To come up for arguments on 03.07.2017 before D.B.

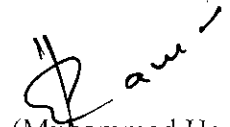
  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AMIR NAZIR)  
MEMBER

03.07.2017

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Tayab Gul, Office Assistant & Mr. Jalal Ud Din, Assistant for the respondents present. Learned District Attorney requested for adjournment. Adjourned. To come up for arguments on 12.09.2017 before D.B.

  
(Gul Zeb Khan)  
Member

  
(Muhammad Hamid Mughal)  
Member

12.09.2017

Appellant in person and Asstt. AG alongwith Jalalud Din, SMS Agronomist, Agriculture Extension and Tayyab Gul, Assistant for the respondents present. Appellant seeks adjournment as his counsel is busy in the Hon'ble High Court. Adjourned. To come up for arguments on 13.12.2017 before the D.B.

  
Member

  
Chairman

11.02.2016

Appellant in person, M/S Tayyab Gul, Assistant and Jalal-ud-Din, SMS alongwith Addl: A.G for respondents present. Written reply by respondents No. 2, 3 and 4 submitted. The learned Addl: AG relies on the same on behalf of respondent No. 1. The appeal is assigned to D.B for rejoinder and final hearing for 19.5.2016.

  
Chairman

19.5.2016

Agent to counsel for the appellant and Adl. AG for respondents present. Rejoinder not submitted requested for time to file rejoinder. To come up for rejoinder/arguments to 10.6.2016.

Member 

  
Member

10.6.2016

Counsel for the appellant and Mr. Jalal ud Din, SMS alongwith Usman Ghani, Sr. GP for respondents present. Rejoinder not submitted requested for time to file rejoinder. To come up for rejoinder and arguments on 9.11.2016.


  
Member

  
Member

09.11.2016

Counsel for the appellant, Mr. Tayyab Gul, Assistant and Jalal ul Din, Assistant alongwith Assistant AG for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on

16-3-17  
  
(Muhammad Amir Nazir)  
Member

  
(Pir Baksh Shah)  
Member

09.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as Director and was subjected to inquiry when serving as District Agriculture Officer Bunu on the allegations of appointing 6 persons illegally and terminating 5 employees without fulfilling the codal formalities and granting pay and allowances to illegal appointees and vide impugned order dated 26.9.2012 penalty in the shape of withholding promotion for one year was passed against which departmental appeal was preferred which was rejected on 8.2.2013 where-after service appeal No. 519/2013 was preferred which was decided on 2.6.2014 remitting the case back to the department by deciding the same through speaking order by the competent authority which was finally decided on 27.8.2015 and communicated to the appellant on 2.9.2015 maintaining therein the penalty mentioned above.

Appellant Deposited  
Security & Process Fee

That neither any regular inquiry was conducted nor the prescribed procedure for inquiry was followed which was carried out in the shape of a questionnaire. That no opportunity of personal hearing was afforded to the appellant and the impugned order was passed by the DCO who was not a competent authority.

That the afore-stated imposition of penalty is a stigma which may be taken into account at the time of consideration of the case of the appellant for promotion to BPS-20.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 23.12.2015 before S.B.

Chairman

23.12.2015

Appellant in person and Mr. Jalal-ud-Din, SMS alongwith Addl: AG for respondents present. Needs time for written reply. To come up for written reply on 11.02.2016.

Member



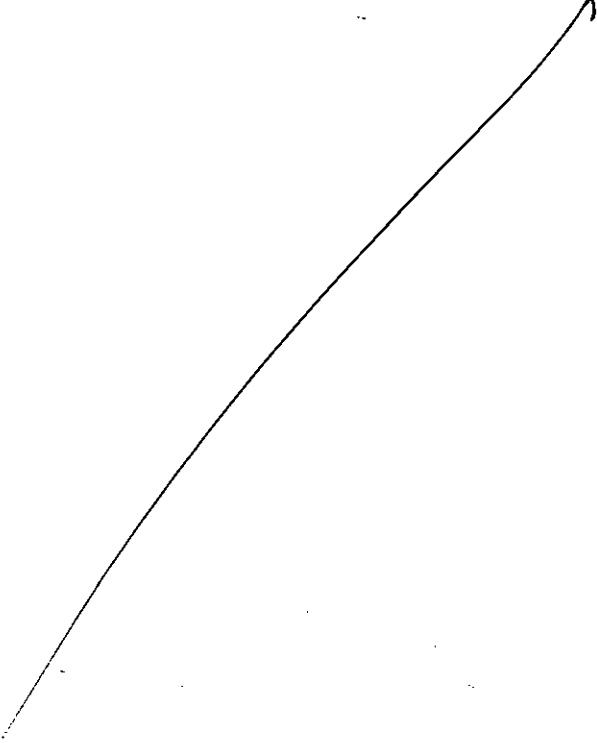


## FORM-A

## FORM OF ORDER SHEET

Court \_\_\_\_\_

Case No. 1084/15

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	5.10.2015	<p>The appeal of Mr. Muhammad Bakhsh Malik resubmitted to-day by Mr. Muhammad Asif Yousafzai, 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> <p>This case be put up before the S.B for preliminary hearing on <u>9-10-15</u>.</p> <p style="text-align: right;">   CHAIRMAN </p> 


The appeal of Mr. Muhammad Bakhsh Malik, Directorate of DG Agriculture (Extension) Peshawar received to-day i.e. on 21.09.2015 is incomplete on the following score which is returned to his counsel for completion and resubmission within 15 days.

1. Pages No. 18 of the appeal is not attached with the appeal, which may be placed on file.

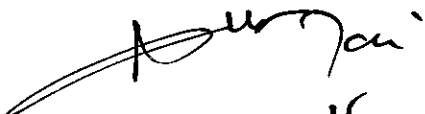
(Nadeem)  
page no

No. 1453 /ST,

Dated 22-9- /2015

  
REGISTRAR  
KPK SERVICE TRIBUNAL,  
PESHAWAR.

Mr. Muhammad Asif Yousafzai, Advocate, Peshawar.

objection removed.  
Resubmitted.  
  
5-10-15

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

APPEAL NO. 1084 /2015

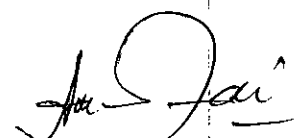
Mr. Muhammad Bakhsh Malik      V/S      Agriculture Department

.....  
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4.	Copy of Reply to Charge sheet	C	<del>08-09</del>
5.	Copies of Questionnaires & their Reply	D	<del>10-25</del>
6.	Copy of Enquiry Report/ Recommendations	E	<del>26-32</del>
7.	Copy of Show-cause Notice	F	<del>33-34</del>
8.	Copy of Reply	G	<del>34-36</del>
9.	Copy of Order (26.9.2012)	H	<del>37-38</del>
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APPELLANT

THROUGH:

  
M. ASIF YOUSAFZAI  
ADVOCATE HIGH COURT  
PESHAWAR.

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

N.W.F. Province  
Service Tribunal  
Diary No. 1099  
Dated 21-9-2015

APPEAL NO. 1084 /2015

Mr. Muhammad Bakhsh Malik,  
Directorate of DG Agriculture Extension,  
Jamrud Road, Peshawar.

**APPELLANT**

VERSUS

1. The Provincial Government through Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary, Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Coop; Department, Civil Secretariat, Peshawar.
4. The Director General, Agriculture Extension, Khyber Pakhtunkhwa, Jamrud Road, Peshawar.

**RESPONDENTS**

.....

**APPEAL UNDER SECTION-4 OF THE NWFP  
SERVICE TRIBUNAL ACT 1974 READ WITH  
SECTION-9 OF THE E&D RULES, 2011 AGAINST  
THE IMPUGNED ORDER DATED 26.09.2012 AND  
REJECTION ORDER DATED 27.08.2015  
COMMUNICATED TO THE APPELLANT ON  
02.09.2015 WHEREBY THE APPEAL OF THE  
APPELLANT HAS BEEN REJECTED FOR NO GOOD  
GROUNDS.**

**PRAYER:**

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 26.09.2012 and REJECTION ORDER 27.08.2015 COMMUNICATED TO THE APPELLANT ON 02.09.2015 MAY BE SET ASIDE AND THE APPELLANT'S PROMOTION MAY BE RESTORED FROM HIS DUES DATE WITH ALL BACK & CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

*[Handwritten signature]*  
2/9/15

*Re-submitted  
to Aug  
[Handwritten signature]  
5/10/15*

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant is the employee of the Agriculture Extension Department and has 33 years at his credit with good record throughout. The appellant also performed his duty as Executive District Officer Agriculture, Bannu and D.I.Khan.
2. That while serving as EDO Agriculture, Bannu, the appellant was served with charge sheet on 16.01.2012 wherein the charges of (a) appointment of 6 person without observing codal formalities (b) terminated 5 officials without observing codal formalities (c) paid pay and allowances to illegal appointed person which caused loss to the government exchequer." The charge sheet was also accommodated with a statement of allegations in which one Mr. Zahir Shah, DMG was appointed as Enquiry Officer. Copies of Charge sheet and Statement of Allegations are attached as Annexure-A and B.
3. That on 4.2.2012 the appellant submitted reply to the charge sheet and statement of allegations and categorically denied all the allegations level against him. Copy of Reply to the Charge sheet is attached as Annexure-C.
4. That then the Enquiry was conducted in questionnaire form. The appellant and other related officials submitted their answers to the questionnaires. Copies of questionnaires and their reply are attached as Annexure-D.
5. That on 29.2.2012, the enquiry officer submitted his findings to the competent authority based on the questionnaire and its reply. Copies of Enquiry Report / Recommendations are attached as Annexure-E.
6. That after the recommendation of the enquiry officer, the appellant was served with show cause notice and the appellant again while denying all allegations submitted the details reply to the show cause notice in time. Copies of show cause notice and reply are attached as Annexure-F and G.

7. That on 26.9.2012, the penalty order was passed wherein the penalty of with-holding of promotion for one year was imposed upon the appellant. The said order was conveyed to the appellant on 10.10.2012, where after the appellant filed review petition under the rules on 22.10.2012 but the appeal of the appellant was rejected on 8.2.2013. The appellant finally received the rejection order on 22.2.2013. Copies of Order, Appeal and Rejection Order are attached as Annexure-H, I, and J.
8. That against the order dated 26.09.2012 and Rejection Order dated 8.2.2013, the appellant filed Service Appeal No.519/2013 in the Honourable Service Tribunal and the Honourable Service Tribunal accepted the appeal of the appellant and his case remanded to the competent authority to pass a proper and speaking order in the light of the Section 24-A of the General Clauses Act, 1897 keeping into consideration all the aspects mentioned above. The copy of Service Appeal and Judgment are attached as Annexure-K and L.
9. That the appellant submitted his appeal along-with attested copy of the Judgment dated 02.06.2014 of the Honourable Service Tribunal, Peshawar to the competent authority on which was rejected on 27.08.2015 by the competent authority and the same communicated to the appellant on 02.09.2015. Copy of Rejection Order communicated to the appellant on 02.09.2015 are attached as Annexure-M .
10. That now the appellant comes to this august Tribunal on the following grounds amongst the others:

**GROUND:**

- A) That the impugned orders dated 26.09.2012 and Rejection Order dated 27.08.2015 communicated to the appellant on 02.09.2015 are against the law, rules, material on record, and norms of justice, therefore, not tenable.
- B) That the appellant has not been treated according to law and rules and has been penalized for no fault on his part.
- C) That the appellant has done nothing illegal or misuse his authority which could amount to misconduct. Rather, the

appellant did everything in accordance with the law and rules as clarified by the appellant to the reply in the charge sheet.

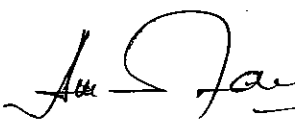
- D) That the enquiry was not conducted in accordance with the established principle of law and rules, rather the enquiry was conducted in questionnaire form which was totally violation of law.
- E) That neither any statement was recorded of the witnesses in the presence of appellant nor the appellant was to allow to cross examine the witnesses and other record due to which the appellant remained undefended which amounts to condemnation unheard.
- F) That even the final rejection order is not a speaking order which is the violation of Section-24-A of the General Clauses Act and the Supreme Court's Judgment reported as 1991 SCMR Page-3230.
- G) That even the penalty order is not signed by the competent authority and as such the order is illegal and without lawful authorities.
- H) That even the Rules-9 of the E&D Rules, 2011 has been violated while awarding punishment to the appellant.
- I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT 

Muhammad Bakhsh Malik

THROUGH:

  
M. ASIF YOUSAFZAI  
ADVOCATE HIGH COURT  
PESHAWAR.

A  
5

**CHARGE SHEET.**

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Malik Muhammad Bakhsh (BS-18), now working as Executive District Officer Agriculture, Bannu under suspension discharging his duties in Directorate General, Agriculture Extension Khyber Pakhtunkhwa, Peshawar as follow:-

That you, while posted as EDO (Agril:) (BS-19) DIKhan committed the following irregularities:-

- a. Appointed six persons without observing codal formalities.
- b. Terminated five officials without observing codal formalities, while one official is left in service.
- c. Paid pay and allowances to the illegal appointed persons during their six months service, which cause loss to the Government exchequer.

By reasons of the above, you appear to be guilty of misconduct under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the inquiry officer/committee, as the case may be.

Your written defense, if any, should reach the inquiry officer/committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case, exparte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegations is enclosed.

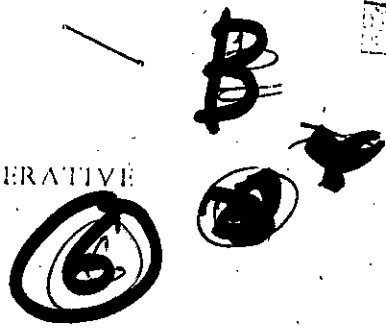
(AMIR HAIDER KHAN HOTI)  
CHIEF MINISTER,  
KHYBER PAKHTUNKHWA.

(COMPETENT AUTHORITY)

**ATTESTED**



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT



DISCIPLINARY ACTION

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Malik Muhammad Bakhsh (BS-18), now working as Executive District Officer Agriculture, Bannu under suspension discharging his duties in Directorate General, Agriculture Extension Khyber Pakhtunkhwa, Peshawar has rendered himself liable to be proceeded against, as he committed the following acts / omissions within the meaning of rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

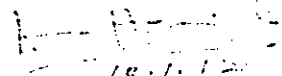
STATEMENT OF ALLEGATION

- a. Appointed six persons without observing code of formalities.
  - b. Terminated five officials without observing code of formalities, while one official is left in service.
  - c. Paid pay and allowances to the illegally appointed persons during their six months service, which cause loss to the Government exchequer.
2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/committee, consisting of the following, is constituted under rule 10(1)(a) of the ibid rules:

- i. Syed Zahid Shah, DMB-(BS-14), DCO, Bannu.
- ii. \_\_\_\_\_

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

The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/committee.

  
(AMIR HAIDER KHAN HOTI)  
CHIEF MINISTER,  
KHYBER PAKHTUNKHWA.

(COMPETENT AUTHORITY)

  
ATTEST

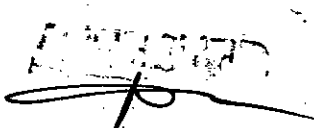
Endst. No.SOE(AD)20-77/2011

Dated Peshawar, the 16/01/2012.

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

1. The Inquiry Officer of M/S Syed Zahir Shah (DMG BS-19), DCO, Bannu for initiating proceedings against the accused under the provision of the Khyber Pakhtunkhwa E&D Rules, 2011.
2. Malik Muhammad Bakhsh, ex- EDO Agril: DI Khan now Executive District Officer (Agriculture) Bannu, under suspension with the advice to appear before the Inquiry officer, on the date, time and place fixed by the Inquiry officer, for the purposes of the inquiry proceedings.
3. The Director General, On-Farm Water Management, Khyber Pakhtunkhwa, Peshawar, with the request to depute departmental representative who is well conversant with the facts of the case along with relevant record to assist the Inquiry Officer during the inquiry proceedings.

  
(MOHAMMAD ZAHID)  
SECTION OFFICER-ESTT:





The Enquiry Officer  
Syed Zahir Ali Shah, DMG (BPS 19)  
DCO, Bannu

Subject: Statement of Allegation/ Charge Sheet

I acknowledge the receipt of charge sheet received on 01-02-2012 from your good office and clarify my position in the light of record and facts. My Para wise reply is as under.

1. I deny the charge on following grounds.

It is brought to your kind notice that instead of six persons five were appointed while all the codal formalities were observed. Appointment of class IV i.e. field workers BPS-1 was made through employment exchange and on the advice of DCO D.I.Khan as "the applicant should be appointed on the vacant post dated 08-08-2009, forwarded for necessary action dated 28-02-2009" by providing the NOC (annexure 1).

As for as the appointment of junior clerk and driver cum operator is concerned proper procedure i.e. advertisement, test and interview was conducted through the departmental selection committee (annexure 2).

Hence, none of the persons was appointed illegally.

2. I deny the charge on following grounds.

It is submitted for your kind information that instead of five, four officials orders were cancelled/ withdrawn on the directive of DCO D.I.Khan.

i. Shams ur Rahman (field worker) with reference to DCO D.I.Khan letter No 719/DCO dated 25-01-2010 "as per policy Mr Sadaqat Ali s/o Liaqat Ali has the right to be appointed. You are directed to consider the application of Mr Sadaqat Ali s/o Liaqat Ali for the post of deceased son quota under the rule" (annexure 3).

While in the subsequent letter No 1209/DCO dated 12-02-2010, I was directed as "you are therefore directed to terminate the person appointed by you which is against the rule/ Govt. policy and appoint Mr Sadaqat Ali s/o Liaqat Ali under deceased son quota against the said post as per Govt. policy in vogue" (annexure 4).

So, in the light of clear direction by the DCO D.I.Khan I, being EDO Agriculture, cancelled the appointment of Shams ur Rahman and order of Sadaqat Ali s/o Liaqat Ali was placed on deceased son quota vide order No. 349-53/EDO dated 13-02-2010 (annexure 5).

ii. Mohibullah (field worker) It is clarified that Mohibullah neither reported arrival nor submitted medical fitness certificate. Hence, his appointment order was withdrawn on the direction of DCO D.I.Khan vide letter No. 9774/DCO dated 20-11-2009 as "the office order bearing No. 2599-2602/EDO Agriculture dated 12-10-2009 issued by your office may be withdrawn" which was further confirmed by the then Incharge EDO Agri; vide letter No 2944/EDO dated 21-11-2009 (annexure 6,7).

iii. Ghulam Mustafa (junior clerk) vide District Nazim letter No. 090/DN/PSO dated 07-01-2010 address to DCO D.I.Khan as "you are therefore requested to please adjust two junior clerks out of the list of junior clerks lying in the district surplus pool D.I.Khan so that the surplus policy could be implemented in letter and spirit".

**ATTESTED**

(9) (A)

Further DCO D.I.Khan letter No. 521/DCO dated 16-01-2010 address to EDO Agriculture as "the adjustment of two junior clerks from the surplus pool staff D.I.Khan against the post of the same cadre lying vacant in the Agri; department of D.I.Khan" with the list of surplus pool staff (annexure 8,9).

So, in the light of above instruction, the order of Ghulam Mustafa was cancelled and junior clerk from the surplus pool was adjusted.

- iv. Ilahi Bakhsh (driver cum operator etc) vide DCO D.I.Khan letter No. 10107-10/DCO dated 09-02-2010 accompanied the list of surplus pool staff by mentioning the names of three persons
1. One post of junior clerk BPS-7 (Syed Najaf Ali Shah s/o Ghulam Mustafa Shah)
  2. One post of driver cum operator BPS-6 (Malik Ilahi Bakhsh s/o Malik Sona)
  3. One post of vehicle driver BPS-4 (Muhammad Amir s/o Muhammad Ashiq)

and directed as "you are hereby directed to cancel immediately the above orders and accommodate the senior most junior clerk of the surplus pool and the driver of district surplus pool as per the Govt. policy of NWFP" (annexure 10).

So, in the light of above instructions it was complied as

- a. No appointment order was made for Najaf Ali Shah
- b. Order of Ilahi Bakhsh was not cancelled as no post for such cadre was available in the surplus pool list so requested for NOC which was granted later on.
- c. Appointment order of Muhammad Amir was cancelled and driver from surplus pool was adjusted. Due to non availability of NOC, neither he reported arrival nor submitted medical fitness certificate. Hence, there was no need to give him prior notice as per rule (annexure 11).

In the light of above mentioned facts, it is quite clear that their appointment orders were not withdrawn illegally.

3. I deny the charge on following grounds.

None of the persons was given salary; therefore, no loss occurred to Govt. exchequer. Salaries to Ghulam Mustafa and Shams ur Rahman were made due to court cases as the honorable court has granted the status quo during the hearing and after the dismissal of the case, their salaries were stopped.

Therefore, my action was legal and under Govt. rules and regulations.

- i. Shams ur Rahman. Case was filed with honorable Civil Judge III on 30-01-2010. Status quo was granted on 13-02-2010 by honorable court and decided on 13-07-2010 as "the suit of the plaintiff is here by dismissed as withdrawn" (annexure 12).
- ii. Ghulam Mustafa. "his application is here by dismissed, moreover the plaintiff has already receipt salary for the last ten month in the garb of present status quo" after that his salary was stopped by District Officer D.I.Khan (annexure 13).

It is therefore requested that I may kindly be exonerated of the charges leveled against me. At the end, I would request to allow me to be heard in person to clarify my position.

Ww  
Muhammad Bakhsh Malik  
Ex. EDO Agric. D.I.Khan  
Now EDO Agric. Bannu

ATTESTED  


سوال خاصہ برائے ایکس EDO ایڈیٹر ایچی خان علامہ بخش

1 کیا آپ نے شمس الرحمان فیصلہ دیا کہ، حب اللذیلة وراعلام مصطفیٰ جو بیڑ مکرر  
الہی بخش در ٹیورم ایڈیٹر، محمد عامر در انٹور اور حف علی شاہ در انٹور کو  
مبترتی رت وقت تمام قانونی ضابطے پورے کئے تھے؟

2 کیا مذکورہ پوسٹوں کو مہر سے پھیلے آپ نے صنفی سرپلس پورا سے  
NOC لیا تھا؟

3 کیا آپ نے کلاس فور اپلاٹمنٹ ایجنسی کا ذریعہ <sup>مشتق</sup> ~~مشتق~~   
اور اسکا باقاعدہ Departmental Selection ایجنسی کے ذریعے تعینات کی گئی؟  
4 کیا فریوہ باقی پوسٹوں کو Advertisment لیا تھا؟

اگر 2، 3، 4 کا جواب مثبت میں ہو تو جواب سائے  
ثبوت فراہم کریں؟

5 کیا آپ نے ان تمام اوپر ذکر کئے گئے بندوں کو ~~تعمیر~~   
"Terminated" کیا تھا؟ اگر ہاں تو کیوں؟

6 کیا مذکورہ لوگوں کو <sup>terminate</sup> کرنے سے پہلے اپنے  
تمام قانونی ضابطے پورے کئے تھے؟ اگر ہاں تو ثبوت  
فراہم کیجئے

7 کیا بعض ملازمین جیسے شمس الرحمان اور علامہ مصطفیٰ وغیرہ  
کو <sup>(Termination)</sup> کے بعد بھی تنخواہ ملتی رہی کیوں؟ آپ نے  
کس قانون کے تحت اس کی تنخواہ جاری رکھی؟

8 کیا بعض پوسٹس ایڈیٹر ایچ خان علامہ <sup>مشتق</sup>   
کیا بعض پوسٹس ایڈیٹر ایچ خان علامہ

ATTESTED

14

Detached ہونے کے؟ اگر ہاں تو ابھی پوسٹوں پر کچھ بھی

کس طرح ملازمین کو رکھا گیا اور وہ تنخواہ لیتے رہے؟

9 کیا detached پوسٹوں پر بھی جوتی اور Adjustment کی گئی؟ اگر ہاں

تو کس قانون کے تحت؟ کیا اب نے دوسرے ملازمین کو اتنا رہا ہے۔ کیا لیکن ابھی تک یہ وہی ہے اس کو برقرار رکھا گیا

10 اپ فریڈ اگر کچھ لینا چاہیں۔

11/2/11

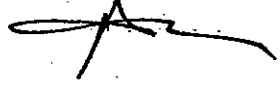
انکوائری آفیسر / ڈی سی او بنوں

1. جی ہاں شمس الرحمن اور محبت اللہ نیلڈور کرکوا ایپلائیمنٹ ایکٹیو کے ذریعے اور ڈی سی اوصاحب کی ایڈوائس پر بھرتی کیا گیا جبکہ غلام مصطفیٰ جو نیئر کلرک، الہی بخش ڈرائیور/آپرٹر اور محمد عامر ڈرائیور کو تمام قانونی تقاضے پورے کرتے ہوئے بھرتی کیا گیا جبکہ نجف علی شاہ نامی بندے کو سرے سے بھرتی ہی نہیں کیا۔
2. جی ہاں شمس الرحمن، محبت اللہ اور غلام مصطفیٰ کے لیے پہلے NOC لی گئی۔ جبکہ الہی بخش کے لیے NOC بعد میں ملی۔
3. جی ہاں کلاس فور یعنی نیلڈور کرکوا کی تعیناتی ایپلائیمنٹ ایکٹیو کے ذریعے کی تھی۔
4. جی ہاں جو نیئر کلرک، ڈرائیور/آپرٹر اور ڈرائیور کی پوسٹیں باقاعدہ مشہور کی تھیں۔ (ایپلائیمنٹ کارڈز اور اشتہار کی کاپی لف ہیں)
5. میں نے صرف تین بندوں کے آرڈر پر کنسل کئے تھے۔ 1- شمس الرحمن 2- غلام مصطفیٰ 3- محمد عامر۔ جبکہ محبت اللہ کے آرڈر ڈی سی اوصاحب کی ہدایت پر withdraw ہوئے تھے اور نجف علی شاہ کے تو سرے سے آرڈر ہی نہیں ہوئے تھے۔ جن تین آدمیوں کے آرڈر میں نے کنسل کئے تھے وہ بھی ڈی سی اوصاحب کی واضح ہدایت پر کئے تھے۔ جیسا کہ انہوں نے شمس الرحمن کے لئے ہدایت دی کہ "اس کے آرڈر فوری طور پر کنسل کئے جائیں اور لیاقت علی ولد صدقات علی کے cease son quota میں آرڈر کئے جائیں۔" بحوالہ لیٹر نمبر 719/DCO مورخہ 25-01-2010 اور لیٹر نمبر 1209/DCO مورخہ 12-02-2010۔ اسی طرح غلام مصطفیٰ کے لئے ہدایت دی کہ چونکہ سرپلس پول میں جو نیئر کلرک موجود ہیں اس لئے وہاں سے جو نیئر کلرک کو ایڈجسٹ کیا جائے بحوالہ ضلع ناظم لیٹر نمبر PSO/DN/090 مورخہ 07-01-2010 اور ڈی سی اویٹر نمبر 521/DCO مورخہ 16-01-2010۔ مزید برآں محمد عامر کے لئے انہوں نے کہا کہ "ان کے آرڈر فوری طور پر کنسل کئے جائیں اور سرپلس پول سے ڈرائیور ایڈجسٹ کیا جائے۔" تو ڈی سی اوصاحب کی واضح ہدایت کی روشنی میں محمد عامر کے آرڈر کنسل کر کے سرپلس پول سے ڈرائیور ایڈجسٹ کیا۔ بحوالہ لیٹر نمبر 10107-10/DCO مورخہ 09-02-2010۔
6. چونکہ محبت اللہ اور محمد عامر نے باضری رپورٹ اور میڈیکل سرٹیفکیٹ جمع ہی نہیں کی تھی اس لئے ان کے آرڈر کنسل کرنے کے لئے باقاعدہ نوٹس دینے کی ضرورت نہیں تھی اور نجف علی شاہ تو بھرتی ہی نہیں ہوا تھا۔ جبکہ شمس الرحمن نے Decease son quota میں دوسرے کی جگہ ملنے کی کوشش کی تھی۔
7. صرف شمس الرحمن اور غلام مصطفیٰ کو تنخواہ ملتی رہی۔ کیونکہ انہوں نے کورٹ سے Stay order لے لیا تھا۔ مگر جیسے ہی ان کے کیس خارج ہوئے ان کی تنخواہ بند کر دی گئی۔
8. یہ صحیح ہے کہ محکمہ زراعت سے باقاعدہ پوسٹیں علیحدہ کی گئیں تھیں۔ ان میں سے جن لوگوں کے آرڈر ان کے آبائی اضلاع میں ہوئے تھے وہ تو چلے گئے مگر ڈیرہ اسماعیل خان والے نہ گئے۔ ان میں سے کچھ تو عدالت بھی چلے گئے جبکہ اس کے برعکس ضلعی حکومت نے یہ پوسٹیں علیحدہ نہ کیں اور برابر پوسٹوں کی Sanction اور بجٹ دیتے رہے اور ابھی تک دے رہے ہیں۔ لہذا جو لوگ اپنے آبائی اضلاع میں چلے گئے اور واپس نہیں آئے ان پوسٹوں پر ملازمین کو بھرتی کیا۔
9. چونکہ ضلعی حکومت برابر پوسٹوں کی منظوری دے رہی ہے اس لئے ان پوسٹوں پر بھرتی اور ایڈجسٹمنٹ کی گئی۔
10. جن تین بندوں کا ذکر ڈی سی اوصاحب نے بحوالہ لیٹر نمبر 10107-10/DCO مورخہ 09-02-2010 میں کیا تھا۔ اور ساتھ ہی واضح ہدایت کی تھی کہ ان کے آرڈر فوری طور پر کنسل کئے جائیں اور سرپلس پول سے ایڈجسٹمنٹ کی جائے۔ چونکہ سرپلس پول میں ڈرائیور/آپرٹر کے کیڈز کی پوسٹ نہیں تھی لہذا اس کے آرڈر کنسل نہ کئے۔ اور باقاعدہ NOC کے لئے Request کی۔ جو انہوں نے بعد میں دے دی۔
11. میں آخر میں یہ کہنا چاہتا ہوں کہ سوائے نجف علی شاہ کے جن کے سرے سے آرڈر ہی نہیں ہوئے تھے باقی تمام بندوں کے آرڈر باقاعدہ قواعد و ضوابط کے مطابق ہوئے تھے۔ دوسرا ان کے Appointment order ڈی سی اوصاحب کی واضح ہدایت کی روشنی میں کنسل کئے تھے نہ کہ ان کو Terminate کیا گیا تھا کیونکہ کچھ نے تو ابھی تک حاضری رپورٹ اور میڈیکل سرٹیفکیٹ ہی جمع نہ کی تھی اور نہ ہی تنخواہ ملی تھی۔ البتہ کچھ بندوں نے کورٹ کے stay order کی وجہ سے تنخواہ لی۔ لہذا مہربانی فرما کر مجھے ان الزامات سے بری کیا جاوے۔

ملک محمد بخش

سابق ای ڈی اوزراعت ڈیرہ اسماعیل خان  
7/2/2012

ATTESTED



سوال نام برائے غائبانہ ایگزیکٹو ڈائریکٹرز یا اڈمنسٹریٹرز  
 Nominated by DG  
 on farm water management

1 کیا ایکس ای ڈی او ملکہ بخش نے شمس الرحمان فیڈلر ورکر  
 صاحب اللہ فیڈلر ورکر، غلام مصطفیٰ آل، الہی بخش ڈائریکٹرز اور  
 محمد عامر ڈائریکٹرز اور نجف علی ڈائریکٹرز کو بھرتی کرتے وقت تمام قانونی  
 تقاضے پورے کئے تھے؟

2 کیا حذوہ پوسٹوں پر تعیناتی سے پہلے ضلعی سپر پلیس کول سے ریکارڈ  
 کے مطابق NOC، ماہر کی رپورٹ تھی؟

3 ملازمین فور ملڈز میں شمس الرحمان اور صاحب اللہ وغیرہ کی تعیناتی  
 Employment ایکسچینج کے ذریعے کی گئی تھی یا اور D.S.C. کی رپورٹ تھی؟

4 کیا حذوہ بالڈیا تھی پوسٹوں کی تعیناتی سے پہلے اضیارات  
 کے ذریعے پیشتر کی گئی؟ ریکارڈ سے ثبوت فراہم کریں؟

5 کیا حذوہ بالڈیا میں کوبر خاست کیا گیا؟ اگر ہاں تو کیا  
 آفس ریکارڈ کے مطابق تمام قانونی تقاضے پورے کئے گئے تھے؟

6 کیا ریکارڈ کے مطابق شمس الرحمان اور غلام مصطفیٰ کو بر حاسبتگی کے  
 بعد بھی تنخواہ ملتی رہی؟

7 کیا باقی حذوہ بالڈیا میں کوئو بغیر نوٹس اور قانونی تقاضوں  
 کے بر حاسبت کیا گیا لیکن ایک بڑے الہی بخش ملک کو چھوڑا گیا  
 اور ملازمت پر مقرر رکھا گیا؟ کیوں؟

ATTESTED



8

کیا بہت سے اسامیاں ایگزیکٹو ریپورٹنگ سے  
Crop Reporting Service کو Detached ہوئے تھے اور  
کچھ بھی اس پر ان یونٹوں پر تعیناتی عمل میں لائی گئی کیوں؟

9

اگر واقعی مذکورہ پوسٹ محکمہ زراعت سے الگ ہو کر  
"Detached" ہوتے تھے تو اس کا مطلب ہے کہ  
محکمہ زراعت میں اس کاہ جو نہیں تھا تو کون کس طرح اس پر  
تعیناتیاں کی گئیں اور اس کا جٹ کیا ہے؟

10

کیا بہت سے اسامیاں بلعہ ملرز <sup>محلہ</sup> محکمہ زراعت سے Detached  
ہو کر مختلف اضلاع کو دیئے گئے اور ایگزیکٹو ریپورٹنگ  
ڈی ایٹو خان میں وہ یونٹیں ختم کی گئیں لیکن ان میں  
سے کچھ تو کورٹ آرڈر پر جھوٹا گیا۔ بحال رکھا گیا لیکن  
بعض یونٹیں جس میں کوئی کورٹ آرڈر نہیں ہے وہ بھی بدستور  
Detached کئے گئے ملرز میں بغیر کسی قانونی ضابطے کے  
کام کر رہے ہیں کیوں؟ جواب کئی ثبوت فراہم کریں  
اگر کوئی کورٹ آرڈر ہے تو اسے بھی نمٹتی کریں۔

عسرا

کیا شفیق اللہ JIC کو رضاستگی کے بعد D.C. صاحب نے اس پر  
تبدیل کر مروت تبدیل کیا؟ کیا ہے؟ اگر وہ رضاستہ ہوا تھا تو کیا کسلی؟ وہ رضاستہ  
تبدیل ہوا تھا؟

انٹرنیٹ / ڈی سی او بنوں

1. مطابق (ای - ڈی - او) ملازمین کی فہرست نے شمس الرحمن فیصلہ دیا کہ اور محمد اللہ فیصلہ دیا کہ کو ایڈیٹریل ڈیپارٹمنٹ ایکسچینج ہارڈ کے ذریعے اور باقی تمام افراد کو پوسٹل منتقلیہ آرک باقاعدہ DSC کے ذریعے مقرر کیا گیا

2. جی ہاں۔ سوائے ایک سہارے کے باقی تمام کے لئے Noe پہلی سرپلسس پول سے لیا گیا تھا

3. ملازمین فور ملازمین شمس الرحمن اور محب اللہ وغیرہ کی تعیناتی لیٹے Employment Exchange ہارڈ موجود ہے لیکن DSC کی بجائے D.C. ملازمین کی ایڈوائس پر تعیناتی ہوئی تھی

4. ضروریہ بالا پوسٹوں کی تعیناتی سے لیا گیا احکامات میں منتقلی کی گئی تھی جس سے باقی ملازمین کے

5. ضروریہ بالا تمام ملازمین کے Appointment order منسوخ کر کے گئے تھے چونکہ آلتھ نے نہ حاضر کیا تھا نہ میڈیکل اور نہ الٹیوں نے کوئی تنخواہ لی تھی لہذا کوئی نوٹس وغیرہ DSC کے ذریعے کی ضرورت نہیں تھی

6. ریکارڈ کے مطابق شمس الرحمن اور غلام مصطفیٰ کو برخواستہ ہے یہ بھی تنخواہ ملتی رہی کیونکہ عدالت نے Stay دیا تو یہ غلط ہے کہ ضروریہ ملازمین کو بغیر نوٹس اور قانونی

7. تقاضوں کے برخواستہ کیا گیا ان میں سے کچھ نے تو نہ حاضر کیا ڈپوٹ دیا۔ اور نہ میڈیکل فٹنس سے بیفیلٹ اور کچھ کو DCO

ملازمین کی واپس ہدایات کی درخواستیں صرف Appointment order کے ذریعے کی گئیں تھیں نہ کہ ان کے Appointment

اللہ کی فہرست کو اس لئے چھوڑا گیا کیونکہ وہ DCO کے ذریعے سرپلسس پول سے ایڈوائس پر تعیناتی ہوئے تھے اور ڈپوٹ کی فہرست میں اس کیڈر کے لئے رکھا۔ تو ان سے لیا گیا اور ڈپوٹ لیسٹ میں اس کیڈر

2/2/2012

RECEIVED

کی فوٹو نہیں لگی۔ اور اس میں No. 104 کے

D.C. کے نام سے لکھا ہے۔

5. تمام یوسٹس Detached و Crop Reporting Service

یونٹی تھیں اور ان یوسٹوں پر تعیناتی بھی کر دی گئی ہے۔ چونکہ  
ضلع ناظم اور D.C. کے نام سے یوسٹس Detached کرنے  
سے انکار کر دیا تھا اس لئے وہ سب سے اپنے اپنی اپنا  
کو چلے گئے تھے اور ہندسی حکومت کی طرف سے یوسٹس  
Detached نہ کرنے کی وجہ سے یہاں تک ہیں۔ اس لئے ان  
یوسٹوں پر تعیناتی کی گئی

9 ڈسٹرکٹ فنالینس اینڈ پبلک ورکس ڈیپارٹمنٹ ناٹو

یوسٹوں کی منظوری اور بٹ دیے دیے اور دے دیے  
ہیں (یوسٹوں کی Detached اور یہ کی گئی ہے)

10 حاجتی اہل سے اسامیوں کے ملازمین کی ذمہ داری سے

Detached ہو کر مختلف اضلاع کو چلے گئے تھے اور محکمہ  
ذمہ داری سے وہ یوسٹس فتح کی گئی مگر کچھ لوگ عدالت  
کے آرڈر پر اور کچھ لکیر آرڈر کے رکھے تھے۔ ان کے  
رہے ہیں۔ چونکہ ضلع فنالینس ڈیپارٹمنٹ پر انہیں

یوسٹس اور بٹ دے رکھے

11 تدفیع الیڈ ہوئے۔ فوٹو کے آرڈر سے No. 201 کے یوسٹس تھے

صدر D.C. کے نام سے No. 28 کے یوسٹس و دوسری

یوسٹس پر ٹرانسفر کر دیا گیا۔ یہ میں ED نے

5 D.C. کے نام سے ایڈمنسٹریٹو آرڈر کے نام سے یوسٹس کر دیے

اور پھر مورخ No. 30 کے یوسٹس کی فوٹو کے لئے D.C.

کے نام سے آرڈر کے تحت اس کو بھی فوٹو کے نام سے کر دیا گیا

ایورٹ 10 اپریل 1956

ڈائری الیڈ محکمہ  
ڈسٹرکٹ انجینئر ناٹو  
ٹرین اسٹیشن خان  
District Officer  
Public Works Department

ATTESTED  
[Signature]

Nominated by DG on farm water management ڈی جی ایچ ڈی

1 کیا ایکس ای ڈی او ملک محمد بخش نے شمس الرحمان منیجر ورکر  
محمد حبیب اللہ منیجر ورکر، غلام مصطفیٰ آل، الہی بخش ڈرائیور/ایگزیکٹو  
محمد عامر ڈرائیور اور نجف علی ڈرائیور کو بھرتی کرتے وقت تمام قانونی  
تقاضے پورے کئے تھے؟

2 کیا مندرجہ پوسٹوں پر تعیناتی سے پہلے ضلعی سرپس کول سے ریکارڈ  
کے مطابق AOC، ماہر کی نئی تھی؟

3 4 ملازمین شمس الرحمان اور محمد حبیب اللہ وغیرہ کی تعیناتی  
Employment ایکس ای ڈی او کے ذریعے کی گئی تھی یا اور D.S.C. کے ذریعے کی گئی؟

4 کیا مندرجہ بالا باقی پوسٹوں کے تعیناتی سے پہلے اضرائے  
کے ذریعے پیشتر کی گئی؟ ریکارڈ سے ثبوت فراہم کریں؟

5 کیا مندرجہ بالا ملازمین کو برخواست کیا گیا؟ اگر ہاں تو کیا  
آفس ریکارڈ کے مطابق تمام قانونی تقاضے پورے کئے گئے تھے؟

6 کیا ریکارڈ کے مطابق شمس الرحمان اور غلام مصطفیٰ کو برخواستگی کے  
بعد بھی تنخواہ ملتی رہی؟

7 کیا باقی مندرجہ بالا ملازمین کو تو بغیر نوٹس اور قانونی تقاضوں  
کے برخواست کیا گیا لیکن ایک بڑے الہی بخش ملک کو چھوڑا گیا  
اور ملازمت پر برقرار رکھا گیا؟ کیوں؟

1. سابق (ای - ڈی - او) ملازمی بخش نے شمس الرحمن سے ملازمت کے لیے درخواست دی اور محمد اللہ خیل کو ایڈریٹیو سروس ڈیپارٹمنٹ کے لیے درخواست دی۔  
2. دہلی کے درہے حصے میں رہنے والے افراد کو پوسٹیں منتقلی کے باقاعدہ DSC کے درہے حصے میں لیا گیا تھا۔

3. جی ہاں۔ سوائے ایک سہ سے باقی تمام کے لئے Noe پہلی سرپلسس جول سے لیکر ماہانہ لگائی گئی تھی۔  
4. ملازم فور ملازمین شمس الرحمن اور محب اللہ وغیرہ کی تعیناتی کے لیے Employment Exchange ہارڈ موجود ہے لیکن DSC کی بجائے D.C.O. ہاں کی ایڈوائس پر تعیناتی ہوئی تھی۔

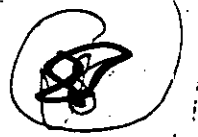
5. ضروریہ ملازموں کی تعیناتی سے لیکر احکامات میں منتقلی کی گئی تھی جسکی مالی ساکھ لگ ہے۔  
6. ضروریہ ملازمین کے لئے Appointment order منسوخ کیے گئے تھے کیونکہ آئی آر نے نہ حاضر کیا تھی نہ میڈیکل اور نہ الٹیوں نے کوئی تنخواہ لی تھی لہذا کوئی نوٹس وغیرہ جاری نہیں کیے گئے تھے۔

7. ریکارڈ کے مطابق شمس الرحمن اور غلام مصطفیٰ کو برصغیر سے بھی تنخواہ ملتی رہی کیونکہ عدالت نے Stay دیا تو یہ غلط ہے کہ ضروریہ ملازمین کو بغیر نوٹس اور قانونی تقاضوں کے برصغیر لیا گیا ان میں سے کچھ نے تو نہ حاضر کیا لیڈ ڈی - او اور نہ میڈیکل فٹنس سرٹیفکیٹ اور کچھ کو DCO ہاں کی واضح ہدایات کی درنظر میں صرف Appointment order

لیسن لے نہ ان و Termination لی۔  
8. ایڈریٹیو بخش کو اس لئے چھوڑ دیا گیا کیونکہ جب D.C.O. ہاں نے اس کے لئے درخواست دی اور سرپلسس جول سے ایڈوائس ملنے کے لئے لکھا۔ تو ان سے لیکر ان کو نوٹس لیسٹ میں اس کیڈر

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کیا یہ اسامیاں ایڈجسٹریٹڈ ریپورٹ سے  
Crop Reporting کو Detached ہونے سے اور  
یہ ان یوسٹوں پر تعیناتی عمل میں لائی گئی کیوں؟

اگر واقعی مذکورہ پوسٹ ملکہ زراعت سے الگ ہو کر  
"Detached" ہوتے تھے تو اس کا مطلب ہے کہ  
ملکہ زراعت میں اس کا وجود نہیں تھا تو یہ کس طرح اس پر  
تعیناتیاں کی گئیں اور اس کا محنت کیاں سے منظور ہوا؟

9

کیا بہت سے اسامیاں جمع ملازمین ملکہ زراعت سے Detached  
ہو کر مختلف اضلاع کو بھیجے گئے اور ایڈجسٹریٹڈ ریپورٹ  
ڈی آئی خان میں وہ پوسٹیں ختم کی گئیں لیکن ان میں  
سے کچھ تو کورٹ آرڈر پر جمع ہو ڈا گیا / بحال رکھا گیا لیکن  
بعض پوسٹیں جنہیں کوئی کورٹ آرڈر نہیں ہے یہی بدستور  
Detached رکھے گئے ملازمین بعض کس قانونی ضابطے کے  
کام کر رہے ہیں کیوں؟ جواب کیلئے ثبوت فراہم کریں

10

اگر کوئی کورٹ گارڈر ہو تو اسے بھی نفی کریں  
کیا تصدیق اللہ 710 کو برطانیہ کے بعد 509 صاف سے اس کے  
تبدیل کی صورت تبدیل کیا؟ کیا 710 کو برطانیہ سے لایا گیا تھا؟ وہ کس  
صورت میں آیا؟

اللہ اعلم  
ڈی سی او بنوں

ATTESTED

DIRECTOR GENERAL OF INVESTIGATION

Handwritten notes at the top right, including "D. G. & Co." and "1924".

Main body of handwritten text, appearing to be a report or letter, written in Urdu. It contains several paragraphs of cursive script.

Two circular stamps at the bottom left. The top one contains the number "20" and the bottom one contains a signature or initials.

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سوال نمبر ۱۱۱ الہی بخش ڈرائیور/ایگزیکٹو

- ۱ کیا آپ کی تعیناتی باقاعدہ ایجنڈا منٹ ایکسچینج کا ذریعہ کی گئی ہے؟
- ۲ کیا آپ نے کوئی تعیناتی باقاعدہ میرٹ اور انٹرویو کے ذریعے کی گئی ہے؟
- ۳ کیا آپ نے باقاعدہ درخواست برائے جموں کی تھی؟
- ۴ کیا آپ اس پوسٹ کیلئے بالکل کوالیفائیڈ *Qualified* ہے؟ اگر ہاں تو ثبوت فراہم کیجئے؟
- ۵ کیا یہ *الایضام* صحیح ہے۔ کہ آپ *EDo Agg* کے بنائے اور اس وجہ سے تمام قانونی تقاضوں کو مانگے طاق رکھ کر اٹھو ہوئی کیا گیا ہے؟
- ۶ کیا آپ کی تعیناتی باقاعدہ ڈیپارٹمنٹل یکس کے ذریعے کی گئی ہے؟

انٹرویو ایجنس / اٹھو راجہ ایجنس



جوابات سوالنامہ الہی بخش ڈرائیور/ڈرائیور

23

1. جی یاں سپری تعیناتی باقاعدہ اشتہار کے ذریعے ہوئی۔

2. جی یاں سپری تعیناتی باقاعدہ انٹرویو اور ٹیسٹ کے ذریعے کی گئی۔

3. جی یاں میں نے بھرتی ہونے باقاعدہ درخواست دی تھی۔ (کاپی لف ہے)

4. جی یاں میں اس پوسٹ کو لیے اشتہار میں دی گئی تعیناتی قابلیت اور HTV لائسنس ہولڈر کی وجہ سے کو ایفائڈ ہوئی۔

تعیناتی قابلیت

اشہاد (پورس) کی گئی اور ڈرائیورنگ کورس  
تجربہ لیسٹر لیٹر ایولڈ ڈیٹ لیسٹر لیٹر

عمر 38 سال کا ماہ

لائسنس HTV (کاپی لف ہے)

5. جی یاں میں سابق ای ڈی او ایئر لیٹرنگ کا بھائی بیٹا ہے۔ یہ غلط ہے کہ مجھے عام حالوی  
تفاحہ بالائے طاقت رکھ کر بھرتی کیا گیا ہے۔

6. جی یاں سپری تعیناتی باقاعدہ ڈیپارٹمنٹ میں سلیکشن ٹیسٹ کے ذریعے ہوئی۔ (کاپی لف ہے)

Balkhanda

الہی بخش وزیر ملک سونا

ڈرائیورنگ ایئر لیٹرنگ دفتر ڈیپارٹمنٹ ڈائریکٹر ڈرائیورنگ

ڈیپارٹمنٹ ایمیل خان

03-02-2012

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ATTESTED

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1 کیا آپ کی تصنیاتی باقاعدہ ایملیٹڈ ایجنسی لائسنس کی گئی ہے؟

2 کیا آپ کی تصنیاتی باقاعدہ میٹر اور انٹرویو کے ذریعے کی گئی ہے؟

3 کیا آپ اس پوسٹ کے لیے بالکل کو ایفٹڈ تھے؟

4 آپ کو کیوں برخواست کیا گیا؟

5 کیا آپ کو غلط طریقے سے ملازمت سے نکالا گیا؟ اگر ہاں تو وضاحت کیجئے؟

محمد عامر  
15/11/2020  
ایم ایس ایس ایس

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برہان نامہ محمد عامر ڈرائیور

- 1) جی ہاں میری تعیناتی باقاعدہ مستند ہوئی تھی
- 2) جی ہاں میری تعیناتی باقاعدہ انڈر لو اور ٹیسٹ کے ذریعے کی گئی
- 3) جی ہاں تعلیمی قابلیت بہتر ہے اور ڈرائیورنگ کا لائسنس ہے۔
- 4) DCO صاحب نے ای ڈی او صاحب کو پتہ لگھا کہ چونکہ سیریس پول میں کافی ڈرائیور نہیں ملتے ان کے آرڈر فردی طور پر کنسل کر کے سیریس پول سے ڈرائیور ایڈجسٹ کیا جائے جس پر ای ڈی او صاحب نے سیریس پول سے ڈرائیور کو ایڈجسٹ کیا۔
- 5) DCO صاحب چونکہ ای ڈی او صاحب کے فعلی سربراہ نہیں اسلئے ان

کے آرڈر کی تعمیل ضروری تھی۔ محمد عامر نقلہ خود  
 محمد عامر وار محمد عاشق  
 محمد عامر ڈیڑھ لکھا خاں

Attested

*[Signature]*  
 District Officer  
 On Family  
 Department

ATTESTED  
*[Signature]*

26 E

**OFFICE OF THE  
DISTRICT COORDINATION OFFICER  
BANNU**

No. 783 /DCO/AE  
Dated Bannu the: 29/02/2012

To  
The Secretary to Govt of Khyber Pakhtunkhwa,  
Agriculture, Livestock & Cooperative Department,  
Peshawar.

Subject: ENQUIRY AGAINST MALIK MUHAMMAD BAKHSH  
BPS-18 . EX-EXECUTIVE DISTRICT OFFICER  
AGRICULTURE D. I. KHAN.

Memo: Reference your department endorsement No. SOE(AD)20-77/2011  
dated 16-01-2012.

The subject enquiry was conducted/carried out by the undersigned  
and completed accordingly. The enquiry report (6 pages) along with relevant  
record of the case containing 137 pages is forwarded for further necessary  
action.

*[Signature]*  
Enquiry Officer/  
District Coordination Officer  
Bannu

TESTED  
*[Signature]*

2296  
03.03.12  
SOE  
*[Signature]*  
604/6/3

ASST

1

20

27

**OFFICE OF THE  
DISTRICT COORDINATION OFFICER  
BANNU**

**ENQUIRY REPORT REGARDING  
ILLEGAL APPOINTMENTS/TERMINATIONS AND PAYING OF  
SALARIED AND ALLOWANCES TO ILLEGALLY APPOINTED  
PERSONS BY MALIK MUHAMMAD BAKHSH BPS-18 EX-EDO  
AGRICULTURE D.I. KHAN**

**ORDER OF ENQUIRY:**

The undersigned was appointed as Enquiry Officer to probe into the allegations under the provision of Khyber Pakhtunkhwa E&D Rules 2011 against Mr. Malik Muhammad Bakhsh BPS-18 Ex-Executive District Officer Agriculture D.I. Khan vide Agriculture Department endorsement No. SOE(AD) 20-77/2011.

**BRIEF FACTS OF THE CASE:**

Malik Muhammad Bakhsh BPS-18 Ex-Executive District Officer Agriculture D.I. Khan had appointed five persons (Not Six) i.e (Two class-IV employees; One Junior Clerk, One Driver cum Operator BPS-06 and one Driver BPS-04). On 12-01-2009 Finance Department Khyber Pakhtunkhwa had detached 13 posts along with incumbents of different cadres from Agriculture Department D. I. Khan and attached it to Crop Reporting Services (CRS) at various districts of the province vide Finance Department letter at annexure "A" and in pursuance of Finance Department instructions, the EDO Agriculture D. I. Khan transferred the services of the detached officials from Agriculture Department D. I. Khan and placed at Crop Reporting Center at different districts vide their letter dated 21-07-2009 at annexure "B". Some officials who affected due to the said order challenged the detachment order of Finance Department in Peshawar High Court Bench D. I. Khan vide Writ Petition No. 165/2010 at annexure "C". The honorable court apparently suspended the operation of Finance Department order dated 12-01-2009 for ten days vide the court's order sheet dated 25-03-2010 at annexure "D". Moreover, the District Nazim D. I. Khan addressed a letter to the Secretary to Govt. of Khyber Pakhtunkhwa Agriculture Department as well as Finance Department in which he declined to detach the said posts from Agriculture Department in District D. I. Khan vide his letter No. 1177-78/DW/PSO dated 08-07-2009 which is annexed as "E". Therefore, the then EDO Agriculture (Malik Muhammad Bakhsh) made fresh appointments of one Junior Clerk, one Driver cum Operator BPS-06 and one Driver BPS-04 against the said post whereas two others class-IV employees were recruited on others vacant posts, but due to direction of District Coordination Officer D. I. Khan he withdrew all the

**ATTESTED**

*[Signature]*



appointments orders except that of Elahi Bakhsh Driver cum Operator. Later on, he adjusted surplus employees on the posts of Junior Clerk, Driver and one post of Field Worker whereas Diseased Employee Son was adjusted against on the 2<sup>nd</sup> post of Field Worker. Two employees namely Shams-u-Rehman Field Worker and Ghulam Mustafa Junior Clerk aggrieved by withdrawal orders filed Petition into the Civil Court and got order of injunction in their favour, therefore, they received salary for sometimes. No sooner did their cases were rejected from courts, their salaries were stopped.

Hence one person namely, Roshan Zameer has leveled various allegations against Ex-Executive District Officer Agriculture D. I. Khan resulting in the instant inquiry.

### CHARGES/ALLEGATIONS:

There are three charges against Mr. Malik Muhammad Bakhsh Ex-Executive District Officer Agriculture D. I. Khan. According to charge sheet and statement of allegations i.e:-

- a. Appointment of Six persons without observing codal formalities.
- b. Termination of Five officials without observing codal formalities while one official left in service untouched.
- c. Paying of salaries and allowances to the illegally appointed persons during the six months service. As such causing great loss to the Govt. exchequer.

### PROCEEDINGS/PROCEDURES:

The charge sheet and statement of allegations were handed over to accused officer by hand with the direction to submit reply to the charge sheet/statement of allegations. After that, the Departmental Representative, the complainant, six appointed/terminated persons, Executive District Officer (F&P) D. I. Khan and the accused officer were formally summoned. The Ex-Executive District Officer Agriculture D. I. Khan (Malik Muhammad Bakhsh), the Departmental Representative Dr. Allah Bakhsh Malik (District Officer On Farm Water Management D. I. Khan), representative of Executive District Officer (F&P) D. I. Khan, Muhammad Aamir Ex-driver and Mr. Elahi Bakhsh Driver cum Operator attended this office accordingly whereas the complainant Mr. Roshan Zameer, Shams-ur-Rehman (Field Worker) Muhib Ullah (Field Worker) and Ghulam Mustafa Shah (Junior Clerk) did not attend the enquiry proceedings. They were once again summoned through District Coordination Officer D. I. Khan as well as Executive District Officer Agriculture D. I. Khan vide this office letter No. 310/DCO dated 11-02-2012 annexed as "F" but they did not turn up to join the enquiry proceedings.

Separate questionnaires were prepared for the accused officer (Malik Muhammad Bakhsh), Departmental Representative, EDO (F&P) D. I.

Khan, Mr. Elahi Bakhsh Driver cum Operator and Muhammd Aamir Ex-Driver which are annexed as "G", "H", "I", "J" and "K" respectively. The statement of accused officer is annexed as "L", and his reply to questionnaire is annexed as "M", while replies to questionnaires from Departmental Representative, EDO (F&P) D. I. Khan, Elahi Bakhsh Driver cum Operator and Muhammad Aamir are annexed as "N", "O", "P" and "Q". respectively.

The Ex-EDO Agriculture D. I. Khan (accused officer) was given an opportunity of personal hearing. He totally denied the charges leveled against him and vehemently defended his stance. He contended that he had appointed all the employees after fulfillment of all codal formalities. He argued that Shams-ur-Rehman and Muhib Ullah Field Worker were appointed on the direction of the District Coordination Officer D. I. Khan through Employment Exchange. Moreover, proper NOC were also obtained from district surplus pool. However, he could not produce any proof regarding appointment of the above persons through Departmental Selection Committee.

So far the posts of Junior Clerk, Driver BPS-04 and Driver cum Operator BPS-06 are concerned; he added that Ghulam Mustafa, Muhammad Aamir and Elahi Bakhsh Malik were appointed respectively against the said post after advertising the post and conducting Departmental Selection Committee meeting. He provided copy of advertisement annexed as "R" and that of minutes of DPC at annexure "S". But he had not obtained NOC from District Surplus Pool before-appointment, however, later on he obtained NOC in respect of the post of Junior Clerk (Ghulam Mustafa) and Driver cum Operator (Elahi Bakhsh). He further informed that he had appointed only five persons as explained above and not six as Mr. Najaf Ali Shah that is the 6<sup>th</sup> person had never been appointed by him.

He was asked about the detachment of various posts from Agriculture Department D. I. Khan and later on making appointment on three posts i.e. Junior Clerk, Driver and Driver cum Operator by him. He defended his case and stated that though the posts were detached but due to order of injunction by honorable High Court and provision of budget by Finance & Planning Department D. I. Khan, the posts were actually available and thus appointments were made thereon. As regards the allegations regarding termination of the employee, he took the plea that all appointments orders were withdrawn on the clear direction of District Nazim as well as DCO D. I. Khan and employees from Surplus Pool were adjusted against one post of Field Worker, post of Junior Clerk and Driver whereas a Deceased Employee was appointed against the second post of Field Worker. He added that since no employee of the cadre of Driver cum Operator BPS-06 was available at District Surplus Pool, therefore, the order of Elahi Bakhsh Malik was not withdrawn for which the DCO D. I. Khan has formally issued No Objection Certificate later on vide No. 2651 dated 29-03-2010 annexed as "T". The accused officer also denied the allegations regarding paying of illegal salaries to the appointed persons as he affirmed that except Shams-ur-Rehman Field Worker and



~~4~~ 30

Ghulam Mustafa Junior (Clerk to whom court has granted status quo, non of other persons was given salary. He added that after the dismissal of court cases of the above two employees, their salaries were stopped.

The Departmental Representative Dr. Allah Bakhsh Malik (District Officer On Farm Water Management D. I. Khan) supported the stance of the accused officer (Malik Muhammad Bakhsh). He, during the course of hearing, informed that all persons were appointed after fulfillment of codal formalities and their orders were withdrawn on the direction of DCO D. I. Khan. He added that since various appointed officials have not yet obtained any salaries etc hence there was no need to issue them proper notice. He also concurred with the plea taken by the accused officer regarding paying of salaries to two employees for some months due to order of injunction by the court.

The EDO (F&P) D. I. Khan was summoned. He sent his representative (Programmer BPS-17). A separate questionnaire was prepared and handed over to the representative of EDO (F & P) D. I. Khan in which it was specially enquired as once the Finance Department had detached the 13 posts from the strength of EDO Agriculture D. I. Khan, therefore, instead of providing budget to the said post every year, he should have deleted the said posts from the District Budget Book. He forwarded para wise reply to the questionnaire in which he has taken the plea that since the High Court Bench D. I. Khan has given status quo in the case, therefore, he has been giving budget to the said posts every year. He provided copy of order sheet dated 25-03-2010 of the said court which reveals that operation of Finance Department letter dated 06-06-2010 regarding detachment of posts was suspended by the court for ten days.

### FINDINGS.

From the perusal of the record, preliminary enquiry, reply of the Departmental Representative, EDO (F&P) D. I. Khan and others to questionnaire as well as replies of the accused officer to charge sheet/statement of allegations and questionnaire, we may conclude the following points:-

1. The 13 posts were detached along with incumbents from the strength of Agriculture Department D. I. Khan (District Govt) and attached with Crop Reporting Center (CRS) at various districts. The order sheet of the honorable High Court clearly depicts that the order of injunction was issued only for ten days which has never been extended nor the defendants could produce any proof regarding the extension of order of injunction by the court. The District Nazim D. I. Khan had sent a letter to Secretary Finance and Secretary Agriculture Department in which he declined to detach the said posts from District Govt: (Agriculture Department) but the record does not provide any proof that Finance Department agreed with the contention of District Nazim D. I. Khan as such it is very clear that the order of detachment of Finance Department still stands and the provision of budget to the said posts by EDO (F&P)

**ATTESTED**



D. I. Khan tantamounts to non-compliance and transgression of the instructions of Finance Department Peshawar. The appointments as well as adjustment of surplus staff against the said posts is also contravening to the said order of the Finance Department Peshawar.

2. The then EDO Agriculture D. I. Khan (accused officer) had appointed Two Field Workers without Departmental Selection Committee which is also a violation and transgression from Rules and Policy. His contention that he had appointed the said person on the direction of DCO D. I. Khan has no weight in the eyes of law; rather he was supposed to fill the said posts through Employment Exchange and holding of proper Departmental Selection Committee meeting. However, since the appointments were though illegal but the same were withdrawal/cancelled later on.
3. The codal formalities regarding the post of Junior Clerk, Driver cum Operator BPS-06 and Driver BPS-04 i.e. advertisement and Departmental Selection Committee meeting were fulfilled but prior NOC for the said posts were not obtained from DCO D. I. Khan. However, after appointments against the said posts, the accused officer obtained NOC for the post of Junior Clerk and Driver cum Operator which is also a deviation from the policy in vogue.
4. On the direction of DCO D. I. Khan, the accused officer withdrew/cancelled the order of Two Field Workers, One Junior Clerk and One Driver but he did not withdraw the order of Driver cum Operator (Elahi Bakhsh) who is his real brother on the plea that no corresponding cadre scale and qualified official was available in surplus pool. The record of the case supports the plea taken by him as no surplus employee of BPS-06 having the requisite qualification for the post i.e. HTV license was available at District Surplus Pool vide list of surplus employee at annexure "U". Moreover, he adjusted official/employee from surplus pool on a post of Field Worker (BPS-01), post of Driver (BPS-04) and the post of Junior Clerk (BPS-06) whereas a Deceased Son Employee was appointed against another post of Field Worker (BPS-01). Hence we may conclude that if he, under the policy, had obtained NOC from surplus pool prior to appointment, this awkward situation would have not been created.
5. The employee namely Shams-ur-Rehman Field Worker and Ghulam Mustafa Junior Clerk had received salaries for some months after withdrawal of their appointment orders but they had obtained stay orders from the court that is why the department paid salaries to them. However, their salaries were stopped after rejection/disposal of their cases by the court. Hence the charge of paying illegal salaries could not be proved.

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cases by the court. Hence the charge of paying illegal salaries could not be proved.

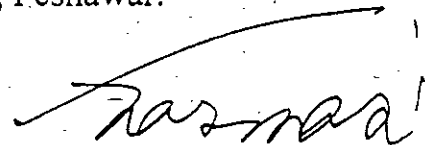
6. The case which was lodged in the honorable High Court Bench D. I. Khan against the order of detachment by Finance Department is still pending for adjudication.

#### RECOMMENDATIONS:

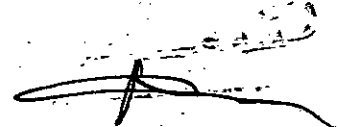
1. Since the Ex-EDO Agriculture D. I. Khan Malik Muhammad Bakhsh had transgressed and deviated from laid down rules and procedures in appointment of employees, therefore, his **two increments** may be withheld for **three years** and **promotion for one year**.

OR

2. If the accused officer has reached the maximum of his pay scale, in that case his promotion may be withheld for **three years**
3. The EDO (F&P) D. I. Khan may be directed to take up the case with Finance Department Khyber Pakhtunkhwa Peshawar in light of the present status of the case for permanent solution of the issue of detachment of the posts. He may be issued warning for non-compliance of the order of the Finance Department, Peshawar.



Zahir Shah,  
Enquiry Officer/  
District Coordination Officer  
Bannu





GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT



**SHOW CAUSE NOTICE**

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, do hereby serve you Malik Muhammad Bakhsh (BS-18) (accused officer), Ex-Executive District Officer Agriculture (BS-19) D.I.Khan now EDO Agriculture Bannu (in his own pay & scale) (BS-19) as follows:-

1.

- (i) that consequent upon the completion of inquiry conducted against you by the Inquiry Officer for which you were given opportunity of hearing vide communication No.SOE(AD)20-77/2011 dated 16.01.2012; and
- (ii) on going through the findings and recommendations of the Inquiry Officer, the materials on record and other connected papers including your defense before the Inquiry Officer,-

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

- i. Since the Ex-EDO Agriculture D.I.Khan, you had transgressed and deviated from laid down rules and procedures in appointment of employees.
  - ii. Did not comply with the order of the Finance Department wherein 13 posts alongwith the incumbents of different cadres were detached from Agriculture Department DIKhan (District Government) and attached to the Crop Reporting Services at various districts. The adjustment of surplus staff against the said posts in DIKhan is contradicting to the orders of Finance Department.
2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of withhold promotion under rule 4 of the said rule.
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desired to be heard in person.
4. If no reply to this notice is received within seven (07) days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an exparte action shall be taken against you.
5. A copy of the findings of the Inquiry Officer is enclosed.

(AMIR HAIDER KHAN HOTI)  
CHIEF MINISTER, KHYBER PAKHTUNKHWA,

(COMPETENT AUTHORITY)

**ATTESTED**

No 42 /DO Bannu (Camp Peshawar)  
Dated 10 / 7 / 2012

The Director General,  
On-Farm Water Management,  
Khyber Pakhtunkhwa, Peshawar

34

Subject: Show Cause Notice

Sir,

Please refer to your letter No <sup>2774</sup> /DG OF WM dated 03-07-2012.

The reply to show cause notice received on 03.07.2012 is enclosed herewith for favour of your good self information and further submission to the competent authority

Your truly,

M<sup>2</sup>  
Muhammad Bakhsh Malik  
EX EDO Agriculture Bannu  
Now DO WM Bannu

ATTESTED

The Chief Secretary  
Govt of Khyber Pakhtunkhwa  
Peshawar

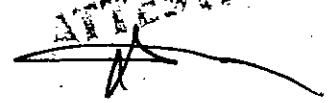

Through: Proper channel


Subject: SHOW CAUSE NOTICE

Sir,

With due respect I submit my reply to the show cause notice in order to bring true facts and figures before your good honour:

1. Being EDO Agriculture, I was supposed to coordinate and assist the District as well as Provincial Govt, so on the instruction of Provincial Finance Department 13 posts from Agriculture Extension Department were detached and as per direction their transfer order were placed. Prior to this, District Nazim D.I.Khan sent a letter to the Secretary Agriculture not to detach the said post from District Govt. D.I.Khan. However after that District Nazim cancelled the said transfer order issued by EDO Agriculture being the District Govt Staff and DCO D.I.Khan asked Accounts Office to release their pay vide letter no 1299-5 dated 27-07-2009 and 6917-20 dated 01-08-2009 respectively (Copies attached), which was not taken into consideration during the enquiry proceeding. Hence District Finance Department is continuously providing sanction for budget as well as posts i.e. 272 posts.
2. (a) Mr. Shamsur Rehman was appointed on the recommendation of DCO D.I.Khan on his application remarks by DCO (should be appointed) and NOC was also issued by name (in the name of Shamsur Rehman) being the head of District Govt: by conducting the DSC.  
  
(b) Moreover Mr. Mohibullah was appointed through Departmental Selection Committee headed by the under signed and NOC was also obtained from DCO D.I.Khan as per policy (copies of list attached).
3. The NOC for Ghulam Mustafa was also obtained before the recruitment i.e. NOC dated 02-01-2010 while order No 36-29 dated 06-01-2010 but NOC for Driver cum Operator was provided later on as DCO D.I.Khan was requested that such cadre post is not available in the surplus pool (it was also clarified in the questionnaire). Hence there is no deviation from rules and policy.
4. It is to be clarified that no field worker from the surplus pool was adjusted; however Driver BPS-4 and Junior clerk BPS-7 from surplus pool were adjusted.

**ATTENDED**  


  
**36**

It was also clarified in the questionnaire that NOC for Shamsur Rehman and Mohibullah (field workers) and Ghulam Mustafa (junior clerk) was granted by DCO D.I.Khan prior to their recruitment as per policy (copies attached) but later on DCO D.I.Khan himself by setting aside the NOC and asked for the adjustment of junior clerk from surplus pool staff while an other field worker was adjusted against deceased son quota. So this situation was not created by me.


5. Payment of illegal salaries was not proved.
6. As for as order of Honorable High Court for detachment of posts is concerned that is still under hearing and I again brought to your kind notice that on the cancellation of transfer order by District Nazim and pay was released by DCO D.I.Khan. Moreover District Finance Department is regularly releasing the budget and sanctioning posts as well.

In support of my above claim a number of evidences can also be produced.

It is therefore requested that I may be acquitted from the imposition of with holding of 3 Years promotion and I also request to be heard in person.

Yours faithfully

*M*  
Muhammad Bakhsh Malik  
Ex EDO Agriculture, Bannu

**TESTED**  




GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

H  
37  
*[Handwritten signature]*

Dated Peshawar, the September 26, 2012

**ORDER:**

NO. SOE (AD)20-77/2011.-

WHEREAS, Malik Muhammad Baksh, (BS-18) Ex-Executive District Officer (Agriculture) (BS-19) DIKhan now Executive District Officer (Agriculture) Bannu was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations dated 10.01.2012.

AND WHEREAS, Syed Zahir Shah, DMG-(BS-19), DCO. Bannu was appointed as Inquiry Officer to conduct inquiry against the said officer for the charges leveled against him.

AND WHEREAS, the Inquiry Officer after considering the allegations, evidence on record, explanation of the officer submitted its report, and pointed out that the allegations mentioned in the Charge Sheet and Statement of Allegations have partially been proved.

NOW THEREFORE, the Competent Authority, after having considered the charges, evidence on record, the explanation of the accused officer, finding of the inquiry officer and in exercising his powers under Section 3 read with Section 5 of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 has been pleased to impose the minor penalty of "withholding promotion for one year" on the officer. ✓

Sd/-XXX  
SECRETARY AGRICULTURE

Endst. of even No. & Date.

Copy to:-

1. The Director General, Agricultural Extension, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, On Farm Water Management, Khyber Pakhtunkhwa Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The District Accounts Officers at Bannu and DIKhan.
5. Officer concerned.
6. PS to Secretary Agriculture, Khyber Pakhtunkhwa, Peshawar.

*Adfr off of Mal*

*[Signature]*  
(DR. MIR AHMAD KHAN)  
SECTION OFFICER-ESTT:

NO. 4152 / 6 DE / 10/2011 / 10-10 2012.

Copy of the above is forwarded to Malik Muhammad Baksh (BS-18) Ex-Executive District Officer for District Officer Bannu for his necessary action.

*[Signature]*  
Director General  
On-Farm Water Management  
Khyber Pakhtunkhwa, Peshawar

ATTESTED



No. 43 / Ex-EDO (Camp Peshawar)  
Dated Peshawar, the 22 / 10 / 2012

I  
=



To

The Director General,  
On Farm Water Management,  
Khyber Pakhtunkhwa, Peshawar.

Subject: REVIEW PETITION FOR EXPUNCTION OF WITHHOLDING ONE YEAR PROMOTION.

Sir,

Please refer to Order No. SOE (AD) 20-77/2011 dated 26-09-2012.

The review petition to expunge the minor penalty of withholding one year promotion is enclosed herewith for favour of your good self information and further submission to competent authority.

Yours truly,

*M*  
(Muhammad Bakhsh Malik)  
Ex-EDO Agriculture, Bannu

ATTESTED



To

The Chief Minister,  
Govt of Khyber Pakhtunkhwa,  
Peshawar.

Through: Proper Channel

Subject: Review petition for expunction of wit holding one year promotion

39

Please refer to Order No. SOE (AD) 20-77/2011 dated 26-09-2012 (copy attached for ready reference).  
Respected sir,

It is submitted that I, Muhammad Bakhsh Malik, Ex-Executive District Officer Agriculture, Bannu (BPS-18) have been imposed the penalty of with holding one year promotion vide Office Order No. referred to above.

As far as the detachment of 13 posts from Agriculture (Extension) Department is concerned, being District Government staff, District Government did not agree to detach these posts and ultimately cancelled the detachment order (copies attached).

On the other hand, consequent upon the cancellation of detachment order, from 2008-09 onward District Government is regularly sanctioning the budget as well as posts upto total strength as it was in 2007-08 (copies attached).

I have already explained in my reply that out of 6 persons, one has neither applied nor posted, however, remaining 5 persons were posted after conducting the proper DSC.

As per policy, DCO was requested for NOC before placing the recruitment order, for which 3 NOCs were provided before, one after the order (as this cadre post was not available in the surplus pool) and one NOC was not provided and directed for adjustment from surplus pool, so his appointment order was cancelled.

As far as illegal cancellation of the order is concerned, in spite of providing NOC and even some NOCs were by name, the then DCO directed to cancel the appointment order and to adjust from surplus pool.

Sir, I have completed 32 years of Government service and my whole service record is fair and satisfactory, only 3 year service is left and also due for promotion.

I was suspended without the approval of the competent authority and in spite of even after lapse of 15 months, I have not been reinstated in service as yet.

Keeping in view the above facts, as I was not involved in any illegal appointment, it is very humbly requested that the withholding of one year promotion may please be expunged due to my unblemished and previous satisfactory record.

I shall remain ever thankful to you for this act of kindness and pray for your health and long life.

Yours obedient servant,

*Mir*  
(Muhammad Bakhsh Malik)  
Ex-EDO Agriculture, Bannu

No. 44 / Ex-EDO (Camp Peshawar)  
Dated Peshawar, the 22 / 10 / 2012

Copy forwarded to:  
The Chief Minister, Government of Khyber Pakhtunkhwa, Peshawar in advance

*Mir*  
(Muhammad Bakhsh Malik)  
Ex-EDO Agriculture, Bannu

**ATTESTED**



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK, FISHERIES & COOPERATIVE  
DEPARTMENT



NO.SOE(AD)20-77/2011  
Dated Peshawar, the February 8, 2013

To

The Director General,  
On-Farm Water Management,  
Khyber Pakhtunkhwa Peshawar

SUBJECT: REVIEW PETITION FOR EXPUNCTION OF WITHHOLDING ONE YEAR PROMOTION

I am directed to refer to your letter No.4454 dated 22.10.2013 on the subject noted above and to state that the appeal of <sup>Mr.</sup> Muhammad Bakhsh Malik was considered and rejected by the competent authority.

(MUHAMMAD SHERAZ)  
SECTION OFFICER-ESTT:

Endst. of even No. & Date.

P.S to Secretary Agriculture department.

SECTION OFFICER-ESTT:

**ATTESTED**

Dispatcher  
Dated

12/2/13

Agri. Livestock & Fisheries

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

**K**  
**46**

APPEAL NO. 579 /2013

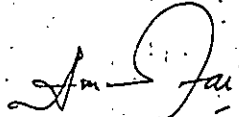
Mr. Muhammad Bakhsh Malik V/S Agriculture Department

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3.	Copy of Statement of Allegations	B	07-08
4.	Copy of Reply to Charge sheet	C	09-10
5.	Copies of Questionnaires & their Reply	D	11-26
6.	Copy of Enquiry Report/ Recommendations	E	27-33
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APPELLANT  
Muhammad Bakhsh Malik

THROUGH:

  
M. ASIF YOUSAFZAI  
ADVOCATE



BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

42

APPEAL NO. 579 /2013

Mr. Muhammad Bakhsh Malik,  
Directorate of DG Agriculture Extension,  
Jamrud Road, Peshawar.

APPELLANT

VERSUS

1. The Provincial Government through Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary, Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Coop; Department, Civil Secretariat, Peshawar.
4. The Director General, Agriculture Extension, Khyber Pakhtunkhwa, Jamrud Road, Peshawar.

RESPONDENTS

APPEAL UNDER SECTION-4 OF THE NWFP  
SERVICE TRIBUNAL ACT 1974 READ WITH  
SECTION-9 OF THE E&D RULES, 2011 AGAINST  
THE ORDER DATED 26.09.2012 WHEREBY THE  
PENALTY OF STOPPAGE OF PROMOTION FOR  
ONE YEAR WAS IMPOSED UPON THE  
APPELLANT AND AGAINST THE ORDER DATED  
08.2.2013 WHEREBY THE DEPARTMENTAL  
APPEAL OF THE APPELLANT WAS REJECTED FOR  
NO GOOD GROUNDS.

ATTESTED

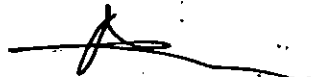
PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 8.2.2013 AND 26.09.2012 MAY BE SET ASIDE AND THE APPELLANT'S PROMOTION MAY BE RESTORED FROM HIS DUES DATE WITH ALL CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant is the employee of the Agriculture Extension Department and has 34 years at his credit with good record throughout. The appellant also performed his duty as Executive District Officer Agriculture, Bannu and D.I.Khan.
2. That while serving as EDO Agriculture, Bannu, the appellant was served with charge sheet on 16.01.2012 wherein the charges of (a) appointment of 6 persons without observing codal formalities (b) terminated 5 officials without observing codal formalities (c) paid pay and allowances to illegal appointed person which caused loss to the government exchequer." The charge sheet was also accompanied with a statement of allegations in which one Mr. Zahir Shah, DMG was appointed as Enquiry Officer. Copies of Charge sheet and Statement of Allegations are attached as Annexure-A and B.
3. That on 4.2.2012 the appellant submitted reply to the charge sheet and statement of allegations and categorically denied all the allegations levelled against him. Copy of Reply to the Charge sheet is attached as Annexure-C.
4. That then the Enquiry was conducted in questionnaire form. The appellant and other related officials submitted their answers to the questionnaires. Copies of questionnaires and their reply are attached as Annexure-D.



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- (44)
5. That on 29.2.2012, the enquiry officer submitted his findings to the competent authority based on the questionnaire and its reply. Copies of Enquiry Report / Recommendations are attached as Annexure-E.
  6. That after the recommendation of the enquiry officer, the appellant was served with show cause notice and the appellant again while denying all allegations submitted the details reply to the show cause notice in time. Copies of show cause notice and reply are attached as Annexure-F and G.
  7. That on 26.9.2012, the penalty order was passed wherein the penalty of with-holding of promotion for one year was imposed upon the appellant. The said was conveyed to the appellant on 10.10.2012, where after the appellant filed review petition under the rules on 22.10.2012 but the appeal of the appellant was rejected on 8.2.2013. The appellant officially received the rejection order on 22.2.2013. Copies of Order, Appeal and Rejection Order are attached as Annexure-H, I, and J.
  8. That now the appellant comes to this august Tribunal on the following grounds amongst the others:

**GROUND:**

- A) That the impugned orders dated 26.09.2012 and 8.2.2013, are against the law, rules, material on record, and norms of justice, therefore, not tenable.
  - B) That the appellant has not been treated according to law and rules and has been penalized for no fault on his part.
  - C) That the appellant has done nothing illegal or misuse his authority which could amount to misconduct. Rather, the appellant did everything in accordance with the law and rules as clarified by the appellant to the reply in the charge sheet.
  - D) That the enquiry was not conducted in accordance with the established principle of law and rules, rather the enquiry was conducted in questionnaire form which was totally violation of law.
- A

- 145
- E) That neither any statement was recorded of the witnesses in the presence of appellant nor the appellant was allowed to cross examine the witnesses and other record due to which the appellant remained undefended which amounts to condemnation unheard.
- F) That even the final rejection order is not a speaking order which is the violation of Section-24-A of the General Clauses Act and the Supreme Court's Judgment reported as 1991 SCMR Page-2330.
- G) That even the penalty order is not signed by the competent authority and as such the order is illegal and without lawful authorities.
- H) That even the Rules-9 of the E&D Rules, 2011 has been violated while awarding punishment to the appellant.
- I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.


It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

M.  
Muhammad Bakhsh Malik

THROUGH:

  
M. ASIF YOUSAFZAI  
ADVOCATE

**ATTESTED**  




## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 519/2013

Muhammad Bakhsh Malik, Directorate of D.G Agriculture Extension  
Jamrud Road, Peshawar.

(Appellant)

VERSUS

1. The Provincial Government through Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar and 3 others. (Respondents).

S.No.	Date of Hearing	Order/other proceedings with signature of Judge/Magistrate
1	2	3
	02.06.2014	<p>Counsel for the appellant and Mr. Muhammad Jan, GP with Rahat Shah, Administrative Officer for the respondents present. Arguments on main appeal heard and case file perused.</p> <p>2. Through the instant appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, the appellant has impugned order dated 26.09.2012 vide which penalty of stoppage of promotion for one year was imposed upon him and against the order dated 08.02.2013 whereby the departmental appeal of the appellant was rejected.</p> <p>3. The appellant averred in the memo: of appeal that while serving as EDO Agriculture Bannu, he was served with charge sheet on 16.1.2012 wherein it was alleged that he had appointed six persons without observing the codal formalities, terminated five officials without observing codal formalities and paid pay and allowances to illegal appointed person which caused loss to the government exchequer. That the appellant submitted reply to the charge sheet and statement of allegations and categorically denied all the charges levelled against him, however, an enquiry was conducted in the shape of questionnaire to which the appellant submitted reply. That on 29.2.2012, the enquiry officer submitted his findings to the competent authority and thereafter, the appellant was served with show cause notice to which he submitted reply and denied the allegations levelled against him. However, vide impugned order dated 26.09.2012 penalty of withholding of</p>

ATTENDED

Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTENDED



promotion for one year was imposed upon the appellant. The appellant filed a review petition on 22.10.2012 but the same was rejected on 8.2.2013 without assigning any cogent reason.

4. The learned counsel for the appellant argued before the court that the enquiry was not conducted in accordance with the established principles of law and rules, rather it was conducted in the shape of questionnaire which was total violation of law. The learned counsel for the appellant further argued that neither statements of witnesses were recorded in presence of the appellant nor the appellant was allowed to cross examine the witnesses and the record, hence the appellant remained undefended and condemned unheard. The learned counsel for the appellant further argued that final rejection order is not a speaking order which is violation of Section 24-A of General Clauses Act, 1897. Therefore, by accepting the instant appeal, the impugned order be set aside.

5. The learned Government Pleader in rebuttal argued before the court that the appellant was rightly charged for irregularities and after proper enquiry, he was rightly awarded punishment of stoppage of promotion for one year; that the instant appeal is without any substance, hence be dismissed.

6. Perusal of the case file reveals that after issuance of the charge sheet and statement of allegations to the appellant, he submitted detailed reply. Afterward, enquiry officer was appointed to probe into the allegations levelled against the appellant, however, the enquiry officer inspite of summoning the appellant and recording his statement, furnished questionnaire to him and on the basis of the reply of appellant to the questionnaire, he was held guilty of the charges with the recommendations to either withheld two increments of the appellant for three years and promotion for one year or if the appellant had reached to the maximum of his pay scale, in that case his promotion may be withheld for three years. On the recommendations of the enquiry officer, the appellant was awarded penalty of withholding promotion for one year. Perusal of the impugned order dated 26.09.2012, vide which

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Commission,  
Peshawar

**ATTESTED**

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penalty of withholding promotion for one year was imposed upon the appellant, reveals that the same has been issued/signed by the Secretary, Agriculture/respondent No. 3 and not by the competent authority. The appellant was serving in BPS-18 and in his case the competent authority was Chief Minister. Moreover, review petition filed by the appellant was not properly redressed while keeping into consideration all the aspects of the enquiry. Merely, a stereo-type order was passed on 8.2.2013 wherein no justification or explanation for rejection of review petition was put forward which is against the spirit of Section 24-A of General Clauses Act, 1897 and the august Supreme Court's judgment reported in 1991-SCMR-2330.

6. In these circumstances, by accepting the present appeal, the case is hereby remanded to the competent authority to pass a proper and speaking order in the light of Section 24-A of General Clauses Act, 1897 keeping into consideration all the aspects mentioned above. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED  
02.06.2014

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Member

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Member

Consent to be true copy  
 Kl. S. [Signature]  
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Date of Presentation  
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GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

NO.SOE(AD)20-77/2011  
Dated Peshawar, the 27-8-2015

*MC*  
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To

The Director General,  
On Farm Water Management,  
Khyber Pakhtunkhwa, Peshawar.

SUBJECT:- REVIEW PETITION FOR EXPUNCTION OF WITHOLDING ONE YEAR PROMOTION  
/ APPEAL NO. 519/2013, - MUHAMMAD BAKHSH-MALIK-VS- GOVERNMENT OF  
KHYBER PAKHTUNKHWA AGRIC ULTURE DEPARTMENT.

I am directed to refer to your letter No. 6217 dated 10-11-2014 and in continuation to this department letter of even number dated 8-2-2013 on the subject cited above and to state that, in pursuance of judgment Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 2-6-2014 in Appeal No. 519/2013, the appeal of Mr. Muhammad Bakhsh Malik, Director (HRD) On Farm Water Management Training Central, DIKhan/ex-EDO(Agriculture) DIKhan was placed before the competent authority. The competent authority considered the review appeal of the officer concerned against the imposition of the minor penalty and was pleased to reject the same on the grounds that the officer has not put any additional/valid grounds in his defense and that he has not attended his duties regularly and thus the penalty of withholding promotion for one year already imposed remain intact.

*(DILAWAR KHAN)*

SECTION OFFICER-ESTT:

Endst. of even No. & Date:

Copy forwarded to:-

1. The Member, Khyber Pakhtunkhwa Service Tribunal, Peshawar in Appeal No. 519/2013 dated 2-6-2014 for information.
2. The Director General, Agriculture (Extension), Khyber Pakhtunkhwa, Peshawar.
3. PS to Secretary Agriculture.

SECTION OFFICER-ESTT:

No. 5449 /DG/OFWM/dated, Peshawar, the 27 /2015.

Copy of the above is forwarded to Muhammad Bakhsh Malik Director(HRD) On-Farm Water Management Training Centre DIKhan for information.

*Khusafza*  
Director General,  
On-Farm Water Management,  
Khyber Pakhtunkhwa, Peshawar.

ATTESTED

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To  
~~XXXXXXXXXX~~

The Director (HRD)  
to Centre  
Bannu Road

D. D. Khan

As Despatcher  
Of Director General OFWM,  
Kyber Pakhtunkhwa, Peshawar.



**VAKALAT NAMA**

NO. \_\_\_\_\_/20



IN THE COURT OF Service Tribunal Peshawar

Muhammad Bakhash Malik (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Agriculture Dept. (Respondent)  
(Defendant)

I/We, Muhammad Bakhash Malik

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 21-9/2015

M. Bakhash Malik  
(CLIENT)

**ACCEPTED**

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
Advocate.

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)

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

Appeal No. 1084/2015

Mr. Muhammad Bakhsh Malik  
Directorate of DG Agriculture Extension,  
Jamrud Road, Peshawar.

APPELLANT


**VERSUS**

1. The Provincial Government through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat.
2. Chief Secretary, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
3. The Secretary, Government of Khyber Pakhtunkhwa Agriculture, Livestock & Cooperative Department, Civil Secretariat, Peshawar.
4. The Director General Agriculture Extension, Khyber Pakhtunkhwa, Jamrud Road, Peshawar

RESPONDENTS

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3	Statement of Allegations	B	5-6
4	Enquiry Report	C	7-12
5	Order dated 27-08-2015	D	13

  
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1. Correct to the extent that the inquiry officer conducted inquiry into the matter under the rules.

5. Correct to the extent that the inquiry officer after completion of the investigations submitted the report based on the facts of the case and evidences and record.

- 27
6. The inquiry officer conducted detailed investigation into the charges leveled against the appellant and on the basis of evidences and record found the charges partially proved as the appellant transgressed his authority and deviated from the laid down rules & procedures for appointment. The competent authority served a show cause notice on the appellant under the rules (Copy of Charge sheet, statement of Allegation, inquiry attached Annex- **A, B & C**).
  7. The appellant submitted reply to the show cause notice was considered by the competent authority and on the basis of the evidences on record, findings of the inquiry and explanation of the appellant during personal hearing, imposed the penalty of withholding promotion for one year on the appellant. The review appeal of the appellant was also considered by the competent authority and as the appellant was unable to provide concrete additional evidences in support of his appeal rejected the appeal.
  8. Correct to the extent that the competent authority after having considered the charges, evidence on record and explanation of the accused officer and findings of the inquiry officer a penalty of with holding promotion for one year was imposed on the appellant and rejection of departmental appeal the rest of Para is denied.
  9. Correct to the extent that the appellant filed service appeal No. 519/2013 in the Hon'ble Service Tribunal and the Hon'ble Service Tribunal accepted the appeal and remanded the case to the competent authority to pass a proper and speaking order, keeping in to consideration all the aspects of the case.
  10. Correct to the extent that in light of the order dated 02-06-2015 of the Hon'ble Service Tribunal, Peshawar in appeal No. 519/2013, the competent authority considered the review appeal of the appellant against the imposition of the minor penalty and reject the same and the penalty of withholding promotion for one year already imposed remain intact copy of order dated 27-08-2015 attached (**Annex-D**).

### Grounds

- A. Incorrect. The order dated 26-09-2013 and 27-08-2015 are according to the law, rules, facts, norms of justice and materials on record.
- B. Incorrect, the appellant was treated according to law, rules and has been penalized in light of recommendations of inquiry officer.
- C. In correct, as explained above.
- D. Incorrect, the inquiry was conducted by the inquiry officer as per law & rules and the appellant was found guilty as he transgressed and deviated from the laid down rules and procedures in appointment of employees.



- E. Incorrect all the codel formalities including personal Hearing were fulfilled by the inquiry officer.
- F. Incorrect, the final rejection order is a speaking order as the competent authority has considered all the aspects of the case in light of the Section 24-A of general clauses Act, 1897.
- G. Not correct, the penalty order was issued by the competent authority.
- H. In correct.
- I. Needs no comments

In light of the above facts, it is prayed that appeal of the appellant may please be dismissed with costs.



**Chief Secretary**  
Government of Khyber Pakhtunkhwa  
Peshawar  
**(Respondent No. 2)**



**Secretary,**  
Government of Khyber Pakhtunkhwa  
Agriculture, Livestock & Coop: Deptt:  
Peshawar  
**(Respondent No. 3)**



**Director General**  
Agriculture Extension  
Khyber Pakhtunkhwa, Peshawar.  
**(Respondent No. 4)**

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CHARGE SHEET.

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Malik Muhammad Baksh (BS-18), now working as Executive District Officer Agriculture, Bannu under suspension discharging his duties in Directorate General, Agriculture Extension Khyber Pakhtunkhwa, Peshawar as follow:-

That you, while posted as EDO (Agril:) (BS-19) DI Khan committed the following irregularities:-

- a. Appointed six persons without observing code of formalities.
- b. Terminated five officials without observing code of formalities, while one official is left in service.
- c. Paid pay and allowances to the illegal appointed persons during their six months service, which cause loss to the Government exchequer.

By reasons of the above, you appear to be guilty of misconduct under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the inquiry officer/committee, as the case may be.

Your written defense, if any, should reach the inquiry officer/committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case, ex parte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegations is enclosed.

(AMIR HAIDER KHAN HOTI)  
CHIEF MINISTER,  
KHYBER PAKHTUNKHWA

(COMPETENT AUTHORITY)

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GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

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DISCIPLINARY ACTION

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Malik Muhammad Bakhsh (BS-18), now working as Executive District Officer Agriculture, Bannu under suspension discharging his duties in Directorate General, Agriculture Extension, Khyber Pakhtunkhwa, Peshawar has rendered himself liable to be proceeded against, as he committed the following acts / omissions within the meaning of rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATION

- a. Appointed six persons without observing codal formalities.
- b. Terminated five officials without observing codal formalities, while one official is left in service.
- c. Paid pay and allowances to the illegally appointed persons during their six months service, which cause loss to the Government exchequer.

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

- i. Syed Zahid Shah, DME-(BS-14), DCO, Bannu.
- ii. \_\_\_\_\_

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

The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/committee.

(AMIR HAIDER KHAN HOTI)  
CHIEF MINISTER  
KHYBER PAKHTUNKHWA.

(COMPETENT AUTHORITY)

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Endst. No.SOE(AD)20-77/2011

Dated Peshawar, the 16/01/2012.

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

1. The Inquiry Officer of M/S Syed Zahir Shah (DMG BS-19), DCO, Bannu for initiating proceedings against the accused under the provision of the Khyber Pakhtunkhwa E&D Rules, 2011.
2. Malik Muhammad Bakhsh, ex- EDO Agril: DI Khan now Executive District Officer (Agriculture) Bannu, under suspension with the advice to appear before the Inquiry officer, on the date, time and place fixed by the Inquiry officer, for the purposes of the inquiry proceedings.
3. The Director General, On-Farm Water Management, Khyber Pakhtunkhwa, Peshawar, with the request to depute departmental representative who is well conversant with the facts of the case along with relevant record to assist the Inquiry Officer during the inquiry proceedings.

  
(MOHAMMAD ZAHID)  
SECTION OFFICER-ESTT:

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**OFFICE OF THE  
DISTRICT COORDINATION OFFICER  
BANNU**

**ENQUIRY REPORT REGARDING  
ILLEGAL APPOINTMENTS/TERMINATIONS AND PAYING OF  
SALARIED AND ALLOWANCES TO ILLEGALLY APPOINTED  
PERSONS BY MALIK MUHAMMAD BAKHSH BPS-18 EX-EDO  
AGRICULTURE D.I. KHAN**

**ORDER OF ENQUIRY:**

The undersigned was appointed as Enquiry Officer to probe into the allegations under the provision of Khyber Pakhtunkhwa E&D Rules 2011 against Mr. Malik Muhammad Bakhsh BPS-18 Ex-Executive District Officer Agriculture D.I. Khan vide Agriculture Department endorsement No. SOE(AD) 20-77/2011.

**BRIEF FACTS OF THE CASE:**

Malik Muhammad Bakhsh BPS-18 Ex-Executive District Officer Agriculture D.I. Khan had appointed five persons (Not Six) i.e (Two class-IV employees, One Junior Clerk, One Driver cum Operator BPS-06 and one Driver BPS-04). On 12-01-2009 Finance Department Khyber Pakhtunkhwa had detached 13 posts along with incumbents of different cadres from Agriculture Department D. I. Khan and attached it to Crop Reporting Services (CRS) at various districts of the province vide Finance Department letter at annexure "A" and in pursuance of Finance Department instructions, the EDO Agriculture D. I. Khan transferred the services of the detached officials from Agriculture Department D. I. Khan and placed at Crop Reporting Center at different districts vide their letter dated 21-07-2009 at annexure "B". Some officials who affected due to the said order challenged the detachment order of Finance Department in Peshawar High Court Bench D. I. Khan vide Writ Petition No. 165/2010 at annexure "C". The honorable court apparently suspended the operation of Finance Department order dated 12-01-2009 for ten days vide the court's order sheet dated 25-03-2010 at annexure "D". Moreover, the District Nazim D. I. Khan addressed a letter to the Secretary to Govt. of Khyber Pakhtunkhwa Agriculture Department as well as Finance Department in which he declined to detach the said posts from Agriculture Department in District D. I. Khan vide his letter No. 1177-78/DW/PSO dated 08-07-2009 which is annexed as "E". Therefore, the then EDO Agriculture (Malik Muhammad Bakhsh) made fresh appointments of one Junior Clerk, one Driver cum Operator BPS-06 and one Driver BPS-04 against the said post whereas two others class-IV employees were recruited on others vacant posts, but due to direction of District Coordination Officer D. I. Khan he withdrew all the

appointments orders except that of Elahi Bakhsh Driver cum Operator. Later on, he adjusted surplus employees on the posts of Junior Clerk, Driver and one post of Field Worker whereas Diseased Employee Son was adjusted against on the 2<sup>nd</sup> post of Field Worker. Two employees namely Shams-u-Rehman Field Worker and Ghulam Mustafa Junior Clerk aggrieved by withdrawal orders filed Petition into the Civil Court and got order of injunction in their favour, therefore, they received salary for sometimes. No sooner did their cases were rejected from courts, their salaries were stopped.

Hence one person namely, Roshan Zameer has leveled various allegations against Ex-Executive District Officer Agriculture D. I. Khan resulting in the instant inquiry.

### CHARGES/ALLEGATIONS:

There are three charges against Mr. Malik Muhammad Bakhsh Ex-Executive District Officer Agriculture D. I. Khan. According to charge sheet and statement of allegations i.e:-

- a. Appointment of Six persons without observing codal formalities.
- b. Termination of Five officials without observing codal formalities while one official left in service untouched.
- c. Paying of salaries and allowances to the illegally appointed persons during the six months service. As such causing great loss to the Govt. exchequer.

### PROCEEDINGS/PROCEDURES:

The charge sheet and statement of allegations were handed over to accused officer by hand with the direction to submit reply to the charge sheet/statement of allegations. After that, the Departmental Representative, the complainant, six appointed/terminated persons, Executive District Officer (F&P) D. I. Khan and the accused officer were formally summoned. The Ex-Executive District Officer Agriculture D. I. Khan (Malik Muhammad Bakhsh), the Departmental Representative Dr. Allah Bakhsh Malik (District Officer On Farm Water Management D. I. Khan), representative of Executive District Officer (F&P) D. I. Khan, Muhammad Aamir Ex-driver and Mr. Elahi Bakhsh Driver cum Operator attended this office accordingly whereas the complainant Mr. Roshan Zameer, Shams-ur-Rehman (Field Worker) Muhib Ullah (Field Worker) and Ghulam Mustafa Shah (Junior Clerk) did not attend the enquiry proceedings. They were once again summoned through District Coordination Officer D. I. Khan as well as Executive District Officer Agriculture D. I. Khan vide this office letter No. 310/DCO dated 11-02-2012 annexed as "F" but they did not turn up to join the enquiry proceedings.

Separate questionnaires were prepared for the accused officer (Malik Muhammad Bakhsh), Departmental Representative, EDO (F&P) D. I.

Khan, Mr. Elahi Bakhsh Driver cum Operator and Muhammd Aamir Ex-Driver which are annexed as "G", "H", "I", "J" and "K" respectively. The statement of accused officer is annexed as "L", and his reply to questionnaire is annexed as "M", while replies to questionnaires from Departmental Representative, EDO (F&P) D. I. Khan, Elahi Bakhsh Driver cum Operator and Muhammad Aamir are annexed as "N", "O", "P" and "Q". respectively.

The Ex-EDO Agriculture D. I. Khan (accused officer) was given an opportunity of personal hearing. He totally denied the charges leveled against him and vehemently defended his stance. He contended that he had appointed all the employees after fulfillment of all codal formalities. He argued that Shams-ur-Rehman and Muhib Ullah Field Worker were appointed on the direction of the District Coordination Officer D. I. Khan through Employment Exchange. Moreover, proper NOC were also obtained from district surplus pool. However, he could not produce any proof regarding appointment of the above persons through Departmental Selection Committee.

So far the posts of Junior Clerk, Driver BPS-04 and Driver cum Operator BPS-06 are concerned; he added that Ghulam Mustafa, Muhammad Aamir and Elahi Bakhsh Malik were appointed respectively against the said post after advertising the post and conducting Departmental Selection Committee meeting. He provided copy of advertisement annexed as "R" and that of minutes of DPC at annexure "S". But he had not obtained NOC from District Surplus Pool before-appointment, however, later on he obtained NOC in respect of the post of Junior Clerk (Ghulam Mustafa) and Driver cum Operator (Elahi Bakhsh). He further informed that he had appointed only five persons as explained above and not six as Mr. Najaf Ali Shah that is the 6th person had never been appointed by him.

He was asked about the detachment of various posts from Agriculture Department D. I. Khan and later on making appointment on three posts i.e. Junior Clerk, Driver and Driver cum Operator by him. He defended his case and stated that though the posts were detached but due to order of injunction by honorable High Court and provision of budget by Finance & Planning Department D. I. Khan, the posts were actually available and thus appointments were made thereon. As regards the allegations regarding termination of the employee, he took the plea that all appointments orders were withdrawn on the clear direction of District Nazim as well as DCO D. I. Khan and employees from Surplus Pool were adjusted against one post of Field Worker, post of Junior Clerk and Driver whereas a Deceased Employee was appointed against the second post of Field Worker. He added that since no employee of the cadre of Driver cum Operator BPS-06 was available at District Surplus Pool, therefore, the order of Elahi Bakhsh Malik was not withdrawn for which the DCO D. I. Khan has formally issued No Objection Certificate later on vide No. 2651 dated 29-03-2010 annexed as "T". The accused officer also denied the allegations regarding paying of illegal salaries to the appointed persons as he affirmed that except Shams-ur-Rehman Field Worker and



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

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NO.SOE(AD)20-77/2011  
Dated Peshawar, the 27-8-2015

To

The Director General,  
On Farm Water Management,  
Khyber Pakhtunkhwa, Peshawar.

SUBJECT:- REVIEW PETITION FOR EXPUNCTION OF WITHOLDING ONE YEAR PROMOTION / APPEAL NO. 519/2013, MUHAMMAD BAKHSH MALIK VS GOVERNMENT OF KHYBER PAKHTUNKHWA AGRICULTURE DEPARTMENT.

I am directed to refer to your letter No. 6217 dated 10-11-2014 and in continuation to this department letter of even number dated 8-2-2013 on the subject cited above and to state that, in pursuance of judgment Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 2-6-2014 in Appeal No. 519/2013, the appeal of Mr. Muhammad Bakhsh Malik, Director (HRD) On Farm Water Management Training Central, DIKhan/ex-EDO(Agriculture) DIKhan was placed before the competent authority. The competent authority considered the review appeal of the officer concerned against the imposition of the minor penalty and was pleased to reject the same on the grounds that the officer has not put any additional/valid grounds in his defense and that he has not attended his duties regularly and thus the penalty of withholding promotion for one year already imposed remain intact.

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*(Signature)*  
(DILAWAR KHAN)  
SECTION OFFICER-ESTT:

Endst. of even No. & Date.

Copy forwarded to:-

1. The Member, Khyber Pakhtunkhwa Service Tribunal, Peshawar in Appeal No. 519/2013 dated 2-6-2014 for information.
2. The Director General, Agriculture (Extension), Khyber Pakhtunkhwa, Peshawar.
3. PS to Secretary Agriculture.

*11 n Per Mark*  
No. 5149 /DG/OFWM/dated, Peshawar the 2/9 /2015.

SECTION OFFICER-ESTT:

Copy of the above is forwarded to Muhammad Bakhsh Malik Director(HRD) On-Farm Water Management Training Centre DIKhan for information.

*(Signature)*  
Director General,  
On-Farm Water Management,  
Khyber Pakhtunkhwa, Peshawar.

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

**Service Appeal No. 1084/2012**

Mr. Muhammad Bakhsh Malik ,  
Directorate of DG Agriculture Extension,  
Jamrud Road, Peshawar.

.....(Appellant)

VERSUS

Chief Secretary Govt ,Khyber Pakhtunkhwa & others

.....(Respondents)

.....  
**REJOINDER ON BEHALF OF APPELLANT**

.....  
**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 No comments.
- 2 No comments.
- 3 In First portion of Para-3 of the reply the respondent's department admitted para-3 of the appeal as correct. Moreover, remaining para-3 of the reply is not replied according to Para 3 of the appeal, hence denied.
- 4 Admitted correct by the respondent's department. Moreover enquiry is not conducted according to law and rules.
- 5 Para-5 of the appeal is not specifically denied by the respondents which mean they have admitted Para-5 of the appeal as correct and the department in his

para-5 of the reply admitted para-5 of the appeal as correct.

- 6 Incorrect. While Para-6 of the appeal is correct as mentioned in the main appeal of the appellant.
- 7 Incorrect. While Para-7 of the appeal is correct as mentioned in the main appeal of the appellant.
- 8 Not replied according to the Pra-8 of the Appeal hence denied. Moreover Para8 of the appeal is correct as mentioned in the main appeal of the appellant.
- 9 Not replied according to the Pra-9 of the Appeal hence denied. Moreover Para-9 of the appeal is correct as mentioned in the main appeal of the appellant
- 10 Not replied according to the Pra-10 of the Appeal hence denied. Moreover Para-10 of the appeal is correct as mentioned in the main appeal of the appellant.

**GROUND:**

- A) Incorrect, while Para-A of grounds of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, impugned order is against the law, rules and norms of justice.
- B) Incorrect, while Para-B of grounds of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant is not treated according to the law and rules.
- C) Incorrect, while Para-C of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect, while Para-D of grounds of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, the enquiry was not conducted in accordance with the established principle of law and rules.


- E) Incorrect, while Para-E of grounds of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, no codal formalities were fulfilled before issuing impugned order.
- F) Incorrect, while Para-F of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect, while Para-G of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
- H) Incorrect, while Para-H of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
- I) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

**APPELLANT**

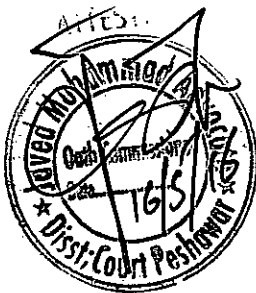
Muhammad Bakhsh Malik

Through:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable tribunal.



  
**DEPONENT**

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 34 /ST

Dated 4-1-2019

To


The Secretary Agriculture, Livestock & Cooperative Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 1084/2015, MR. MUHAMMAD BAKHSH MALIK.

I am directed to forward herewith a certified copy of Judgement dated  
14.12.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.