BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 284/2016

Date of institution ... 14.03.2016 Date of judgment ... 08.10.2021

Mr. Azmatullah Khan, Ex-Chief of Section (BPS-19) P&D Department R/O House No.37, Sector G-4 Phase 2, Hayatabad Peshawar.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa at Civil Secretariat Peshawar and three others.

(Respondents)

Present:

Mr. Waqar Ali Khan, Barrister

For appellant.

MR. MUHAMMAD ADEEL BUTT, Additional Advocate General

For respondents.

MR. AHMAD SULTAN TAREEN, MIAN MUHAMMAD

CHAIRMAN

MEMBER (EXECUTIVE)

JUDGEMENT

MIAN MUHAMMAD, MEMBER (E):- The appellant is aggrieved of the original impugned order dated 12.10.2015 whereby he was awarded major penalty of "removal from service" w.e.f 15.07.2014. His review petition dated 09.11.2015 was also regretted on 15.02.2016. Both the impugned orders have been challenged in the instant service appeal for adjudication.



Brief facts of the service appeal are that the appellant 02. joined P&D Department as Research Officer (BS-17) in 1982 and elevated to the post of Chief of Section (BS-19) through promotion in his cadre. It was on 29.11.2012 that the appellant received a letter containing a complaint regarding genuineness of his academic credentials i.e Civil Engineering Degree obtained from South Dekota State University USA in 1979. Enquiry proceedings were also initiated against the appellant in this connection. On receipt of show cause notice on 27.05.2013, the appellant approached the Peshawar High Court, Peshawar in writ petition which was disposed of on 24.09.2013 in the manner to let the appellant appear before Secretary Planning and Development alongwith original degree of Engineering and if need be, get it verified from the concerned university and the process be completed within one month positively. The appellant was then issued charge sheet and statement of allegations on 02.12.2013 to which he replied on 28.12.2013. After having diagnosed with cancer (stage-III) the appellant submitted an application dated 28.11.2013 for early retirement on medical grounds. However, he was informed on 27.06.2014 that his application for early retirement had been rejected due to pending proceedings against him. He was proceeded against for willful absence from duty w.e.f 15.07.2014 and finally, the impugned order awarding him the major penalty of "removal from service" was issued on 12.10.2015 but w.e.f 15.07.2014

i.e from the date of his willful absence from official duty. His review petition dated 09.11.2015 was regretted and communicated on 15.02.2016. The appellant thereafter approached the Service Tribunal on 14.03.2016.

- 03. Parties were heard and available record perused thoroughly with assistance of their respective learned counsel.
- Learned counsel for the appellant argued that 04. appellant had been in service for the last almost 32 years in respondent-department and during course of his service he was promoted as Chief of Section (BS-19). It was in the year 2012 that fake email complaint of 2001 was received raising objection on the genuineness of his Civil Engineering Degree obtained from South Dekota State University USA in 1979. He was subjected to departmental enquiry when suspended for misconduct under Rule 3 (b) of the Khyber Pakhtunkhwa Government: Servants (Efficiency & Discipline) Rules, 2011 and show cause notice dated 27.05.2013 issued to him which was challenged in writ petition No. 1563-P/2013 before Peshawar High Court. On expiry of suspension period, he was sent on 120 days forced leave (on full pay) w.e.f 29.08.2013 to 26.12.2013 vide notification dated 11.11.2013. Learned counsel for the appellant further contended that the appellant had been in attendance of his duties regularly and did not remain absent. Rather, the department did not post him after expiry of the forced leave. On expiry of his forced leave, he submitted arrival

report but he was not properly posted. Respondents did neither complete the enquiry nor could verify degree of the appellant from the concerned University within a period of one month, as per directions of Peshawar High Court, Peshawar 24.09.2013. In the meanwhile, he was diagnosed with Cancer owing to which he submitted application for early retirement on 28.11.2013 but it was rejected after seven months on 27.06.2014 "due to pending proceedings against him" though there was no enquiry pending at that time and charge sheet/statement of allegations was issued on 02.12.2013. It is quite astonishing that proceedings for willful absence against the appellant were initiated at the verge of his retirement who was to attain the age of superannuation on 15.08.2015. Notices were published in news papers on 31.07.2015 directing him to resume duties within 15 days. The impugned order dated 12.10.2015 issued after his retirement, with retrospective effect from 15.07.2014 is based on malafide, issued in haste and in a whimsical and arbitrary manner just to cover up the lapses and inefficiency of the respondent-department. The service appeal may therefore, be accepted and impugned order dated 12.10.2015 and rejection of review petition dated 15.02.2016 being not maintainable, are liable to be set aside.

05. Learned AAG on the other hand contended that the appellant failed to submit his original documents. He submitted unattested photocopies of the testimonials after lapse of 05 months of his father

death (02.12.2012) on 24.05.2013. Moreover, the E-mail regarding genuineness of his Civil Engineering Degree from USA, was not fake and the matter had been confirmed by the Khyber Pakhtunkhwa Public Service Commission through E-mail dated 03.04.2013. Higher Education Commission was approached on 27.01.2014 for verification of fake/bogus degree and the HEC reminded South Dakota State University USA on 24.07.2014 but reply was still awaited. Similarly, Pakistan Engineering Council was also consulted for verification of his Civil Engineering degree, on 13.01.2015 but no response received despite several reminders. The appellant on the expiry of his suspension period absented himself from duties. He was therefore, directed on 27.06,2014 to attend the office within 15 days. The appellant submitted arrival report on 14.07.2014 but again remained absent since then. The appellant was again directed on 8.05.2015 to provide certain documents for the purpose of verification of his degree but he did not respond. He was again reminded on 26.05.2015 but he did not turn up. Therefore, notices in two Dailies were published on 31.07.2015 directing him to report within 15 days of the publication. The competent authority has rightly exercised his power under the law and rules and no arbitrary or whimsical action taken against the appellant. He has been treated according to law and rules. The Service appeal being devoid of merits may be dismissed.

06. Record shows that the appellant was proceeded against under Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 when notices were issued in two dailies on 31.07.2015 which culminated on issuance of the impugned

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notification dated 12.10.2015 but giving effect from 15.07.2014. However, it is beyond comprehension that when the appellant submitted application on 28.11.2013 seeking early retirement on medical grounds (He was diagnosed cutacous T-Cell Lymphoma i.e. skin cancer stage-III) then the department regretted his request and replied after lapse of 07 months on 27.06.2014 that "keeping in view the under process of your alleged/fake degree of Engineering". The department admits and acknowledges the arrival reports of appellant dated 14.10.2013 and 14.07.2014 meaning thereby that the appellant was very much in attendance of office and the department was aware of it. Then how could be absent himself willfully w.e.f. 15.07.2014, as per impugned order dated 12.10.2015 when he had attained the age of superannuation on 15.08.2015 i.e two months before the impugned notification was issued? Was the respondent department in a state of deep slumber since his willful absence i.e. 15.07.2014 and could awake all of a sudden to start proceedings against him under Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on 08.05.2015?

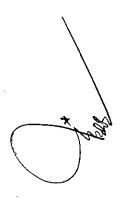
07. There was no pending enquiry proceedings against the appellant at the time of his application for early retirement on 28.11.2013. If at all, there was any pending enquiry against the appellant, the charge sheet/statement of allegations dated 02.12.2013 was actually issued on 10.12.2013. But here too, the directions of Peshawar High Court, Peshawar in his writ petition No. 1563-P/2013 dated 24.09.2013 were not implemented in letter and spirit. Peshawar High Court, Peshawar had issued specific directions as follows:-

* Man

"the petitioner shall appear before the Secretary P&D alongwith his original degree of Engineering, obtained from South Dakota State University USA and shall hand over it to the Secretary P&D, who would then be responsible for its careful handling and if need be, after consulting the Chief Minister to get it verified from the university authorities concerned, as to whether it is genuine or not and in the former case, if it is found genuine, then the enquiry proceedings pending against the petitioner, shall be dropped immediately. The entire process be completed positively within one month from the date the original degree is presented which shall be presented to the Secretary P&D on 26.09.2013"

08. Quite contrary to the directions of Peshawar High Court, Peshawar the respondent-department approached Higher Education Commission for verification of his Engineering Degree on 27.01.2014 and Pakistan Engineering Council on 13.01.2015. The verification process could not be completed till issuance of the impugned order dated 12.10.2015 and precious time was wasted due to the negligence, sluggish and half hearted action by the respondent-Department despite the fact that original documents were in the custody of department as is evident from letter No. SO(E) P&D/087/PF/1-19/2013 dated 27.01.2014.

09. It is also an established practice in government departments that all testimonials of a new entrant into service, are verified at the initial stage of his service. Taking cognizance of an e-mail dated back to 2001 after 13 years, is not without suspension and doubts. Question arises whether the civil engineering degree of the appellant had not been verified at the time of his entry into service in 1982? If not then the respondent-department as well as recruiting entity i.e Khyber Pakhtunkhwa Public Service Commission are at fault? How



can he be held responsible for the wrong doings of others and how can he be deprived of his pensionery benefits after having rendered 32 long years of service in respondent-department? As stipulated under Rule 1.8 of the West Pakistan Civil Services Pension Rules, 1963 if a civil servant who is under enquiry attains the age of superannuation, the enquiry proceedings under E&D Rules will stand abated and he is allowed pensioner benefits as provided under the rules.

10. As a sequel to the above, we have arrived at the conclusion that proceedings of the respondents initiated under Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 vividly seen to be based on malafide to cover up in hasty manner the lapses, delays and inefficiency of department and to make the appellant as an easy escapegoat for it. We are therefore constrained to allow the service appeal on merit and facts of the case set aside the impugned notification dated 12.10.2015 and order on review petition dated 15.02.2016. Parties are left to bear their own costs. File be consigned to the record room

CHAIRMAN

ANNOUNCED 08.10.2021

(MIAN MUHAMMAD) MEMBER (EXECUTIVE)

<u>ORDER</u>

08.10.2021

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed order of today placed on file, we have arrived at the conclusion that proceedings of the respondents under of the Khyber Pakhtunkhwa initiated Rule-9 Government Servants (Efficiency & Discipline) Rules, 2011 vividly seen to be based on malafide to cover up in hasty manner the lapses, delays and inefficiency of department and to make the appellant as an easy escapegoat for it. We are therefore constrained to allow the service appeal on merit and facts of the case set aside the impugned notification dated 12.10.2015 and order on review petition dated 15.02.2016. Parties are left to bear their own cost. File be consigned to the record room.

Announced: 08.10.2021

(AHMAD SULTAN TAREEN)
CHAIRMAN

Member(E)

(Mian Muhammad)

04.10.2021

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

Arguments heard and record perused. To come up for order on 08.10.2021 before the D.B.

(Mian Muhammad)

Member(E)

Chairman

31.05.2021

Appellant alongwith his counsel present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Both the parties stated that the issue of retrospectivity is involved in the instant appeal, regarding which a Larger Bench has already been constituted for adjudication, therefore, the appeal in hand may be adjourned. Adjourned. To come up for further proceedings before D.B on 30.08.2021.

(ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE) (SALAH-UD-DIN) MEMBER (JUDICIAL)

30.08.2021

Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present and sought adjournment for arguments. Adjourned. To come up for arguments before the D.B on 04.10.2021.

ATIO-UR-REHMAN WAZIR) MEMBER (EXECUTIVE) (SALAH-UD-DIN) MEMBER (JUDICIAL) 16.11.2020

Zara Tajwar learned Deputy District Attorney for respondents present.

Appellant made a request for adjournment as his counsel is not available. Adjourned. To come up for arguments on 20.01.2021 before D.B. Adjourned. To

(Atiq ur Rehman Wazir) Member (E) (Rozina Rehman) Member (J)

20.01.2021

Appellant alongwith his counsel present. Mr. Riaz Khan Paindakhel learned Assistant AG respondents present.

Learned counsel for appellant while making reference to impugned order dated 15.10.2015 submitted that retrospective effect was given to the referred to order, the issue with retrospectivity is pending before the Larger Bench of this august Tribunal constituted for the purpose therefore, unless and until judgment is made by the worthy Larger Bench, this appeal is kept pending. File to come up for further proceedings on 02.03.2021 before S.B.

(Atiq Ur Rehman Wazir)

Member (E)

(Muhammad jamal khan)

Member (1)

02.03.2021 Due to COVID-19, the case is adjourned for the same on 31.05.2021 before D.B



<u>7· 5</u> .2020

Due to COVID19, the case is adjourned to 27/7/2020 for the same as before.



27.07.2020

Due to COVID-19, the case is adjourned. To come for the same on 15.09.2020 before D.B.



15.09.2020

Counsel for appellant present.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

A request for adjournment was made as issue involved in the present case, is pending before Larger Bench of this Tribunal. Adjourned. To come up for arguments on 16.11.2020 before D.B.

(Atiq ur Rehman) Member (E)

(Rozina Rehman) Member (J) Due to general strike on the call of the Khyber Pakhtunkhwa
Bar Council, learned counsel for the appellant is not available
today. Mr. Riaz Paindakhel learned Assistant Advocate General
for the respondents present. Adjourned to 10.03.2020 for
arguments/ further proceedings before D.B.

(Hussain Shah) Member

(M. Amin Khan Kundi) Member

10.03.2020

Arbab Kaleem Ullah, Advocate present and submitted Wakalatnama on behalf of the appellant. Mr. Muhammad Jan, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 07.05.2020 before D.B.

Member

Member

09.07.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Asad Ullah Khan Assistant present. Learned counsel for the appellant seeks adjournment. Adjourned by way of last chance. To come up for arguments on 24.09.2019 before D.B.

Member

Member

24.09.2019

Junior counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Junior counsel for the appellant seeks adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned to 29.11.2019 for arguments before D.B.

(Hussain Shah) Member

(M. Amin Khan Kundi) Member

29.11.2019 Mr. Amir Ali Khan, Advocate appeared on behalf of the appellant and seeks adjournment to prepare the brief.

Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Asadullah, Assistant Litigation for respondents present. Adjourned but as a last chance. To come up for arguments on 2200 before D.B.

Member

Member

22.10.2018

Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Due to retirement of Hon'ble Chairman, the Tribunal is incomplete. To come up for same as before an 05.12.2018.

05.12.2018

Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 06.02.2019 before D.B.

(Ahmad Hassan)

(M. Amin Khan Kundi)

0**6**.02.2019

Member Clerk to counsel for the appellant and Mr. Zia Ullah, Deputy District Attorney present. Clerk to counsel for the appellant seeks adjournment due to general strike of the Bar. To come up for arguments on 23.04.2019 before D.B.

(Ahmad Hassan) Member

(M. Amin Khan Kundi) Member

23.04.2019

Appellant in person and Addl. AG alongwith Zafrullah, AD for the respondents present.

Due to general strike on the call of District Bar Council, instant matter is adjourned to 09.07.2019 for arguments before the D.B.

Member

Chairman

19.02.2018

Due to non availability of D.B. Adjourned. To come up on 23.04.2018 before D.B.

23.04.2018

Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.07.2018 before D.B.

(M. Hamid Mughal)

06.07.2018

Member Counsel for the appellant present. Mr. Sardar Shoukat Hayat, Addl: AG for respondents present. Arguments could not be heard due to incomplete bench. To come up for arguments on 31.08.2018 before D.B.

> (Muhammad Ámin Kundi) Member

31.08.2018

Clerk of the counsel for appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Clerk of the counsel for appellant seeks adjournment. Adjourned. To come up for arguments on 22.10.2018 before D.B.

(Ahmad Hassan) Member

(Muhammad Amin Khan Kundi)

Member

31.05.2017

Counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Counsel for the appellant requested for time to file rejoinder. Request accepted. To come up for arguments on 26.09.2017 before D.B.

(Gul Zey Khan) Men**b**er

an)

(Muhammad Amin Khan Kundi) Member

26.09.2017

Junior to counsel for the appellant and Mr. Ziaullah, DDA for the respondents present. Counsel for the appellant is not in attendance. Seeks adjournment. Adjourned. To come up for arguments on 22.12.2017 before D.B.

Member

Chairman

22.12.2017

Counsel for the appellant and Mr. Muhammad Riaz Painda Khel, Asstt. AG for the respondents present. Rejoinder submitted. Learned counsel for the appellant seeks time to prepare arguments. Granted. To come up for arguments on 19.02.2018 before the D.B.

Nember

Chairman

07.09.2016

Counsel for the appellant and Addl. AG for respondents present. Rejoinder not submitted. Requested for time to file rejoinder. Request accepted. To come up for

Member (

11.01.2017

Junior to counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Junior to counsel for the appellant seeks adjournment. Request accepted. To come up for rejoinder and arguments on 31.05.2017.

(AHMAD HASSAN)

(MUHAMMAD AAMIR NAZIR) MEMBER

Afreal No. 284/2016 Azmatullah

31.03.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Chief of Section (BPS-19) in P&D department when subjected to enquiry on the allegations of wilful absence and removed from service vide impugned order dated 12.10.2015 where against he preferred review petition on 10.11.2015 which was rejected vide impugned order dated 15.2.2016 and hence the instant service appeal on 14.3.2016.

That the appellant was neither absented nor had ever absented himself from official duty. That the impugned order of removal from service was passed after retirement of the appellant. That the procedure was not followed.

Points urged need consideration. Admit subject to limitation. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 25.5.2016 before S.B.

Chairman

25.05.2016

Counsel for the appellant and Asstt. AG alongwith Khursheed Ali, Supdt. for the respondents present. Written reply submitted The appeal is assigned to D.B for rejoinder and final hearing for 07.09.2016.

Chairman

FORM OF ORDER SHEET

Court or	
Case No.	<u> 284/2016 </u>

	Case No	284/2016		
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate		
1	. 2	3		
1	25.03.2016	The appeal of Mr. Azmatullah Khan resubmitted today		
		by Mr. Waqar Ali Khan Advocate may be entered in the		
		Institution Register and put up to the Worthy Chairman for		
	·	proper order please.		
2	28.3.16	REGISTRAR This case is entrusted to S. Bench for preliminary		
	4.0	hearing to be put up thereon3/-3-/6		
		meaning to be put up thereon		
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		CHAUMAN		
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The appeal of Mr. Azmatullah Ex-Chief of Section P&D Department received to-day i.e. on 14.03.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Page Nos. 12, 16, 23 to 26, 37, 40 and 41 of the appeal are illegible which may be replaced by legible/better one.

No. 442 /S.T.

Dt. 15/3 /2016

SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Barrister Waqar Ali Khan Peshawar.

R/Sw.

Resubuttee of the Removing all the Objections.

All D 25/2/2015

April Ale
Advocate HIGH Court

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal NO. 284 /2016

Mr. Azmatullah Khan VERSUS Govt. of Khyber Pakhtunkhwa

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Barrister Waqar Ali

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Ar. Azmatullah Khan Ex- Chief of Section (BPS-19) P&D Department E/O House No. 37, Sector G-4 hase 2, Hayatabad Peshawar	Service Tribunal Diary No 2/13 Diary No 14-03-9,01
•••	Appellant
VERSUS	
Government of Khyber Pakhtunkhwa through the Chief Secretary Khyber Pakhtunkhwa at Civil Secretariat Peshawar	
2. Additional Chief Secretary Government of Khyber Pakhtunkhwa at Peshawar	
3. Secretary to the Government of Khyber Pakhtunkh Establishment Department at Civil Secretariat Pesh	
4. Secretary P&D Department Govt of Khyber Pakht Civil Secretariat Peshawar	unkhwaRespondents

SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 R/W RULE 19 OF THE KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY AND DISCIPLINE) RULES 2011

RESPECTFULLY SHEWETH:

The appellant most earnestly craves permission of this Hon'ble Tribunal to submit as under;

Re-submitted to-day

BRIEF FACTS:

- 1. That, the appellant, after having obtained a Degree in Engineering in the year 1979, and after having registered with the Pakistan Engineering Council on 01/08/1979, joined service with the Provincial Government in the year 1982 and reached the post of Chief of Section P&D Department in the BS-19. The appellant had throughout been an extremely committed, diligent and efficient civil servant and enjoyed outstanding career record.
- 2. That, the appellant received a letter dated 29/11/2012, from the Planning & Development Department Government of Khyber Pakhtunkhwa, signed by Mr. Muhammad Tahir Aurakzai, Additional Secretary P&D, whereby, he was informed that a complaint had been received regarding the genuineness of his academic credentials, particularly his Civil Engineering Degree from the United States of America and that he was required to provide the original documents and that as a consequence to his failure in submitting the original degree, the Competent Authority constituted a two members committee to investigate into the allegations contained in the mentioned complaint. The appellant was directed to appear before the committee in person, along-with all the relevant degrees, on 4th December 2012. It is to be, very kindly, noted that, at the relevant time, the appellant was on leave due to illness of his father, and his leave had been duly approved by the Department from 27/11/2012 for a week.

Copy of Casual Leave approval is annexure A

- 3. That, after having received the letter dated 29/11/2012, the appellant got hold of the order dated 18/10/2012, whereby an Inquiry Committee had been constituted to probe into the matter of "Degree Verification of Mr. Azmatullah Khan, Chief of Section (Industries), P&D Department".
- 4. That, subsequently, the appellant made a representation to the Additional Chief Secretary Khyber Pakhtunkhwa (P&D), wherein he explained the reason of not submitting the documents in original to the Committee. His representation contained that he was called to attend the proceedings of the Committee on 04/12/2012, but, unfortunately, at the relevant time his father was on death bed and was admitted in Shifa International Hospital Islamabad, who, later-on, passed away on 02/12/2012. The appellant submitted all the required documents along-with his representation.

Copy of the Representation is annexure B.

5. That, on 27th May 2013, the appellant received a letter No. SO(E)P&D/087/1-19/2013, issued by the P&D Department, accompanied by the SHOW CAUSE NOTICE, signed by the Competent Authority, wherein he was required to submit his Reply to the Show Cause Notice within the stipulated period. The Show Cause Notice contained that a Preliminary Inquiry was conducted regarding the appellant's allegedly fake and bogus Engineering Degree and that the Competent Authority was satisfied, after perusing the record and the appellant's Reply, that he was 'Guilty of Misconduct'. The Competent Authority has tentatively decided to impose upon the appellant the Major Penalty of 'Dismissal from Service' under Rule 4 of the E&D Rules 2011. On the same day the appellant received his Suspension Order, issued by the Competent Authority on 27 May 2013, being found 'Guilty of Misconduct' under Rule 3(b) of the E&D Rules 2011. To the utter surprise and dismay of the appellant, he received another letter dated 27 May 2013, which was issued by the P&D Department to the District Police Officer Peshawar, for registration of Criminal Case against him, relating to the same subject matter.

Copy of the fake e-mail on which the said Show Cause was based is annexure C and the Order of suspension dated 27/05/2013 is D

6. That, being aggrieved of the Show Cause Notice and letter for registration of criminal case the appellant file Writ Petition No. 1563-P/2013 before the Hon'ble Peshawar High Court, which was disposed of vide order dated 24/09/2013 with the direction that the Government should examine the documents of the appellant and if need be verify it from the concerned University within one month positively and if the degree is genuine then the whole proceedings against the appellant should be aborted, and if otherwise, then a formal regular enquiry as per the rules may be conducted. The appellant, after securing copy of the order, submitted his arrival report and resumed his duties on 14/10/2013.

Copies are annexure E and F

7. That, the respondents issued a Notification on 11/11/2013 whereby the appellant was directed to proceed on 120 days Earned Leave w.e.f. 29/08/2013 till 26/12/2013, pending the disciplinary proceedings against him.

Copy of the notification is annexure G

8. That, the appellant received a letter dated 10/12/2013 whereby he was served with the Charge Sheet and the Statement of Allegations dated 02/12/2013, and he was required to submit his reply to the Inquiry Officer within seven days. The appellant, accordingly,

submitted his reply to the Inquiry Officer on 30/12/2013, along-with all the relevant documents.

Copy of the Reply along-with the relevant documents submitted before the Inquiry Officer is annexure H

9. That, it is worth-mentioning that meanwhile the appellant was diagnosed with cancer and was hospitalized for Chemotherapy and Radiotherapy and eventually he was advised to go abroad for the treatment thereof. The appellant filed an application, dated 28/11/2013, before the Government for his early retirement on medical grounds, however, he was shocked to receive a reply from the Government on 27/06/2014 i.e. after around seven (07) months of his application, that his application for early retirement had been rejected due to pending proceedings against him. It may kindly be noted that at the time when the appellant submitted application for early retirement, there was no inquiry pending against him as the application was submitted on 28/11/2013 whereas the statement of allegation and the Charge Sheet was issued to him towards the end of December 2013.

Copies of the application and Government's reply are annexure I and J

10. That, the appellant kept waiting for his posting but he was not assigned any duties despite his arrival and resumption of duties after the decision of the Hon'ble Peshawar High Court for the reason that inquiry was pending against him nor did they complete the inquiry within the one month time given by the Hon'ble Peshawar High Court in order dated 24/09/2013. To the utter shock and dismay of the appellant, he received a notification dated 12/10/2015, whereby he was informed that the Competent Authority had been pleased to impose upon him a major penalty of 'Removal from Service' w.e.f. 15/07/2014 for his allegedly willful absence from official duties.

Copy of the Impugned Notification dated 12/10/2015 is annexure K

11. That, the appellant filed a Review petition before the Competent Authority on 09/11/2015 on the grounds mentioned therein and expressed his surprise because he never absented himself from duties rather it was the Government which did not give him any posting/ assignment due to the pendency of departmental proceedings. Since the appellant could not fetch a response on his Review, he submitted another application on 03/02/2016 for expeditious disposal of his Review. Finally, the appellant received a letter

dated 15/02/2016, whereby he was informed that his request was processed/ examined and regretted.

Copies of the Review, the request for expeditious disposal of the Review and the letter of Regret are annexure L, M and N

12. That, the appellant, being mortally aggrieved of the whole proceedings against him, the Notification dated 12th October 2015 and the decision on his Review, approaches this Hon'ble Tribunal to set aside the impugned order dated 12/10/2015 and the Order on his Review, on the following grounds amongst other;

GROUNDS

- A. Because, the whole proceedings are tainted with mala-fide and the impugned order has been passed in a clandestine manner, in total disregard of the available record, the law/rules on the subject, the norms of justice and fair play. The impugned order is in glaring violation of the principles of natural justice and the principles of good governance.
- **B.** Because, neither any Show Cause Notice was issued to the appellant, nor any opportunity was offered to him to explain the position and a major penalty of 'Removal from Service' was imposed upon him, which is against the law and facts available on record.
- C. Because, major penalty cannot be imposed without conducting a formal enquiry into the allegations.
- **D.** Because, the appellant never absented himself from his duties rather it was the Government who did not assign any duties to him because of the enquiry pending against him since 22 December 2013 and which was never completed till the order of Removal on another charge, which was not even framed or served on the appellant.

- E. Because, the mala-fide of the respondents is evident from the fact that the appellant's application for early retirement due to serious illness was also turned down on the pretext that enquiry was pending against him.
- **F.** Because, the ill-will of the respondents can be easily judged from the fact that the so-called enquiry was not completed within one and a half year despite clear directions from the High Court for its completion within one month.
- **G. Because,** the actions of the respondents are not justifiable against any standard of justice, fairness and reasonableness rather it appears that the respondents were adamant in any case to throw the appellant out of service and deprive him of his pensionary benefits.
- H. Because, the impugned notification is irrational as it says the appellant was required through advertisements in the newspapers to resume duty within 15 days, whereas he was due to retire within 15 days. It may graciously be noted that the impugned order has been passed on 12/10/2015 whereas the appellant had already reached superannuation on 15/08/2015 and was deemed retired.
- I. The appellant seeks prior permission of this Hon'ble Tribunal to take additional grounds at the time of hearing of the instant petition.

PRAYER

It is, therefore, most humbly submitted that this Hon'ble Tribunal may very graciously be pleased to;

- i. Set aside the impugned order dated 12/10/2015, and the Order on the appellant's Review before the Competent Authority, being illegal and a nullity in the eyes of law.
- ii. **Declare** all the actions of the respondents and the proceedings against the appellant as void ab-initio.
- **Direct** the respondents to pay the appellant all his pensionary benefits since the date of his retirement on reaching superannuation.

iv. Grant any other relief deemed appropriate in the circumstances.

INTERIM RELIEF

It is submitted with profound respect that the appellant is sanguine about the success of the instant appeal and the balance of convenience also lies in his favour, therefore, it is requested that the operation of the impugned order dated 12/10/2015 may kindly be suspended till the final disposal of the instant service appeal.

Appellant

Through

Barrister Waqar Ali

&

Amir Ali Advocate

Date: 14/03/2016

CERTIFICATE

It is certified that no such other appeal on the same subject matter has earlier been filed by the appellant before this Hon'ble Tribunal.

Advocate

LIST OF BOOKS

- 1. Constitution of the Islamic Republic of Pakistan 1973.
- 2. Case Law and relevant Rules regarding the subject matter.

Advocate

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal NO	/ 2016
-------------------	--------

Mr. Azmatullah Khan VERSUS Govt. of Khyber Pakhtunkhwa

AFFIDAVIT

I, Azmatullah Khan, R/O House No. 37 Sector G-4, Phase II, Hayatabad Peshawar, do hereby solemnly affirm and declare on oath that the contents of the instant Service Appeal are true and correct to the best of my knowledge, information and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent

Azmi mille

Azmatullah Khan

NIC

Identified By.

(A) wis

Amir Ali Advocate High Court Peshawar



Annex A 9

GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING AND DEVELOPMENT DEPARTMENT.

Subject: <u>Casual Leave</u>

It was informed by Mr. Azmatullah Khan Chief (Industries) on phone today dated November 27, 2012 that his Father is seriously ill and still in ICU at Shifa Hospital, Islamabad. He requested for the current week leave.

Submitted for perusal & approval please.

Assistant Chief (Industries)

Addl. Secretary P&DD

ATTESTED

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LINERHMENT OF KHYBER PAKHTUNKHWA THE AMMING AND DEVELOPMENT DEPARTMENT.

Subject:

Casual Leave

It was informed by Mr. Azmatullah Khan Chief (Industries) on phone today dated. November 27, 2012 that his Father is seriously ill and still in ICU at Shifa Hospital, Islamabad. He requested for the current week leave.

Submitted for perusal & approval please.

Addl. Secretary P&DD

Many be allowed Pl

Additional Secretary

Addi: () Govt. et :-

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27/11/12

Annex B

To

Additional Chief Secretary Civil Secretariat KPK Peshawar.

Subject:

Submission of Documents

Sir

I was asked to submit my original documents at the time when my father was on his death bed and was admitted in Shifa International Hospital struggling for his life. I being eldest son was looking after him in Islamabad. I was in deep shock and was unable to come to Peshawar to furnish the documents, my father later expired.

It is very shocking that the department processed the case in my absence, without giving me a chance of hearing and seeking my explanation on an absurd application filed against me who is my enemy and top CIA agent who has been put on ECL by intelligence agencies.

Now I have submitted my documents in original for your kind perusal and hope you understand the genuine cause for the delay in submitting the documents. If you have any questions please let me know.

Regards

Chief Industries

P&D Department

Civil Secretariat KPK

Peshawar.

ANUZ

ATTESTED

Dated: 21/5/2013

Received

28-05-13

W/Enols.

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Calendar

16:50

"SIMMONS, DOROTHY" <DOROTHY_SIMMONS@SDSTATE.EDU> From:

Subject: FW: Degree Confirmation

Date: Wed, 11 Jul 2001 14:00:08 -0500

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From: SIMMONS, DOROTHY Sent: Wednesday, July 31, 2001 1:41 PM To: SDSU REGISTRAR; Subject: RE: Degree Confirmation

Our records show that Azmat U. Khan was a student here from Fall 1975 to Spring 1979 but did not receive a degree.

If we can be of any further help to you, please contact me again.

Dorothy Simmons Records and Registration Telephone: 605-688-6195 Fax: -605-608-6384 Email:

---Original Message----From: 18 ... [mailto: Sent: Monday, July 09, 2001 10:26 AM To: ShsU ADMISSIONS Subject: Degree Confirmation

Dear Sir/Madam,

position of Civil Engineer at our organization. He claims to have earned a degree in Tivil Engineering from your institution, to which we have some doubts. Kindly confirm whether or not the said gentleman is graduate from

An early reply in this regard will be highly approachated.

Yoursettruly,

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Hotmail mshakir28@hotmail.com

Folder: Inbox

From: "SIMMONS, DOROTHY" DOROTHY_SIMMONS@SDSTATE.EDU>

Subject

FW: Degree Confirmation

Dated

Wed, 11 Jul 2001 14:00:08-0500

-----Original Message----From: Simmons, Dorothy

Sent: Wednesday, July 11, 2007 1:41 PM

To: SDSU REGISTRAR

Subject: RE: Degree confirmation

Our records show that Azmat U. Khan was a student here from Fall 1975 to Sprine 1979 but did not receive a degree. If we can be of any further help to you, please contract me again.

Dorothy Simmons Secretary Records & Registration Telephone" 605-688-6195 Fax: 605-688-6384 Email:

----Original Message----

From:

, (mail to:

Sent: Monday, July 09, 2001 10:26 AM

To: SDSU REGISTRAR Subject: Degree confirmation

Dear Sir/Madam,

Mr. Azmat Ullah Khan from Pakistan has applied for the position of Civil Engineer at our organization. He claims to have earned a degree in Civil Engineering from your institution, to which we have some doubts. Kindly confirm whether or not the said gentlemenis graduate from your institution.

As early reply in this regard will be highly appreciated.

Yours truly

Anis

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING & DEV: DEPARTMENT

Dated Peshawar, May 27, 2013

ORDER.

NO.SO(ESTT:)P&D/087/1-29/2013: The Competent Authority is pleased to suspend Mr. Azmatullah Khan, Chief of Section (Industries) (BPS-19), P&D Department being found "Guilty of Misconduct" under the Rule-3(b) of E&D Rules, 2011 with immediate effect.

Chief Secretary Khyber Pakhtunkhwa.

Endst: NO. SO(E)P&D/087/1-29/2013.

Dated Peshawar, May 27, 2013.

Copy forwarded to the:-

- 1. Accountant General, Khyber Pakhtunkhwa.
- 2. PS to Chief Secretary, Khyber Pakhtunkhwa.
- 3. PS to Secretary Establishment Department.
- 4. PS to Additional Chief Secretary, Khyber Pakhtunkhwa.
- 5. PA to Additional Secretary, P&D Department.
- 6. PA to Deputy Secretary (Admn:), P&D Department.
- 7. Officer concerned.

Section Officer (Estt:)

IN THE HONOURABLE PESHAWAR HIGH COURT

WRIT PETITION NO. 1563-P/2013

Mr. Azmatullah Khan, Chief Industries, P&D Department R/O House No.37, Sector G-4, Phase 2 Hayatabad Peshawar-

ROSHAWAR ANNEX.

VERSUS

- Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa at Peshawar
- 2. Additional Chief Secretary Planning and Development Department Government of Khyber Pakhtunkhwa at Peshawar
- 3. Secretary to the Government of Khyber Pakhtuakhwa P& 100 Department at Peshawar
- 4. Mr. Shafiullah Khan, Genior Chief PSDP. P&D Department at Poshawar

ATTESTED

5. Mr. Muhammad Tahir Aurakzai, Additional Secretary-P&D Department at Peshawar

DESPONDENTS

PETITION UNDER ARTIC LE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC. — OF PAKISTAN 1973

PESPECTEUL V SHEWETH:

· JUNE ING

E-JAINER COURT

TESTED

The Petitioner most earnestly erroves permissicagof this Hon'ble Court to submit as under;



BRIEF FACTS:

- 11. That, the petitioner is a Government Servant in the BS-19, presently posted as Chief Industries, Planning & Development Department, Government of Khyber Pakhtunkhwa. The petitioner has throughout been an extremely committed, deligent and efficient civil servant and enjoys outstanding career record.
- 2. That, the petitioner received a tetter dated 29/11/2012, from the Planning & Development Department Government of Khyber Pakhtunkhwa, signed by Mr. Muhammad Tahir Aurakzai, Additional Secretary P&D (respondent No.5), whereby, he was informed that a complaint had been received regarding the genuineness of his academic credentials, particularly his Civil Engineering Degree from the United States of America and that he was required to provide the original documents and that as a consequence to his failure in submitting the original degree, the Competent Authority constituted a two members committee to investigate into the allegations contained in the mentioned complaint. The petitioner was directed to appear before the committee in person, along-with all the relevant degrees, on 4th December 2012. It is to be, very kindly, noted that, at the relevant time, the petitioner was on leave due to illness of his father, and his leave had been duly approved by the Department from 27/11/2012 for a week.

Copy of the letter is annexure A and the Casual Leave is B.

3. That, after having received the letter dated 29/11/2012, the petitioner got hold of the order dated 12/10/2012, passed by the respondent No.2, whereby an Inquiry Committee had been constituted comprising of respondent No.4 as the Chairman and respondent No.5 as Member/ Secretary. The Inquiry Committee was ordered to probe into the matter of "Degree Verification of Mr. Azmatuliah Khan, Chief of Section (Industries), P&D Department".

Conv of the Notification is annexure C.

4. That, earlier than the letter dated 29/11/12 (annexure A), the petitioner had received a similar letter, dated 17th September 2012, from the P&D Department, asking him to provide his original Degree. The petitioner replied to the Administration Wing of the P&D department and explained everything with a request that since, at the time of his recruitment, his Original Degrees were examined by the P&D Department and then by the Public Service Commission hence the relevant record, in possession of and maintained by the concerned quarters, may please be consulted for the purpose. After constitution of the Inquiry Committee, the petitioner submitted his Reply, dated 19/12/12.

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PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of			
Case No	····· \	of	

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
,1	2
24.09.2013	W.P.No. 1563-P/2013 with 1.R.
	Present: Barrister Waqar Ali, Advocate, for the petitioner.
	Mr. Naveed Akhtar, AAG, along with Shah Jehan, SO Litigation P&D Department.
	DOST MUHAMMAD KIIAN, C.J After brief arguments both the
	learned counsel stated at the bar that the petitioner shall appear
	before the Secretary PWD along with his original Degree of
	Engineering, obtained from South Dakota State University, USA,
	and shall hand over it to the Secretary P&D, who would be then
	responsible for its careful handling and, if need be, after consulting
	the Chief Minister to get it verified from the University Authorities
	concerned, as to whether it is genuine or not and in the former case,
	if it is found genuine, then, the enquiry proceedings, pending
	against the petitioner, shall be dropped immediately. The entire
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	process be completed positively within one month from the date
	when the original Depret is presented, which shall be presented to
	the Secretary P&D on 26,09.2013.
	Needless to remark that if the respondents are not satisfied

from the above stated process, then, it has no option but to comply

with the Rules on the subject and conduct a regular enquiry,

(16)

ANG TTESTEL

PESHAWAR HIGH COURT, PESHAWAR

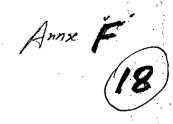
FORM OF ORDER SHEET

Court of	
Case No	

Date of order of	Order of other proceedings with signature of judge
proceedings_	
1	2
24.09.2013	W.P. No.1663-P/2013 with I.R. Present: Barrister Waqar Ali, Advocate for the petitioner
	Mr. Naveed Akhtar. AAG, alongwith Shah Jehan, SO Ltigation P&D Department
	Dost Muhammad Khan, C.J After brief arguments both
	the learned counsel stated at the bar that the petitioner
	shall appear before the Secretary P&D alongwith his
	original Degree of Engineering, obtained from South
	Dakota State University, USA, and shall had over it to the
	Secretary P&D, who would be then responsible for its
	careful handing and, if need be, after consulting the Chief
	Minister to get it verified from the University Authorities
	concerned, as to whether it is genuine or not and in the
	former case, if it is found genuine, then, the enquiry
	proceedings, pending against the petitioner, shall be
	dropped immediately. The entire process be completed
	positively within one month from the date when the original
,	Degree is presented, which shall be presented to the
	Secretary P&D on 26.09.2013.
	Needless to remark that if the
	respondents are not satisfied from the above stated
	process, then, it has no option but to comply with the Rules
	on the subject and conduct a regular enquiry,



procedure of which has already been given in the Rules. Petition stands disposed of accordingly. El Dest muhamman letter e CERTIFIED TO BE TRUE COPY Hardred By Likary Ulling



Subject:

Resumption of Duty

In compliance with the Peshawar High Court decision contained in the Writ Petition No. 1563-P/2013 Order dated September 24, 2013 I hereby resume my duties today dated October 14, 2013.

> (Azmatullah Khan) Chief Industries, P&D Department GoKP

Copy forwarded to:

- Additional Chief Secretary, GoKP, P&D Department.
- Secretary to GoKP, P&D Department.





GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING & DEVELOPMENT DEPARTMENT

Dated Peshawar, November 11, 2013.

NOTIFICATION.

NO.SO(ESTT)P&D/087/1-29/2013. That you Mr. Azmatullah Khan, Chief of Section (BPS-19) is guilty of misconduct and the Competent Authority had placed you under suspension for 90 Days w.e.f 27-05-2013. Departmental proceedings were initiated against you and in the meanwhile, you challenged the matter in court due to the reason that your suspension was not extended as per

rules.

Now the Competent Authority directs you to proceed on 120 days Earned Leave (on full pay) w.e.f. 29-08-2013 to 26-12-2013 (both days inclusive) for completion of departmental proceedings already initiated against you as per Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

SECRETARY P&D DEPARTMENT

Endst: No. SO(Estt:)P&D/087/1-29/2013.

Dated Peshawar, November 11, 2013

Copy forwarded to the:-

- 1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2. Section Officer (B&A), P&D Department.
- 3. Assistant Chief, (Industries), P&D Department.
- 4. PS to Chief Secretary, Khyber Pakhtunkhwa.
- 5. PS to Additional Chief Secretary, P&D Department.
- 6. PS to Secretary, P&D Department.
- 7. PA to Addl: Secretary, P&D Department.
- 8. PA to Deputy Secretary (Admn.) P&D Department.
- 9. Officer concerned.

(SHAH FAZIL)
Section Officer (Estt.)

Annex H



GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING & DEVELOPMENT DEPARTMENT

No. SO(E)P&D/087/PF/1-19/2013. Dated Peshawar, December 10, 2013.

To

Mr. Azmatullah (BS-19), Chief of Section (Industries), P&D Department.

STATEMENT OF ALLEGATIONS/ CHARGE SHEET. Subject:

Kindly refer to the subject cited above, I am directed to enclose herewith a copy of Statement of Allegations and Charge Sheet signed by the Competent Authority (i.e. Chief Minister Khyber Pakhtunkhwa).

You are, therefore, required to submit your written defense to the Inquiry Officer within seven (7) days of the receipt of this letter/ Charge Sheet. failure, it shall be presumed that you have no defense to put in.

Encls. (As Abore)

(SHAH FAZIL) Section Officer (Estt.)

Endst: No. & Date even.

Copy forwarded to:-

- PSO to Chief Minister, Khyber Pakhtunkhwa.
- 2. PS to Chief Secretary, Khyber Pakhtunkhwa.
- PS to Additional Chief Secretary, Khyber Pakhtunkhwa.
- PS to Secretary, Establishment Department.

PS to Secretary P&D Department

Section Officer(Estt:)

H/1 (21)

CHARGE SHEET

I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa, as competent authority, here by charge you, Mr. Azmatullah Khan Chief of Section (BPS-19);

That you, have procured government job on a fake and bogus Engineering Degree, alleged to be obtained from South Dakota University USA, and got promotions from BPS-17 up to BPS-19 and committed the following

- (a) Procured Govt. job on fake & bogus Engineering Degree obtained from South Dakota University USA.
- (b) Got promotions from BPS-17 up to BPS-19.
- 2. By reason of the above, you appear to be guilty of mis conduct under rule 3 of the Khyber Pakhtunkhwa government servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any in the penalties specified in rule 4 of the rules ibid.
- 3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the inquiry committee.
- 4. Your written defense, should reach to the inquiry committee within the specified period, failing which it shall be presumed that you have no defence to put in and that is ex-parte action shall be taken against you.
- 5. Intimate whether you desire to be heard in person
- A statement of allegations is enclosed.

ATTESTED

Chief Minister
Khyber Pakhtunkhwa

DISCIPLINARY ACTION

I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa, as competent authority, is of the opinion that Mr. Azmatullah Khan Chief of Section (BPS-19), 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 ALLEGATIONS

- i. Procured Government job on fake & bogus Engineering Degree obtain from South Dakota University USA.
- ii. Got promotions from BPS-17 up till BPS-19.
- 2. For the purpose of inquiry against the said accused with reference to the above allegation, an inquiry committee, consisting of the following, is constituted under rule 10(1)(a) of the ibid rules:

i. Capt: Azaz-ur-Rehman (PAS-BS-20).

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

Pares Lucian Chief Minister Khyber Pakhtunkhwa 62, 12, 13,

Date: 28 December 2013

To

Capt: Azáz-űr-Rehman

PAS (BS-20)

(In the matter of Mr. Azmatullah Khan Chief of Section P&D Department)

SUBJECT:

Reply/ Written Defence for and on behalf of Mr. Azmatullah Khan (the

accused official)

R/Sic

The undersigned has received the Charge Sheet and Statement of Allegations and the letter of the P&D Department dated 10 December 2013, whereby your good self has been appointed as Inquiry Officer. My Written Defence is as under;

Thave not procured Government job on fake and bogus Engineering Degree obtained from South Dakota University USA. The genuineness of my Degree is established from the following facts:

A. I hold a valid Degree of B.S. in Engineering, conferred upon me by the South Dakota State University USA, on 7th May 1979. This Degree is duly signed by the President. South Dakota State University, the Vice President Academic Affairs, the President Board of Regents and Secretary Board of Regents, with the official seal and stamp affixed thereon: I was given a confirmation letter, dated 9 May 1979, signed by the Dean of Engineering, College of Engineering, South Dakota State University Brookings, which contains details of my performance in various subjects on the course. Besides these, the Detailed Marks Certificates of my four years are enclosed, which show that I have successfully completed the Course (Enclosed herewith are the photocopies of the documents, the Original of which will be produced by me at the time of personal hearing Kindly note that as per Order of the Peshawar High Court in my Writ Petition, I produced the Original Degree before the Secretary P&D Department, which is in possession of the P&D department at the moment, and which is required to be called from the P&D Department).

> Copy of the Degree in question is annexure A and the Certificate is B, whereas DMCs are annexure C, C1, C2, and C3.



To

Capt. Azaz-ur-Rehman
PAS (BS-20)
Inquiry Officer
(In the matter of Mr. Azmatullah Khan Chief of Section P&D Department)

Subject:

Reply/Written Defence for and on behalf of Mr. Azmatullah Khan

(the accused official).

R/Sir

The undersigned has received the Charge Sheet and Statement of Allegations and the letter of the P&D Department dated 10 December 2013, whereby your good self has been appointed as Inquiry Officer, My Written Defence in as under:

I have not procured Government job on fake and bogus Engineering Degree obtained from South Dakota University USA. The genuineness of my Degree is established from the following facts:

I hold a valid Degree of B.S in Engineering, conferred upon me by the A. South Dakota State University USA, on 7th May 1979. This Degree is duly signed by the President South Dakota State University, the Vice President Academic Affairs, the President Board of Regents and Secretary Board of Regents, with the official seal and stamp affixed thereon. I was given a confirmation letter dated 9 May 1979, signed by the Dean of Engineering College of Engineering, South Dakota State University Brookings, which contains details of m performance in various subjects on the course. Besides these, the Detailed Marks Certificates of my four years are enclosed, which show that I have successfully completed the Course. (Enclosed herewith are the photocopies of the documents, the original of which will be produced by me at the time of personal hearing. Kindly note that as per Order of the Peshawar High Court in my Writ petition, I produced the Original Degree before the Secretary P&D Department, which is in possession of the P&D Department at the moment, and which is required to be called from the P&D Department)

Copy of the Degree in question is annexure A and the Certificate is B, whereas DMCs are annexure C, C1, C2, and C3,



33. On the basis of the same Degree, I was granted Certificate of Registration by the Pakistan Langineering Council on 01/08/1979 and was allotted a permanent registration No. Civil-3977, which I have been renewing from time to time.

Copy of the Registration Certificate is annexure D and the letter of Registrar is annexure E

C. On the basis of the same Degree, I was appointed as Temporary Assistant Engineer on 17/01/1981, in the Communication & Works Department NWFP, vide order No. SO(E)/C&W/4-1/78/243. Subsequently, I passed the Practical Training Completion Examination, a pre-requisite for the newly recruited Assistant Engineers, and was issued with a confirmation letter dated 1-1/05/1981.

Copies of the Appointment Letter and Confirmation Letter of passing the examination are annexure F and G respectively.

D. The P&D Department, advertised a post of Research Officer in the NPS-17, in January, 1982, the required qualification for which included a Second Class Bachelor's Degree from a recognized University in Engineering. The required qualification also contained a Note that, "Preference will be given to those who possess Engineering qualifications". I applied for the said post and received a letter dated 1/03/1982, from the P&D Department, to appear before the Selection Committee for Test/Interview, along-with all my ORIGINAL EDUCATIONAL QUALIFICATIONS, on 09/03/1982. After successfully completing the first phase, I was informed by the Public Service Commission to appear for the one paper screening Test on 21 August 1982, vide letter No. 8-RO/8482 dated 08/08/1982. After the Screening Test, I was called for the Oral Test (Interview) on 07/09/1982. Once again I was directed to bring along the ORIGINAL CERTIFICATES, DEGREES AND TESTIMONIALS. It was after all this lengthy exercise and going through a number of tests and interviews that I was finally selected as: Research Officer in the P&D Department. It may graciously be noted that my Degree of Engineering was checked and examined in original both by the P&D Department and the Public Service Commission as well and it was never disputed.

Copies of the Advertisement and the Letters are annexure II, I, J and K respectively.

ATTESTED

So far as my promotions from Bs-17 to BS-19 are concerned, it may graciously be noted that I joined the P&D Department in NPS-17 and due to my outstanding performance and devotion to my job. Lalways earned appreciation from my superiors. My ACRs reflect



B. On the basis of the some Degree, I was granted Certificate of Registration by the Pakistan Engineering Council on 01.09.1979 and was allotted a permanent registration No. Civil-3977, which I have been renewing from time to time.

Copy of the Registration certificate is annexure D and the letter of Registrar is annexure "E"

C. On the basis of the same Degree, I was appointed as Temporary Assistant Engineer on 17.01.1981, in the commination & Works Department NWFP, vide order No.SO(E)/C&W/4-1/78/243, Subsequently, I passed the Practical Training Completion Examination, a pre-requisite for the newly recruited Assistant Engineers, and was issued with a confirmation letter dated 14.05.1981.

Copies of the Appointment letter an confirmation letter of passing the examination are annexure ""F & "g" respectively).

The P&D Department, advertised a post of Research Officer in the D. NPS-17, in January 1982, the required qualification for which included a Second Class Bachelor's Degree from recognized University in Engineering. The required qualification also contained a Note That "Preference will be given to those who possess Engineering qualifications". I applied for the said post and received a letter dated 01.03.1982, from the P&D Department, to appear before the Selection Test/interview, alongwith all mv **ORIGINAL** Committee EDUCATIONAL QUALIFICATIONS on 09/03/1982, after successfully completing the firs phase, I was informed by the public service Commission to appear for the one paper screening Test on 21 August 1982, vide letter No.E-RO/8482 dated 08.08.1982. After the Screening Test. I was called for the Oral Test (interview) on 07.09.1982. Once gain I was directed to bring along the ORIGINAL CERTIFICATES, DEGREES AND TESTIMONIALS. It was after all this lengthy exercise and going through a number of tests and interviews that I was finally selected as Research Officer in the P&D Department. I may graciously be noted that my Degree of Engineering was checked and examined in original both by the P&D Department and the Public Service Commission as well and it was never disputed.

Copies of the Advertisement and the letters are annexures H, I, J and K receptively.

E. SO far as my promotions from BS-17 to BS-19 are concerned. It may graciously be noted that I joined the P&D Department in NPS-17 and due to my outstanding performance and devotion to my job, I always earned appreciation from my superiors, my ACRs reflect

AME ATTESTED



my hard work and commitment and it was the very reason that I was promoted to BS-18 and then BS-19 and have long been due to be promoted to BS-20. My promotions were ordered after threadbare discussion and minute perusal of the relevant record by the PSB.

It is most humbly submitted that since I had been duly recruited by the Public Service Commission on the basis of my Degree, a presumption regarding the genuineness of my Degree lies in my favour as the Degree in question was duly examined and verified by the recommendatory and appointing authority. It has been a while that the issue of my Degree has been raised, which was once inquired and, without even giving me an opportunity of hearing or bothering to conduct a proper/ Regular inquiry, major penalty was proposed and Show Cause Notice was issued to me, which proceedings were challenged by me in a Writ Petition before the Hon'ble Peshawar High Court, because besides the hasty proceedings, a letter had been issued to the Police Department for registering a Criminal Case against me. Those proceedings were stayed by the Hon'ble High Court and later-on Order was passed that I should produce my Original Degree before the Secretary P&D and after examination of the same if the Secretary P&D is still not satisfied then they should treat me in accordance with the Rules, which ended up in the instant linguiry.

Copy of the Order of Peshawar High Court is annexure L

It is noteworthy that to my Writ Petition the Government had submitted their Comments wherein they produced a complaint, addressed to the Supreme Court by my real brother regarding my Degree. The said complaint turned out to be baseless because otherwise the Hon ble Peshawar High Court would not have entertained my Writ Petition if the matter. had been pending before the August Supreme Court. Secondly, they had based the whole proceedings against me on an e-mail, which they claimed to have been secured from South Dakota University to the effect that, although, I remained on the Roll of the University for four (04) years but Phad not been awarded the Degree. This e-mail was placed before the Hon'ble Peahawar High Court and the Court was also shocked to note that the e-mail dated back to 2001. The Hon ble Court was pleased to ask the Additional Advocate General that if the whole case is based on the e-mail, which despite being inadmissible in evidence, was received in 2001, why the Government slept over it for 13 years that they have initiated the inquiry proceedings now in 2013. It is to be very kindly noted that the Government did not have any answer to this, let alone a satisfactory one. It. is the same bald allegation that has resulted in the instant inquiry and the Government does not appreciate the fact that my real brother has lodged a campaign against me because of our family disputes on the inheritance and other properties. The same brother,



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Copy of the order of Peshawar High Court is annexure I

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(26)

a couple of months back, went upto the extent that he lodged an FIR against our real mother, who is 81 years old and is very infirm and sick, regarding theft of 80 Tola Jewellary from his house. My 81 years old, a very frail lady, had to file application before the Sessions Court for Bail Before Arrest, which was granted by the Sessions Court.

Copy of the so-called complaint is annexure M and the e-mail is annexure N

it is, therefore, submitted with profound respect that because the whole proceedings against me are based on mala-fide and bald allegations leveled by my own blood because of our family disputes over landed property and other personal issues, hence no adverse findings be recorded and if may kindly be recommended to the Competent Authority that I possess genuine academic documents and the allegations are unfounded.

Furthermore, it may also be kindly noted that recently I have been diagnosed cancer and I remained hospitalized in Pakistan Institute of Medical Sciences at Islamabad from 27/11/2013 to 10/12/2013. I have been advised that I must consider going abroad for proper treatment and that was the reason that I have submitted an application to the Government for an early retirement because I am not in a position to perform my duties efficiently and regularly.

Copy of the discharge slip from hospital is annexure O and Copy of the application for early retirement is annexure P

It is further submitted that I, the accused official, may kindly be given an opportunity of personal hearing so that I could explain the whole case and rebut any evidence that the Government would produce.

445 TEED

Azihatullah Khan Chief of Section 1

Chief of Section P&D Department

(Accused Official)

Better Copy No.26/A

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Sd/-Azmatullah Khan Chief of Section P&D Department (Accused Official)

FILUIZ

The Board of Regents

state of South Dakota

division and sine and Minesity on the recommendation of the faculty of

nodil galaginor agref

Aşmaiullah Khan

the degree of

W.S.in Engineering

In Testimony. Whereof, we have hereninto subscribed our names in the with all the rights, honors and privileges pertaining thereto. of Brookings, this seventh day of May, 1979



(605) 638-4161

SOUTH DESOTA STATE UNIVERSITY, BROOKINGS \$7906

May 9, 1979

OFFICE OF THE DEAN

TO ENOT PT MAY CONCERN



This is to certify that Mr. Azmat-ullah Khar has been a student of South Dakota State University at Brookings since Fall, 1975. He was awarded the degree of Bachelor of Science in Civil Engineering from this University on the fifth day of the month of May, 1979.

Mr. Khan has shown exceptional abilities and talent in his major field of studies. His performance was outstanding in subjects such as:

- C. E. 475 Engineering Adminstration
- C E 467 Highway Engineering
- C.E. 473 Construction Engineering
- r g 455 Steed Desgian
- CE 456 Concrete Theory and B sign

He attempted 136 credit hours required for graduation and successfully

completed them acquiring a grade point average of 2.84. I feel he should have up difficulty whatmoever in pursuing a steady steady career in the field of engineering Mr. Khan is a fine person and commands the respect of his fellow students.

Mr. Khan is a fine person and commands the respect of his furpose is doubtless. If The integrity of his character and the sincerity of his purpose is doubtless. If the integrity of his character and the sincerity of his purpose is doubtless. If the integrity of his character and the him at the University has been an asset believe the presence of a good student like him at the University has been an asset to the Department of Civil Engineering and the institution on the whole.

Myself personally and the Department of Civil Engineering wish him success and prospertty in achieving his goals as an Engineer.

Sincerelly yours / on a

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- 4. Undergraduates must remove an incomplete(s) on or before date, specified in catalog/during first semester enrolled after incomplete was given. An incomplete is treated the same as an "F" until removed, and changed to an "F" if it is not removed within the time limit.

 5. "X" grades or questions about course grades should be directed to the instructor of that class or the Dean of the college enrolled. An "X" grade is treated the same as an "F" until corructed.
- A student whordiscontinues his attendance for one semester or more, must submit an application for re-admission.

 Students are utged to establish reasonable communications about grades with parents and/or others who may have human and/or economic investments in the educational achievement represented in this report.

 CUMULATIVE REPORT A grade point average is obtained by dividing grade points by number of credits attempted using all courses for which the grades of A, B, C, D, X, I, F, or H, were received. This GPA includes any repeated courses. E grades are excluded.

 GRADUATION RATIO:— A minumum ratio of 2.0 is required in courses counted toward graduation in which grades of A, B, C, D, E, have been received. Repeat courses passed and courses not accepted at time of transfer are excluded.

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The report on the front side reflects academic progress to date. Questions concerning cumulative record should be interested attention of the Registrar's Office within six weeks of termination of semester when they become a permanent part of record attention of the Registrar's Office within six weeks of termination of semester when they become a permanent part of record.

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Terminal - 1.5 GPA Or average as stipulated by Academic Page -or Director of Admissions (1) 3 \mathbb{C}

Undergraduates must remove an incomplete(s) on or before date, specified in catalog during first semester enrolled after incomplete is treated the name as an "F" until removed, and changed to in "F" if it is not removed within the time limit.

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SOUTH DAKOTA STATE UNIVERSITY BROOKINGS, SQ, DAKOTA CODES.

COLLEGE

O. AG. & BIO. SCI.

1. ENGINEERING

J. ARTS AND SCIENCE

J. HOME ECONOMICS

4. PHARMACY

GENERAT

ERGISTRATION

6. GRADUATE

7. NURSING S GRADUATE

NURSING

CLASS

D. UNDERGRAD. SPEC.

I. FRESHMAN

S SOPHOMORE

J. JUNIOR

A. SENIOR

J. STH YR, SENIOR

G. GRADUATE

R. PH. D. CANDIDATE

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The report on the front side reflects academic progress to date. Questions concerning cumulative record should be immediately brought to the attention of the Registrar's Office within six weeks of termination of semester when they become a permanent part of record.

Probation and Refused status are indicated under Scholastic Restriction. Refused students must petition the Dean of Academic Affairs immediately for reconsideration. If they desire permission to dontinue, the reconsideration and Refusal are based on Semester Grade Point Average using grades A. B. C. D. F. I. X. Minimum requirements to maintain good standing or female probation.

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Junios ... - 1.8 GPA

Terminal' - 1.5 GPA

Or average as stipulated by Academic Opas or Director of Admissions (1)

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Undergraduates must remove an Incomplete(s) ton or before date-specified in tatalog during first semester enrolled after Incomplete was given. An Incomplete is treated the same as an "F" until removed, and changed to an "F" if it is not removed within the time limit.

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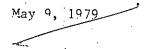
- CUMULATIVE REPORT A grade point average is obtained by dividing grade points by number of credits attempted using all courses for which the grades of A, B, C, D, X, I, F, or H, were received. This GPA includes any repeated courses, E grades are excluded.
- GRADUATION RATIO A minumum ratio of 2.0 is required in courses counted toward graduation in which prades of A. B. C. D. E. have been received. Heposticours passed and courses not accepted at hime of tunster are excluded.

DEFICE OF THE DEAN SOUTH DAKOTA STATE

CROTHERS ENGINEERING HALL

(605) 688-4161

SOUTH DAKOTA STATE UNIVERSITY, BROOKINGS 57006



TO WHOM IT MAY CONCERN



This is to certify that Mr.Azmat-ullah Khan has been a student of South Dakota State University at Brookings since Fall, 1975. He was awarded the degree of Bachelor of Science in Civil Engineering from this University on the fifth day of the month of May, 1979.

Mr. Khan has shown exceptional abilities and talent in his major field of studies. His performance was outstanding in subjects such as:

C E 475 Engineering Adminstration

C E 467 Highway Engineering

C E 473 Construction Engineering

C E 455 Steel Design

C E 456 Concrete Theory and Design

He attempted 136 credit hours required for graduation and successfully

completed them acquiring a grade point average of 2.84. I feel he should have no difficulty whatsoever in pursuing a steady steady career in the field of engineering.

Mr.Khan is a fine person and commands the respect of his fellow students. The integrity of his character and the sincerity of his purpose is doubtless. I believe the presence of a good student like him at the University has been an asset to the Department of Civil Engineering and the institution on the whole.

Myself personally and the Department of Civil Engineering wish him success and prosperity in achieving his goals as an Engineer.

JO. Storm

Desm of Engineering

PAKISTAN ENGINEERING ÇOUNCIL

TO THE TRANSPORTATION OF THE PROPERTY OF THE P

Sorial No: PEC--4



Registration No : Civil-3077

Date of Registration: 1-8-1979

CERTIFICATE OF REGISTRATION

UNDER

PAKISTAN ENGINEERING COUNCIL ACT 1975

This is to certify that Engr. AZMAT ULLAH KHANson of Fatch Ullah Khan born on 15 August 19.55 resident of 48-D Old Jamrud Road, University Town, Peshawar. present professional address. 48-D.Old Jamrud.Road, University, Town, ... has been Pechawan. registered as Professional Engineer/Gonsulting-Engineer/Temporary-Licencee, at sorial no. Civil-3977, ... of the Register of Pakistan Engineering Council with? following Parliculars:

Qualifications:

B. Sc. Engg (Civil) - 1979 South Dakota State University, USA.

Professional

Affiliation :

Date of issue

with status:

Equalitation/ Training/Attainments:

Registrar

Pakistan Engineering Council.

P. O. Box 1296 Islamabad.

Note:- The Certificate, of registration shall expire on 31st December 1979......and will be renewed on payment of required fee before 31st January for the next year.

ENGINEERING , COUNCIL PAKISTAN



Valid for Year 1981 This is to Certify that ::

Engr. Azmat ullah Khan 🦠 .

is a Registered Professional Engineer in PAKISTAN ENGINEERING COUNCIL

Registered No. CIV/3977

-Registrar

PARISTAN ENGINEERING COUNCIL



Valid for Year 1980 This is to Certify that

Engr. AZMATULLAH KHAN.

is a Registered Professional Engineer in PAKISTAN ENGINERIUNG COUNCIL

Registered No. OIV/3977

Registrar

ENGINEERING COUNCIL PAICISTAN

Valid for Year 1982 This is to Certify that

is a Registered Professional Engineer with PAKISTAN ENGINEERING COUNCIL

Registered No.

Registrar

Signature of Holder's

PAKISTAN ENGINEERING COUNCIL 52 Margalla Road, P.O.Box 1296, F.6/3, Islamabad (Tele: 29348).

17 4-51 Dated:-

Subject: Renewal of Registration Certificate

Dear Sir,

Kindly find herewith renewal card of your Registration Centificate No. Cold 3977 for the year 198%. Receipt No. 59759 for Rs. 17/2 is also enclosed.

(Bashur Ahmad Sheikh) Pegistran

Encl: As above.

Pakietan Engineering Council 52, Margalla Road, P. O. Box 1296, ISLAMABAD

59159

Date 3/-1-1

Received with thanks from Engra

Sig. Accountant

j. Sig. Registrar

GOVERNA ENT OF N. W. F. PROVINCE COMMUNICATIONS & WORKS DEPARTMENT.

No.50(E)/C&W/4-1/78/243

Dated Peshawar, the 17.1.1981.

CRDER.

In pursuance of this Department's letter of even mimber dated 14.1.1981, Mr. Azmatullah Khan S/O Mr. Fatchullah Khim is appointed as Temporary Assistant Engineer in National Pay Scale No. 17 (Rs. 900-50-1150/60-1750) plus usual allowances in the Communications & Works Department NWFP, Ponhawar on the purely temporary and adhoc bonia for a ported of six months In the first instance, subject to approval by the Public Service Commission NWFP to regularize the initial recruitment/ appointment or till the regular selectees of the Public Service Commission are made available which ever is earlier.

The appointment is just by way of stop gap arrangement on adhoc basis. It will therefore not confer any right upon him in the matter of regular appointment to the same post/grade nor his service will count towards seniority.

His gervices are placed at the disposal of the Chief Engineer C&W Department NWFP, Peshawar for training and further conting. He should report for duty to the Chief Engineer C&W Department NWFP Peshawar by 20.1.1981 posttively. under intimation to this Department.

> ATTAUR REHMAN KHAN SECRETARY TO GOVERNMENT N.W.F.P COMMUNICATIONS & WORKS DEPARTMENT

MNAST. NO. SO(E) CWW/4-1/78/2/4-63 Dated 17.1.1981.

Copy forwarded to :-

Accountant General, N.W.F.P. Peghawar.
All Chief Engineers in the C&W Department NYFP.
Director of Health Sorvices NYFP, Peshawar with the request to kindly arrange the medical examination of Ahd officer.

4. W. Mr. Azmatullah Khan S/O Mr. Patehullah Khan, 48-D Old

Jamrud Road, University Town, Peshawar.
P.S to Secretary C&W/Deputy Secretary (Works)/All S.Os/Budget & Account Officers in C&W Department.

6. 0/0 fike/P.Fs/Main file/Policy file.

Arana Riped The desire (depot to propose CENTER (PRO) Mart Markey

(E. AFRAL PARVEZ) SECTION OFFICER (E) C & T DEPARTMENT.

ASHTO

GOVERNMENT OF N W F PROVINCE COMMUNICATIONS & WORKS DEPARTMENT

No. DO(E)/C & W /4-1/78/243 Dated Peshawar, the 17.01.1981

ORDER

In pursuance of this department's letter of even number dated 14.01.1981, Mr. Azmatullah Khan S/o Mr. Fatehullah is appointed as temporary Assistant Engineer in national pay Scale No. 17 (Rs. 900-1150/60-1750) Plus usual allowance in the communications & works department NWFP, Peshawar on is purely Temporary and adhoc basis for a period of six months. In the first instance, subject to approval by the public service commission NWFP to realize the initial recruitment/appointment or till the regular selectees of the public service commission are made available whichever is eerier.

The appointment is just by way of stop gap arrangement o adhoc basis. It will therefore not confer any right upon him in the matter or regular appointment to the same post/grade nor his service will count towards seniority.

His services are placed at the disposal of the Chief engineer C & W Department NWFP, Peshawar for training and further posting. He should report for duty to the Chief engineer C & W Department NWFP by 20.01.1981 positively under intimation to this department.

ATTAUR REHMAN KHAN
SECRETARY TO GOVERNMENT N.W.F.P
COMMUNICATIONS & WORKS DEPARTMENT

ENDST. No.SO (E) C&W/4-1/78/244-63 Dated 17.1.1981

Copy forwarded to:-

- 1. Accountant General N.W.F.P, Peshawar
- 2. All chief Engineers in the C&W Department NWFP.
- 3. Director of health Services NWFP, Peshawar with the request to kindly arrange the medical examination of the officer.
- 4. Mr. Azmatullah Khan S/o Mr. Fatehullah Khan, 8-D old Jamrud Road, University Town, Peshawar.
- 5. P.S to Secretary C&W/Deputy Secretary (Works)/All S.Os/ Budget & Account Officers in C&W Department.
- 6. O/O file/P.Fs/Main File/Policy File.

MR. AFXAL PERVEZ)
SECTION OFFICER (E)
C&W DEPARTMENT



Ng. 4549-11/2/86-90

/5-1(1) Dated Peshawar, the /4

Prom:-

The Chief Engineer, C&W Department NWFP, Peshawer.

The Azmatullah Khan, Assistant Engineer (Adhoc); C/O Executive Engineer, Highway Division, Peshavar.

i¤bjoc¢ r→

HYAMINATION OF NEWLY RECRUITED ASSISTANT ENGINEERS (ADUCE).

You have been declared as passed in the Practical

Training completion Examination of newly recruited TSA Bs held c

夕35。1981日

CHIEF ENGINEER C&W DEPARTMENT NWFP PESHAWAR.

- The Secretary to Govt: NWFP C&W Deptt: NWFP, Peshawar w/r to him No. SO(B) C&W/1-1/81/1401/4282, dated 1.4.815
- 2) The Chief Engineer, P&D Central Design Office C&W Deptt:Peshaw
- 3) The Superintending Engineer, Highway Circle, Peshawar 4) The Executive Engineer, Highway Circle, Peshawar.

chief engineer C&W DEPARTMENT NUPP PESHAWA



SITUATIONS VACANT

Applications are invited from bonafide residents of NWFP for filling up of the following purely temporary vacancies on ad hoc casts in Planning and Development Department NWFP, Peshawar.

Qualifications	for	the	posts	ârē	33	บกซียสา
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Qualifications for the po Name of Post NPS		No.of Post	Qualifications
1 2	. 3	4	5.
Research Officer 17		Ž	Second Class Master's Degree from a recognised University in Economics,
			Wights, Statistics, Commerce, Geology, "Sociology or Business Administration of Second Class Bachelor's Degree
and the service of the second of	ese mast		i fitim a recognised University in Engine. Feering.
		NOTE:	Traference will be given to those who loosessess Engineering qualifications.
1. Candidates perman			· · · · · · · · · · · · · · · · · ·

- Candidates permanently continued to their applications apply.
 Government Servants should submit their applications through proper channel.
 Applications along with attested copies of testimonials and Domicile Certificate should reach the undersigned by 23rd January, 1982 the latest. Attested copy of Matric Certificate should also be sent.
 No TA/DA will be admissible for appearing in the test and interview.
 Date for test and interview will be notified fatarion. (LALBADSHAH AFRIDI)

(LAL BADSHAH AFRID!)
Deputy Secretary (Admn.)



(40)

PLANT OF N.T.E.F.
PLANT OF N.T.E.F.
PLANT OF N.T.E.F.

HO.P&D/SNE/77-78/76

Dited Peshinar, tac 1-3-1952.

Tin

Mr. Azmat Ullah Khan, 48-D,

Old Jawrud Road, Peshawar.

University Town, Seshawar.

Subject:

RECRUINMENT AS AN MARCH OFFICER

401.01

Reference:

Your application No.nil dated ____

NII

You are directed to attend the office of the neputy Secretary (idua). Planning and Development Department located in old Fross Building situated near main Secretariat (Black) on 9-3-1952 at 5.30 s.m. for Test/Interview to be conducted by the Selection Committee.

2. You are advised to please bring slong all priginal educational qualifications and Domicile Certificates for perusal by the Salantion Committee.

3. Original matriculation Certificate should also

be brought along, \$

Mo TATA is admissible

(BADSHAM GUL MASIR)

DECTION OFFICER (GENERAL)

FLOREING AND DEVELOPMENT DEPTY

OFFICER OF R. V. F. P.

CIVIL SECTION, FESTIVAR.

© ARTHUR MEAN @

40-A

GOVERNMENT OF N.W.F.P PLANNING AND DEVELOPMENT DEPORTMENT NO. P&D/SNE/77-78/76 Dated Peshawar, the 1-3-1982.

To.

Mr. Azmat ullah Khan, 48-D, Old jamrad Road, Peshawar. University Town, Peshawar.

Subject:	
M	

Reference. Your application no. nil dated nil

- 1. Your are directed to attend the office of the deputy secretary (admn) planning and Development Department legated in old press Building situated near main secretariat blocky on 9-3-1982 at 8:30 a.m. for test/interviews to be conducted by the Selection certificate.
- 2. You ... advised to please bring along all original educational qualification and Domicile certificates for perusal by the selection
- 3. Original matriculation certificate should also be brought along.

Sd
(Badshah gul yasir)
officer (general)
Planning and Development Deportmen
GOVERNMENT OF N W F P



SERVICE COMMISSIO.

28/38/08-8.011 To: Kr Armetulleh Khan S/O Petch ulleh Khansa Tele: 75085

awoil guiganovini book bugant 510 a-64

Subject, Seventing Teal Ter Reconstanent of Research Officer in Pan Iont.

notice bound at the entrance to the examination hall. Please note that Jou before you enter the examination hall, your seat number displayed on the 8 Freeze, kno CHAN at 1000 hours on 21 Aug 62. Your roll number is paper-screening test in General Knowledge at Govt High School Mo. 2 Perhewar You ere, on the basis of your application, required to take a one.

only to active a this deal work to do not be the letter of the

cuty and or when it is demanded. You will also be denied entry if you do no

mode up the following deficiencies before 81 Aug 82;

Activitions of additional is to -\of by money order as examination

dustreated PhotographA

adrid- og humin GC

Registered

NWFP public service commission Peshawar.

Tele:75085

To: Mr Azmatullah khan S/o Fateh ullah Khan.

> No. 8-R0/8482 Date

48-D old Jamrod Road University Town Peshawar.

Dated.

Subject: Screening Test for Recruitment of Research officer in P&D Dopt.

- you are, on the basis of your application, required to take a one paper-1screening test in General knowledge at Govt High School No.2 Peshawar City, at 1000 hours on 21 Aug 82. Your roll number is 8 . Please know before you enter the examination hall, your scat number displayed on the notice board at the entrance to the examination hall. Please note that you will be denied entry in the hall if you do not show this letter at the entrance or when it is demanded. You will also be denied entry if you be not made up the following deficiencies before 21 Aug 82;
- Remittance of additional Rs 10/- by money order as examination if а.
- b. Attested photograph

C. d.

e.

2-It will a 35 minas -paper.

For Secretary

Peshawar Cantl

Tele: 75085 No. 3062-PelD/8302 26/2/82

Lar Armetullah dhan S/O, Batch ullah dicen ,

MANAG KUTCHER

48-D Old Jamrud Road University Town Leshawar

Subjection	Nocruttment-of	ite séarch offi	.com (G-17) j.n F	an Dept
1-3	With reference	to your applicat	tion for the abo	ve post, youward.
roquired at	the Commission'	s office at 0730) hours 2-Golf C	lub Road, Peshawai
Cantt, on	7-9-1082	for ora	al tost(intervie	w). Please bring
	otificates, degr		nials which will	be roturned to yo

- You should rectify the following deficiencies failing which the Commission will reject your application.
- 3- Please acknowledge.

Nor Sycretory

Deficiencies

- a- Copy(s) of original BA/B.Sc/MA/M.Sc degree
- b- Matric/FA/F.Sc certificate
- c- Departmental Permission
- d- Deomicile/Citizens/ip certificate
- o- .Ist, 2nd, 3rd, Final year Engineering Detail Marks Certificate
- r- Attested photograph/3 attested signatures
- R- Cortificate of Registration with Pakistan Engineering Council Valid for current year
- h- Character Cyrtificate from:
 - 2...1- Last Attended Institution 2- Two responsible persons

То

The Additional Chief Secretary Planning & Development Department Govt: of Khyber Pakhtunkhwa, Peshawar.

Early Retirement due to Medical Reasons Subject: -

With due respect, it is stated that I can not continue my services because I have been diagnosed with "Cutaneous T-Cell Lymphoma", which is a type of Skin Cancer with the severity of Stage III and have been hospitalized at Pakistan Institute of Medical Sciences (PIMS) Islamabad for Chemotherapy & Radiotherapy which requires long term treatment and may have to go abroad for the same. Medical Certificates are enclosed herewith for ready reference.

I therefore request you to kindly give me early retirement with immediate effect on Medical grounds as per Government Service rules for which I am entitled as I have completed Thirty Two years of service.

Thanking you in anticipation

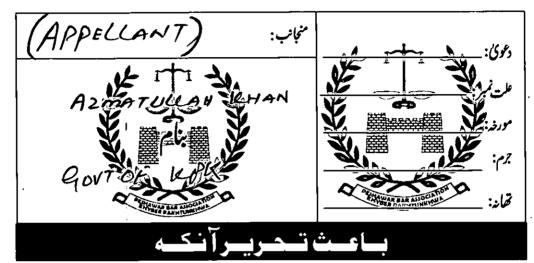
Azmatullah Khan 28/11/2013

Chief Industries

Planning & Development Department



BEFORE THE HONBLE GERVICE TRIBUNAL KPK, PESHAWAR.



مقدم مندر برعنوان بالاس الني برن من والسط بردى و جواب دى كاروائي متعلقه

الن مقام لمند و من المنافع ا

AZMATULLAH KHAN SIO

نو ئەنداس دىكات ئامەكى نوۋو كاپى نا تۇنىل بول دوگەر

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR. SERVICE APPEAL NO. 284 OF 2016.

Mr. Azmatullah KhanAppellant.

VERSUS

- Government of Khyber Pakhtunkhwa through the Chief Secretary.
- 2. The Additional Chief Secretary P&D Department, Khyber Pakhtunkhwa.
- 3. The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 4. The Secretary P&D Deptt:, Khyber Pakhtunkhwa......Respondents

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1,2,3 & 4.

RESPECTFULLY SHEWETH PRELIMINARY OBJECTIONS:

- 1. That the Service Appeal is not maintainable in its present form.
- 2. That the Appellant has got no locus standi to file the instant appeal.
- 3. That the Appellant did not come to the Court with clean hands.
- 4. That the appeal is not maintainable due to Mis-Joinder and Non-Joinder of necessary parties.
- 5. That the Appellant concealed the material fact from the Honorable Court:

REPLY ON FACTS:

- 1. Pertains to record.
- 2. Correct.
- 3. No comments.
- 4. Incorrect. The appellant did not submit his original documents as claimed in his representation/appeal dated 24.05.2013 rather he submitted unattested photocopies of the documents after lapse of five months of his father death.
- 5. Correct. All actions taken against the appellant by the respondents were after approval of the Competent Authority and according to Rules/Laws. Moreover, email mentioned by the appellant is not fake rather the matter was also confirmed by the Khyber Pakhtunkhwa Public Service Commission through an email dated 03.04.2013 that the degree of the appellant was fake (Annex-I&II).
 - Correct. In pursuance of the order of the Peshawar High Court dated 24.09.2013 in Writ Petition No. 1563-P/2013, P&D Department approached the Higher Education Commission, Islamabad vide letter dated 27.02.2014 for After verification the bogus/fake degree (Annex-III). correspondence as well as visit of officers of P&D Department, the Higher Education Commission, Islamabad informed that they have already approached the South Dakota State University, USA vide email dated 24.07.2014 followed by several reminders for confirmation of the said degree but reply of the same is still awaited. The Higher Education Commission has advised that Pakistan Engineering Council Islamabad may also be consulted for verification of the degree (Annex-IV). Accordingly, P&D Department requested the Pakistan Engineering Council for verification of the degree vide D.O letter dated 13.01.2015 (Annex-V). In this context several reminders were also issued but no response has been received as yet.



- 7. Correct.
- 8. Correct.
- 9. Correct to the extent that the appellant submitted an application for early retirement on 28.11.2013, which was regretted due to pending inquiry. The stance of the appellant that no inquiry was pending against him is incorrect as inquiry regarding his fake degree was under process against him since long, however, in order to implement the judgment of Peshawar High Court 24.09.2013, a case was submitted to the Competent Authority for his orders in the month of October, 2013. The Competent Authority was pleased to appoint Capt ® Aizaz-ur-Rehman (PAS BS-20), the then Chairman, TLWM as Inquiry Officer on 10.12.2013 (Annex-VI) to probe into the matter.

Incorrect. The inquiry was completed in time and in pursuance of the recommendations of the Inquiry Officer, the department approached the Higher Education Commission vide letter dated 27.01.2014 for verification of the bogus degree. Moreover, the appellant on the expiry of suspension period was granted leave w.e.f. 29.08.2013 to 26.12.2013. However, he absented himself from duties, accordingly he was directed through a letter dated 27.06.2014 to attend the office within 15 days (Annex-VII). In response to that, the appellant claimed that he had already submitted arrival report on 14.10.2013, however, he again submitted his arrival report on 14.07.2014 (Annex-VIII) but remained absent since then. On 08.05.2015, the appellant was directed/asked to provide certain documents for the purpose of his degree verification but he turned down the directions with no response. He was reminded again on 26.05.2015 for provision of the same but no response was received (Annex-IX&X).

Accordingly, notices of his absence from duty were published in Daily "News International" & Daily "Mashriq" dated 31.07.2015 with the direction to resume his duties within 15 days of the publication but no response was received (Annex-XI & XII). Therefore, in pursuance of Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority was pleased to impose major penalty of "Removal from Service" upon the absentee officer w.e.f. 15.07.2014 i.e. the date of absence (Annex-XIII).

- 11. The review petition of the appellant was processed, however, the Competent Authority was pleased to regret the same being devoid of merit and not covered under the rules.
- 12. The appellant has got no ground for filing of the instant appeal as all the codal formalities have been completed.

GROUNDS:

- A. Incorrect. Impugned order was issued in accordance with law/ norms, justice and material on record.
- B. Incorrect, Under Rule-9 of E&D Rules, 2011, no Charge Sheet/ Statement of Allegations is required to serve but a notice is required to be issued on the home address of the absentee officer/ official (Annex-XIV).
- C. Incorrect as explained vide Para-B above. There is no provision in the E&D Rules to conduct an inquiry against any absent employee. Rather procedure laid down in Rule-9 of the E&D Rules, 2011 was adopted in letter and spirit.
- D. Incorrect as explained in Para-10, the inquiry was completed in time, the major penalty of "Removal from Service" was imposed upon the appellant due to his willful absence and after fulfilling all the codal formalities under E&D Rules, 2011.
- E. Incorrect. There is no mala-fide on the part of the respondents, rather respondents acted according to the rules/laws.
- F. Incorrect, as explained in Para-10 of the fact and Para-D of the grounds, the inquiry was completed in time.
- G. Incorrect. The appellant was provided all legal chances for his defense but he failed and was treated according to law/ Rules.
- H. Incorrect. The appellant was directed to report within 15 days through notices in Press that means before his retirement.
- I. Respondents also seek permission to advance other grounds and proofs during the course of hearing.

PRAYER:

Keeping in view of the above, it is very humbly prayed that the Service Appeal of the Appellant may graciously be dismissed with cost.

CHIEF SECRETARY Govt: of Khyber Pakhtunkhwa (Respondent No.1)

Govt: of Khyber Pakhtunkhwa. Establishment Department (Respondent No.3)

ADDITIONAL CHIEF SECRETARY

Govt: of Khyber Pakhtunkhwa

(Respondent No. 2) CHIEF SECRETARY, ADDITION POWER Department Depa Planning & Development Department, Constitution of Khyper Lappininkhws

SECRETARY

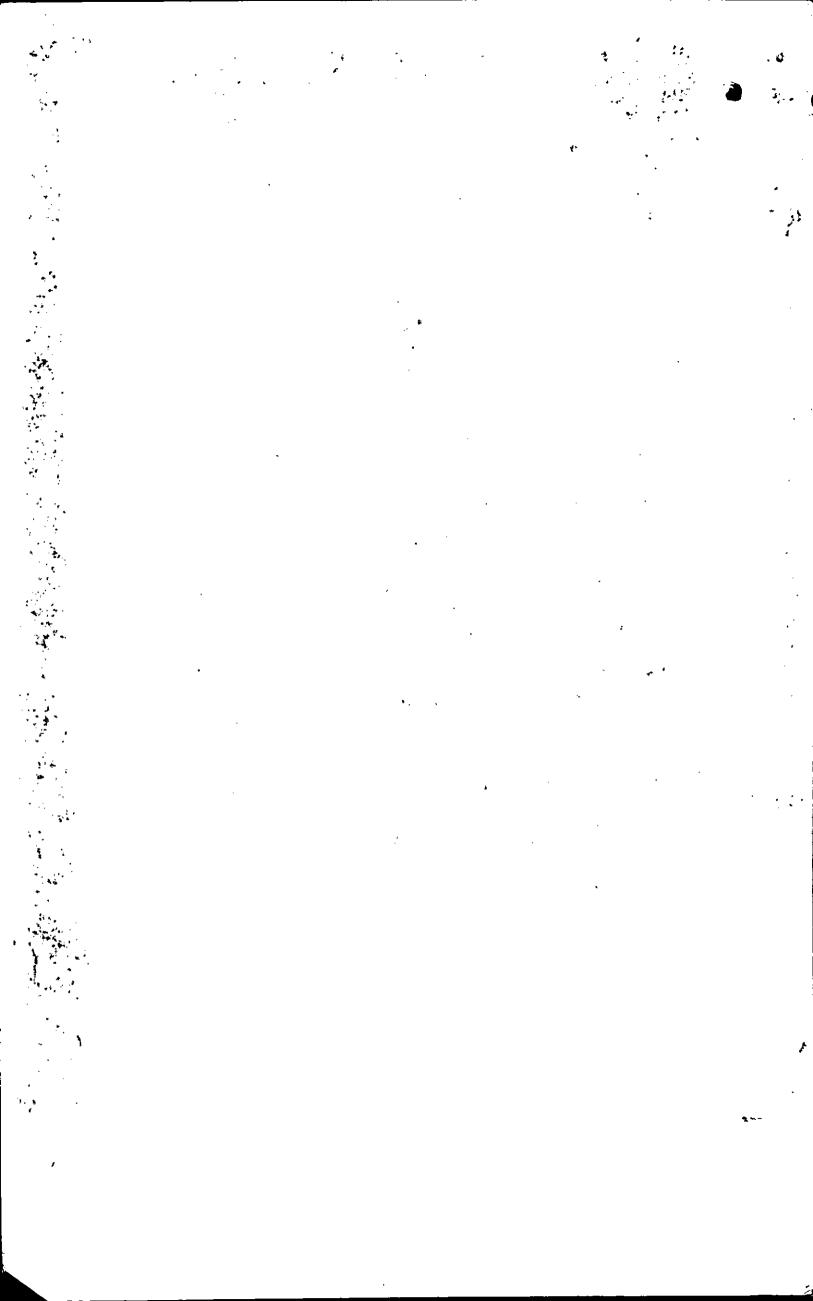
Govt: of Khyber Pakhtunkhwa, P&D Department

(Respondent No.4)

Secretary to Govt: of Khyber Pakhtunidhwa Downter wat Deptt.,

Procedure in case of wilful absence.—Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant.

- 10. Procedure to be followed by competent authority where inquiry is necessary.—— (1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include—
 - (a) appointment of an inquiry officer or an inquiry committee, provided that the inquiry officer or the inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall be of a rank senior to the senior most accused;
 - (b) the grounds for proceeding, clearly specifying the charges along with apportionment of responsibility;
 - (c) appointment of the departmental representative by designation; and
 - (d) direction to the accused to submit written deferse to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than seven days and more than fifteen days of the date of receipt of orders.
- (2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.
- (3) In a case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary inquiry.
- 11. Procedure to be followed by inquiry officer or inquiry committee.—(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.
- (2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.





GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING & DEVELOPMENT DEPARTMENT

Dated Peshawar, October 12, 2015

NOTIFICATION.

NO.SO(E)P&D/087/PF/1-19//2013: WHEREAS, Mr. Azmatullah Khan Gandapur, Chief of Section (BS-19), Planning & Development Department was granted 120 days Earned Leave w.e.f 29-08-2013 to 26-12-2013. On expiry of the same, he absented himself from official duties

AND WHEREAS, a notice was issued to him on his home address vide letter dated 27-06-2014 with the directions to resume duties within 15 days of receipt of the Notice failing which ex-parte decision will be initiated against him under the E&D Rules 2011. In response, he claimed that he had already submitted his arrival report on 14-10-2013, however, he again submitted his arrival report on 14-07-2014 but remained absent since then.

AND WHEREAS, on 08-05-2015, he was directed/ asked to provide certain documents for the purpose of his degree verification but he turned down the directions with no response. He was again remained on 26-05-2015 for provision of the same but no response was received.

AND WHEREAS, the notice was published in daily "News International", dated 31-07-2015 and daily "Mashriq" Peshawar, dated 31-07-2015 directing him to resume duties within 15 days of publication of the Notice failing which ex-parte decision would be taken against him under the relevant law/ rules.

AND WHEREAS, the stipulated period expired on 14-08-2015 and the officer did not resume his duties nor provided the documents asked for.

NOW, THEREFORE, the Competent Authority under Rule-9 of the Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules, 2011, has been pleased to impose major penalty of "Removal from Service" on Mr. Azmatullah Khan Gandapur, Chief of Section (BPS-19), Planning and Development Department, Khyber Pakhtunkhwa with effect from 15-07-2014.

> **Chief Secretary** Khyber Pakhtunkhwa.

Endst: NO.SO(E)P&D/087/PF/1-19//2013:

Carrie Cont

Dated Peshawar, October 12, 2015.

Copy forwarded to the:-

- Principal Secretary to Chief Minister, Khyber Pakhtunkhwa. 2.
- All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa. 3.
- Accountant General, Khyber Pakhtunkhwa.
- PS to Chief Secretary, Khyber Pakhtunkhwa. 4
- PS to Additional Chief Secretary, P&D Department.
- 6. PS to Secretary, P&D Department.
- Assistant Chief (B&A), P&D Department for necessary action.
- 8.
- PA to Deputy Secretary (Admn:), P&D Department. Mr. Azmatullah Khan Gandapur, House No. 37, Sector G-4, Phase-II, Ḥayatabad,

PF of the officer concerned. 10.

> (FAHEED ULLAH KHANL Section Office (Estt.)

NAIGTOT THE



Government of Khyber Pakhtunkhma Planning & Development Department

No. SO(E)P&D/087/1-29/2015. Dated Peshawar, 26th May, 20<u>15.</u>

ī

Mr. Azmatullah Khan. House No. 37 Sector G-4, Phase-II Hayatabad, Peshawar. 2000

Subject

VERIFICATION OF ENGINEERING DEGREE HELD BY MR. AZMATULLAH KHAN, CHIEF OF SECTION P&D DEPARTMENT.

Dear Sir.

I am directed to refer to this department letter of even number dated 08-05-2015 on the subject noted above and to state that the documents asked for are still not provided which may please be furnished at the earliest without further delay.

Yours faithfully,

Endst. Of even Number & Date.

Copy forwarded to the PS to Additional Chief Secretary, P&D Department.

SECTION OFFICER(ESTT:

(FAHID ULLAH KHAN) SECTION OFFICER (ESTT:



GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING & DEVELOPMENT DEPARTMENT

23

No. SO(E)P&D/087/1-29/2015. Dated Peshawar, May 08th, 2015.

Τo



Mr. Azmatullah Khan. House No. 37 Sector G-4, Phase-II Hayatabad, Peshawar.

Subject:

verification of engineering degree held by Mr. Azmatullah khan, Chief of Section P&D Department.

Dear Sir,

I am directed to refer to the subject noted above and to state that the following documents may be provided for the purpose of your degree verification from the South Dakota State University, within one week positively.

i. Foreign Degree Equivalence Form (filled).

ii. Attested copies of CNIC and Passport.

iii. 04 Pictures and Degrees/DMCs of Metric, FSc and BSc Engineering.

Moreover, any other relevant document may also be provided.

Yours faithfully,

5/4

(FAHID ULLAH KHAN) SECTION OFFICER (ESTT:)

Endst. Of even Number & Date.

Copy forwarded to the PS to Additional Chief Secretary, P&D Department.

SECTION OFFICER(ESTT:)

Subject:

Resumption of Duty

With reference to Section Officer (Estt) P&DD letter No. SO(E)P&D/087/1-<u>dated June 27, 2014.</u>

It is to inform that I had submitted my arrival report on October 14, 2013 and since then my services are at the disposal of the department. However, I hereby submit my arrival geport again for resuming duty.

> Africanian 12.16 h fless com (Azmatullah Khan)

Copy forwarded to:

Additional Chief Secretary, GoKP, P&DD

Secretary P&DD, GoKP. Π .

Dy. Secretary (Admn) P&DD. III.

ø.V. SO(Estt) P&DD.

anatullah Khan)

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GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING & DEVELOPMENT DEPARTMENT

No. SO(E)P&D/087/1-29/2014, Dated Peshawar, June 27, 2014.

Mr. Azmatullah Khan, Chief of Section (Industries), P&D Department.

Subject:

WILLFUL ABSENCE FROM DUTY

I am directed to refer to your application for early retirement from government service and to inform you that the competent authority has regretted your application keeping in view the under process of your alleged/ fake degree of Engineering and directed you to attend the office forthwith.

You are therefore directed to attend the office within fifteen (15) days from the receipt of this letter failing which action will be taken against your under the E&D Rules, 2011.

Yours faithfully,

(Fahid Ullah Khan) SECTION OFFICER (ES

Endst: No. & Date even.

Copy forwarded to the:-

1. PS to Chief Secretary, Khyber Pakhtunkhwa.

2. PS to Additional Chief Secretary, P&D Department. .

3. PS to Secretary Establishment Department.

4. PS to Secretary, P&D Department.

SECTION OFFICER (ESTT:)



GOVERNMENT OF KHYBER PAKHTUNKH PLANNING & DEVELOPMENT DEPARTMENT

No. SO(E)P&D/087/PF/1-19/2013. Dated Peshawar, December 10, 2013.

To

Mr. Azaz-ur-Rehman (PAS BS-20),

Chairman,

Tanzeem-e- LiSa-el-Wal-Mahroom (TLWM), 9-Chinar Road, University Town Peshawar,

Subject: **CONDUCTING** OF FINAL ENQUIR ALLEGATION OF BOGUS CIVIL ENGINEERING OF MR. AZMATULLAH KHAN, CHIEF (BPS-19), P&D DEPARTMENT.

Dear Sir,

Kindly refer to the subject cited above, I am directed to state that the Competent Authority (i.e. Chief Minister Khyber Pakhtunkhwa) has been pleased to nominate you as an Inquiry Officer to probe into the allegations of fake/ bogus degree of Civil Engineering obtained from South Dakota State University, USA by Mr. Azmatullah Khah, Chief (BS-19), P&D Department.

You are, therefore, requested to conduct final enquiry under the E&D Rules 2011 and submit a fact findings report within thirty (30)-days of the receipt of this letter to proceed further in the matter. A copy of the Statement of Allegations, Charge Sheet, and preliminary enquiry report is enclosed. Any other details/ documents if required, would be provided as and when asked for.

> (SHAH FAZIL) Section Officer (Estt:)

Endst: No. & Date even.

Copy forwarded to:-

1. PSO to Chief Minister, Khyber Pakhtunkhwa:

2. PS to Chief Secretary, Khyber Pakhtunkhwa.

3. PS to Additional Chief Secretary, Khyber Pakhtunkhwa.

4. PS to Secretary, Establishment Department.

PS to Secretary P&D Department

PA to Additional Secretary, P&D Department

Section Officer(Estt.)





GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING & DEVELOPMENT DEPARTMENT

D.O. No. SO(E)P&D/087/PF/1-19/2015. Dated Peshawar, January 13, 2015.

Additional Secretary

Subject: Verification of Degree of Civil Engineering of Mr.

Azmatullah khan, Chief (BPS-19) obtained from South Dakota State University USA.

My Dear Six

With due regards I want to bring to your kind notice that Mr. Azmatullah Khan was appointed as Research Officer in this department on the recommendations of Khyber Pakhtunkhwa Public Service Commission in 1982. Subsequently, the officer was promoted as Assistant Chief (BPS-18) and then Chief of Section (BPS-19) on 01-04-1999.

The officer served for over 30 years in Planning & Development Department. Recently his brother made a written complaint that the B₆Sc Civil Engineering degree of Mr Azmatullah Khan is fake. To support his claim, he produced an e-mail of the South Dakots State University, USA, from where the degree was obtained (Annex-I&II).

Commission which declared the degree as fake on the basis of the e-mail received from the University concerned (Annex-III). The matter was also probed through a departmental inquir wherein the Inquiry Officer recommended that the case may be referred to Higher Educatio Commission. On the request of this department, the Higher Education Commission took up the subject case with the concerned university and a number of correspondences were made by the replies are still awaited. Now the HEC has advised that as the officer is holding membership of the Pakistan Engineering Council since 01-08-1979, so PEC may also be requested to confirm the genuineness of the degree.

It is therefore requested to kindly verify genuineness of the enclosed B.Sc Cir Engineering degree of Mr. Azmatullah Khan so that this department may be in a position conclude the case.

An early response in the subject matter shall be highly appreciated.

AMER AFAG

Fairnfully yours

Syed Abdul Qadir Shah, Chairman, Pakistan Engineering Council, Islamabad.



(Director General (A&A)

rchohan@hec.gov.pk

IGHER EDUCATION COMMISSION

Addl: Scoretary (P&D) Diary No. 1064 Date. 24 12 14

No.8-59/HEC/A&A/2014 | 24° December 19, 2014

Sved Zafar Ali Shah, Secretary, Planning & Development Department,

Muhammad Raza Chohan

Government of Khyber Pakhtunkhwa,

Peshawar.

Secretary (P&D)

Subject:

VERIFICATION OF DEGREE OF CIVIL ENGINERING OF MR. AZMATULLAH KHAN, CHIEF (BPS-19) OBTAINED FROM P-223/C

SOUTH DAKOTA STATE UNIVERSITY, USA.

Dear Sir.

With reference to your letter No.SO(E)P&D/087/PF/1-19/2014 dated 4th December, 2014 addressed to Prof. Dr. Mukhtar Ahmad, Chairman, HEC, on the above subject. It is stated that Planning and Development Department, Government of KPK was repeatedly requested to instruct the concerned to apply through HEC online application system available at http://des.hec.gov.pk/ for equivalence/verification of foreign degree as per process invoke, but yet we have not received any application alongwith all supporting documents. However, as informed earlier, HEC approached South Dakota State University, USA vide e-mail dated July 24, 2014 and also served reminders for confirmation of genuineness of B.Sc. degree held by Mr. Azmatullah Khan, but reply from the university is still awaited. As soon as we receive any response from the university it will be communicated shared with your department.

Being a professional degree holder in engineering field, you are also requested to consult Pakistan Engineering Council for confirmation of genuineness of B.Sc. in Civil Engineering degree held by Mr. Azmatullah Khan.

With regards,

Yours faithful,

(Mulfammad Raza Chohan) Director General (A&A)

H-9. ISLAMABAD.:PAKISTAN, Telephone: +92-51-90400000, http://www.hec.gov.pk

At last, the matter was handed over to an Inquiry Officer for final inquiry. The Inquiry officer examined the case from all aspects and stated in his enquiry report that E-mails are not an authentic source to decide upon. The enquiry report recommended that the matter may be taken up with Higher Education Commission (HEC) to ascertain the genuineness of the Degree (obtained from South Dakota State University), being the sole authority in Pakistan for the purpose.

e was because of the con-

It is therefore requested that the enclosed degree (in origin) of Mr. Azmatullah Khan, Chief of Section (BPS-19) may kindly be verified from the concerned university and a report may be submitted to this department/ government at the earliest please.

(Degree in Original

Yours faithfully,

(SHAH FAZIL) Section Officer (Estt:) Ph: 091-9210448

Endst: No. & Date even.

Copy forwarded to:-

Copy forwarded to:

PSO to Chief Minister, Khyber Pakhtunkhwa

PS to Chief Secretary, Khyber Pakhtunkhwa.

PS to Additional Chief Secretary, Khyber Pakhtunkhwa.

PS to Secretary, Establishment Department.

5. PS to Secretary P&D Department

PA to Additional Secretary, P&D Department

7

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Section Officer(Estt:)

14

Page 2 of

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GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING & DEVELOPMENT DEPARTMENT

No. SO(E)P&D/087/PF/1-19/2013 Dated Peshawar, January 27, 2014.

Director General. Attestation & Accreditation, Higher Education Commission, H-9, Islamabad.

1 bel 27/01/2014

Subject: VERIFICATION OF DEGREE OF CIVIL ENGINEERING OF WR. AZMATULLAH KHAN, CHIEF (BPS-19) OBTAINED FROM SOUTH DAKOTA STATE UNIVERSITY USA.

Dear Sir.

I am directed to refer to the subject cited above and to state that Mr. Azmatullah Khan was appointed by the Public Service Commission, Khyber Pakhtunkhwa in 1982 as Research Officer, subsequently promoted to the post of Assistant Chief (BPS-18) and then to the Chief of Section (BPS-19).

The officer has almost more than 30 years service at his credit and now at the verge of retirement, his real brother Mr. Inamullah Khan has complained that the degree of Civil Engineering of Mr. Azmatullah Khan is fake and bogus (Annex-I). In support of his claim, he produced an E-mail from the USA based University from where the degree was issued (Annex-II).

The case was probed in detail and the matter was referred to Public Service Commission, Khyber Pakhtunkhwa for its views on genuineness of the degree. In reply, the Public Service Commission, Khyber Pakhtunkhwa also declared the degree as fake (Annex-III) on the basis of the E-mail.

Back Page

From: Helmbolt, Shawn On Behalf Of SDSU ADMISSIONS

Sent: Wednesday, April 03, 2013 11:01 AM

To: SDSU Registrar

Subject: FW: Confirmation of Degree

From: response [mailto:nwfppscinfo@gmail.com]

Sent: Wednesday, April 03, 2013 5:46 AM

To: SDSU ADMISSIONS

Subject: Confirmation of Degree

Dear Sir/Madam

Your prestigious institute has awarded degree of B.S in Engineering to Mr. Azmat ullah Khan in Ma The degree appears to be doubtful and requires confirmation.

Kindly confirm whether or not said gentleman is graduated from your Institution.

An early response will be highly appreciated.

(a scanned copy of degree is attached)

Member

Khyber Pakhtunkhwa Public Service Commission

2-Fort Road Peshawar

www.kppsc.gov.pk



Confirmation of Degree

Little, Bailey <bailey.davis@sdstate.edu>
Fot "nv/ppscinfo@gmail.com" <nv/ppscinfo@gmail.com>

Wed. Apr 3, 2013 at 10:34 PM

Good Afternoon,

No, the copy of this diploma is not a certified diploma from South Dakota State University.

Bailey

Bailey Little

Graduation Specialist .

South Dakota State University

Records and Registration

SAD 100 Box 2201

Brookings, SD 57006

F: 605-688-4488

F: 605-608-6384

Balley.davis@sdstate.edu

From: Strassburg, Marlys On Behalf Of SDSU Registrar Sent: Wednesday, April 3, 2013 11:52 AM To: Little, Bailey Subject: FW: Confirmation of Degree

Can you take a look at this?

Marlys

(SN Home Holmie) Web Search Shopping Money People & Chat

Hotmail" mshakir28@hotmail.com,

Computer Address times Folding nahana

Folder: Inbox Measeager

"SIMMONS, DOROTHY" < DOROTHY_SIMMONS@SDSTATE.EDU>

Subject: FW: Degree Confirmation

Wed, 11 Jul 2001 14:00:08 -0500 Opposite

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Congle

Mext.

----Original Message---From: SIMMONS, DOROTHY

Sent: Wednesday, July 11, 2001 1:41 PM

To: SUSU REGISTRAR -

Subject: RE: Degree Confirmation

Cur records show that Azmat U. Khan was a student here from Fall 1975 to Spring 1979 but did not receive a degree.

If we can be of any further help to you, please contact me again.

Records and Registration Telephone: 605-688-6195.

Fax: 605-688-6384

Email: 4

----Original Message----From: jy

Sent: Monday, July 09, 2001 10:26 AM To: SDSU ADMISSIONS

Subject: Degree Confirmation

Dear Sir/Madam,

Mr. Atmae Ullah Khan from Pakistan has applied for the Position of Civil Engineer at our organization. He claims to have earned a degree in civil Engineering from your institution, to which we have some doubts. Kindly confirm whether or not the said gentleman is graduace Trota.

An early reply in this regard will be highly appreciated.

Tours truly,

- 7. Correct.
- 8. Correct.
- 9. Correct to the extent that the appellant submitted an application for early retirement on 28.11.2013, which was regretted due to pending inquiry. The stance of the appellant that no inquiry was pending against him is incorrect as inquiry regarding his fake degree was under process against him since long, however, in order to implement the judgment of Peshawar High Court 24.09.2013, a case was submitted to the Competent Authority for his orders in the month of October, 2013. The Competent Authority was pleased to appoint Capt ® Aizaz-ur-Rehman (PAS BS-20), the then Chairman, TLWM as Inquiry Officer on 10.12.2013 (Annex-VI) to probe into the matter.
- 10. Incorrect. The inquiry was completed in time and in pursuance of the recommendations of the Inquiry Officer, the department approached the Higher Education Commission vide letter dated 27.01.2014 for verification of the bogus degree. Moreover, the appellant on the expiry of suspension period was granted leave w.e.f. 29.08.2013 to 26.12.2013. However, he absented himself from duties, accordingly he was directed through a letter dated 27.06.2014 to attend the office within 15 days (Annex-VII). In response to that, the appellant claimed that he had already submitted arrival report on 14.10.2013, however, he again submitted his arrival report on 14.07.2014 (Annex-VIII) but remained absent since then. On 08.05.2015, the appellant was directed/asked to provide certain documents for the purpose of his degree verification but he turned down the directions with no response. He was reminded again on 26.05.2015 for provision of the same but no response was received (Annex-IX&X).

Accordingly, notices of his absence from duty were published in Daily "News International" & Daily "Mashriq" dated 31.07.2015 with the direction to resume his duties within 15 days of the publication but no response was received (Annex-XI & XII). Therefore, in pursuance of Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority was pleased to impose major penalty of "Removal from Service" upon the absentee officer w.e.f. 15.07.2014 i.e. the date of absence (Annex-XIII).

- 11. The review petition of the appellant was processed, however, the Competent Authority was pleased to regret the same being devoid of merit and not covered under the rules.
- 12. The appellant has got no ground for filing of the instant appeal as all the codal formalities have been completed.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR. SERVICE APPEAL NO. 284 OF 2016.

Mr. Azmatullah KhanAppellant

VERSUS

- 1. Government of Khyber Pakhtunkhwa through the Chief Secretary.
- 2. The Additional Chief Secretary P&D Department, Khyber Pakhtunkhwa.
- 3. The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 4. The Secretary P&D Deptt:, Khyber Pakhtunkhwa......Respondents

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1,2,3 & 4.

RESPECTFULLY SHEWETH PRELIMINARY OBJECTIONS:

- 1. That the Service Appeal is not maintainable in its present form.
- 2. That the Appellant has got no locus standi to file the instant appeal.
- 3. That the Appellant did not come to the Court with clean hands.
- 4. That the appeal is not maintainable due to Mis-Joinder and Non-Joinder of necessary parties.
- 5. That the Appellant concealed the material fact from the Honorable Court.

REPLY ON FACTS:

- 1. Pertains to record.
- 2. Correct.
- 3. No comments.
- 4. Incorrect. The appellant did not submit his original documents as claimed in his representation/appeal dated 24.05.2013 rather he submitted unattested photocopies of the documents after lapse of five months of his father death.
- 5. Correct. All actions taken against the appellant by the respondents were after approval of the Competent Authority and according to Rules/Laws. Moreover, email mentioned by the appellant is not fake rather the matter was also confirmed by the Khyber Pakhtunkhwa Public Service Commission through an email dated 03.04.2013 that the degree of the appellant was fake (Annex-I&II).
- 6. Correct. In pursuance of the order of the Peshawar High Court dated 24.09.2013 in Writ Petition No. 1563-P/2013, P&D Department approached the Higher Education Commission, Islamabad vide letter dated 27.02.2014 for verification bogus/fake the degree (Annex-III). correspondence as well as visit of officers of P&D Department, the Higher Education Commission, Islamabad informed that they have already approached the South Dakota State University, USA vide email dated 24.07.2014 followed by several reminders for confirmation of the said degree but reply of the same is still awaited. The Higher Education Commission has advised that Pakistan Engineering Council Islamabad may also be consulted for verification of the degree (Annex-IV). Accordingly, P&D Department requested the Pakistan Engineering Council for verification of the degree vide D.O letter dated 13.01.2015 (Annex-V). In this context several reminders were also issued but no response has been received as yet.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal No. 284-P/2016

MR. AZMATULLAH KHAN

VERSUS

GOVERNMENT OF KPK AND OTHERS

INDEX

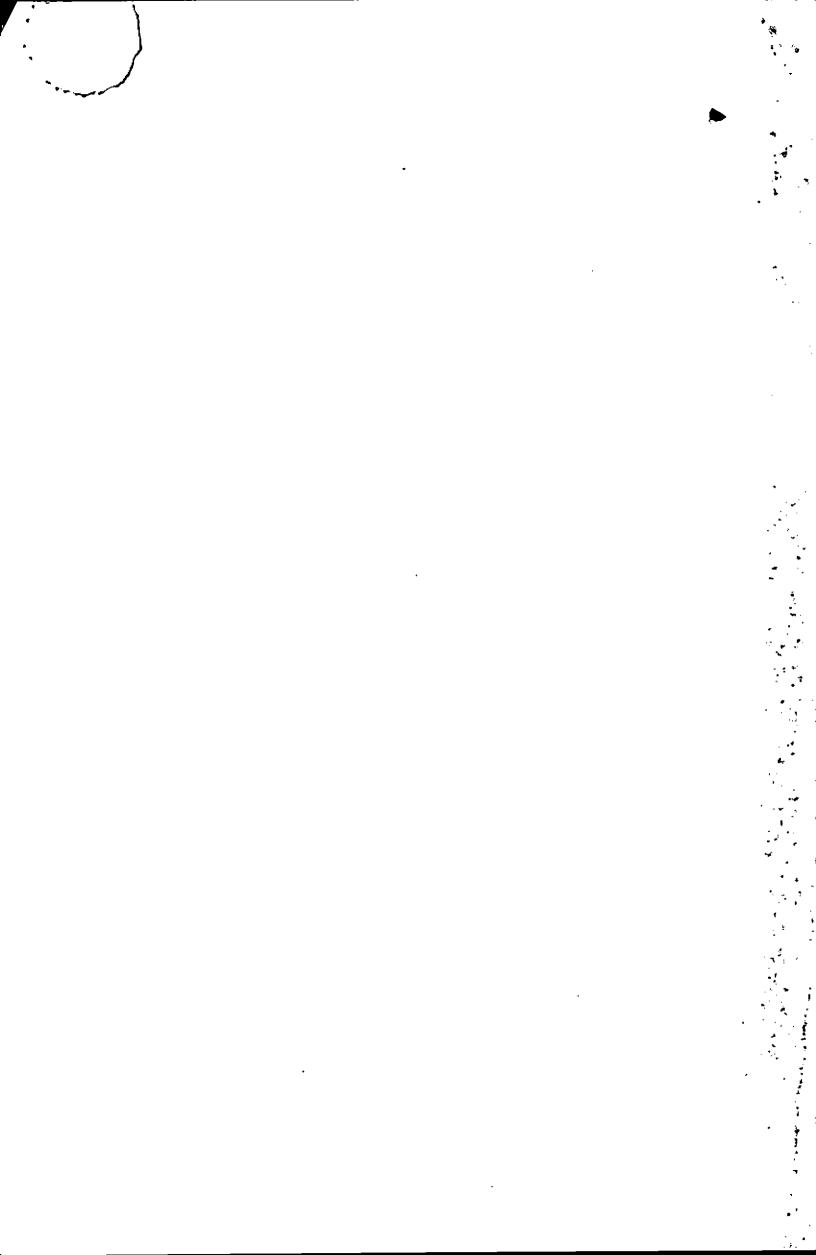
Sr. No.	Description of Documents	Annexure	Page No.
1.	Memo of Rejoinder		1-5
2.	Affidavit		6

Barrister Waqar Ali Khan

Office #1ST Floor, J.K. Plaza, Opposite Arbab Road

University Road Peshawar Email: wak9910@yahoo.co.uk

Cell # 03219100050





GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING & DEVELOPMENT DEPARTMENT

No. SO(E)P&D/087/1-29/2014, Dated Peshawar, June 27, 2014. (44)

Annese

Ţο

Mr. Azmatullah Khan, Chief of Section (Industries), P&D Department.

Subject:

WILLFUL ABSENCE FROM DUTY.

I am directed to refer to your application for early retirement from government service and to inform you that the competent authority has regretted your application keeping in view the under process of your alleged/ fake degree of Engineering and directed you to attend the office forthwith.

You are therefore directed to attend the office within fifteen (15) days from the receipt of this letter failing which action will be taken against you, under the E&D Rules, 2011.

Yours faithfully,

(Fahid Ullah Khan) SECTION OFFICER (EST A)

Endst: No. & Date even.

Copy forwarded to the:-

- 1. PS to Chief Secretary, Khyber Pakhtunkhwa.
- 2. PS to Additional Chief Secretary, P&D Department.
- 3. PS to Secretary Establishment Department.
- 4. PS to Secretary, P&D Department.

SECTION OFFICER (ESTT:)





GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING & DEVELOPMENT DEPARTMENT

Inneu.

Dated Peshawar, October 12, 2015

NOTIFICATION.

NO.SO(E)P&D/087/PF/1-19//2013: WHEREAS, Mr. Azmatullah Khan Gandapur, Chief of Section (BS-19), Planning & Development Department was granted 120 days Earned Leave w.e.f 29-08-2013 to 26-12-2013. On expiry of the same, he absented himself from official duties from 27-12-2013.

AND WHEREAS, a notice was issued to him on his home address vide letter. dated 27-06-2014 with the directions to resume duties within 15 days of receipt of the Notice failing which ex-parte decision will be initiated against him under the E&D Rules 2011. In response, he claimed that he had already submitted his arrival report on 14-10-2013, however, he again submitted his arrival report on 14-07-2014 but remained absent since then.

AND WHEREAS; on 08-05-2015, he was directed/ asked to provide certain documents for the purpose of his degree verification but he turned down the directions with no response. He was again remained on 26-05-2015 for provision of the same but no response was received.

AND WHEREAS, the notice was published in daily "News International", dated 31-07-2015 and daily "Mashriq" Peshawar, dated 31-07-2015 directing him to resume duties within 15 days of publication of the Notice failing which ex-parte decision would be taken against him under the relevant lawl rules.

AND WHEREAS, the stipulated period expired on 14-08-2015 and the officer did not resume his duties nor provided the documents asked for.

NOW, THEREFORE, the Competent Authority under Rule-9 of the Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules, 2011, has been pleased to impose major penalty of "Removal from Service" on Mr. Azmatullah Khan Gandapur, Chief of Section (BPS-19), Planning and Development Department, Khyber Pakhtunkhwa with effect from 15-07-2014.

> **Chief Secretary** Khyber Pakhtunkhwa.

Endst: NO.SO(E)P&D/087/PF/1-19//2013:

to the state of the following the state of the same

Dated Peshawar, October 12, 2015.

Copy forwarded to the:-

- 1: Principal Secretary to Chief Minister, Khyber Pakhtunkhwa. 2.
- All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
- Accountant General, Khyber Pakhtunkhwa.
- PS to Chief Secretary, Khyber Pakhtunkhwa.
- PS to Additional Chief Secretary, P&D Department. 5.
- PS to Secretary, P&D Department. physical 7
 - Assistant Chief (B&A), P&D Department for necessary action.
 - PA to Deputy Secretary (Admn.), P&D Department. 8.
 - Mr. Azmatullah Khan Gandapur, House No. 37, Sector G-4, Phase-II, Hayatabad, 9. Peshawar:
 - PF of the officer concerned. 10.

ATTESTED

(FAHEED ULLAHKHAN Section Officer (Estt:)

BEFORE THE GOVERNMENT OF KHYBER PAKHTUNKHWA
THROUGH THE WORTHY CHIEF SECRETARY

Annua L

SUBJECT:

APPEAL/ REVIEW/

REPRESENTATION

BEFORE_

Kowell

THE

COMPETENT/ APPELLATE AUTHORITY AGAINST THE

DECISION OF REMOVAL FROM SERVICE

RESPECTFULLY SUBMITTED:

Vide notification NO.SO(E)P&D/087/PF/1-19//2013 dated October 12, 2015: I have been removed from service by the competent authority under rule 9 of KPK (efficiency and disciplinary) rules 2011 with effect from 15/07/2014. It is stated that the allegations levelled against me in the notification are totally unrealistic as I have not absented myself from official duties as alleged in the notification. It is wrongly stated that I was granted 120 days earned leave with effect from 29/08/2013 to 26/12/2013, whereas, the factual position is that I never applied for earned leave and instead I was sent on 120 days forced leave with full pay. After expiry of leave, I reported for duty as directed by the competent authority and submitted my arrival report but the department did not take any action on my arrival report and again asked me to report for duty which I submitted on 14/07/2014 once again. I regularly attended office of my previous posting that is the Industry Section of P&DD which can be confirmed from then Chief of Section Industries P&DD Mr. Hashim Khattak. The Department still failed to issue my posting orders. Till my retirement on 15/08/2015, I was not posted anywhere in the P&DD. On direction of P&DD I had submitted all my documents in original for which the record of P&DD may be checked & confirmed. The original documents were submitted as desired by the department during 2013. Therefore, the direction of the department for submission of documents on 08/05/2015 is baseless and negligence on part of the department. It is further stated in the notification that a notice was published in the daily "The News International" dated 31/07/2015 and "Daily Mashrik" Peshawar dated 31/07/2015 directing me to resume duties within 15 days of publication of notice failing. which ex-party decision would be taken under relevant law and rules. Whereas, they had my personal mobile number, landline and address, where they could send me the notice. Moreover, this notice was issued just 15 days before my retirement date. That means that I

ATTESTED

Page 1 of 2

(47)

was supposed to submit my arrival for duty after my retirement. I had been regularly attending the office of Chief of Industries without any posting orders by the department. Furthermore, I was asked to report within 15 days from date of advertisement in the newspaper whereas the removal from service has been backdated with effect from 15/07/2014 which is unjust and against all norms.

It is therefore humbly requested that the above mentioned notification of removal from service may kindly be withdrawn on sympathetic grounds so that I could avail my pension and other benefits of which I have been deprived and also I request that my original documents may kindly be returned.

Agnitulled Ke

Former Chief of Section (Industries)

P&DD, Civil Secretariate, KPK

Mob: 0346-9199203

Dated: 9/11/2015

ATTESTED

M (48)

BEFORE THE GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH THE WORTHY CHIEF SECRETARY

Subject:

APPEAL /REVIEW/REPRESENTATION BEFORE THE COMPETENT/APPELLATE
AUTHORITY AGAINST THE DECISION OF REMOVAL FROM SERVICE.

RESPECTFULLY SUBMITTED:

I submitted the subject appeal on 09/11/2015 and the action taken is still awaited. It is requested that action on my appeal may kindly be expedited.

0/6

Azmat Ullah Khan

Former Chief of Section (Industries)
P&DD, Civil Secretariat, KPK

Mob: 0346-9199203

Dated: $\frac{3/2}{2016}$

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA PLANNING & DEVELOPMENT DEPARTMENT

No. SO(E)P&D/087/1-29/2016. Dated Peshawar, February 15, 2016.

Τo

Mr. Azmatullah Khan, Ex-Chief of Section,

H/No. 37, Section G-4, Phase-ii,

Hayatabad, Peshawar.

Subject:

APPEAL/ REVIEW/ REPRESENTATION BEFORE THE COMPETENT/ APPELLATE AUTHORITY AGAINST THE DECISION OF REMOVAL FROM SERVICE.

I am directed to refer to your application dated 09-11-2015 on the subject cited above and to state that the your request was processed/ examined and the competent authority has been pleased to regret the same.

(FAHEED ULLAH KHAN) Section Officer (Est:)

Endst. Of even Number & Date.

Copy forwarded to the PS to Additional Chief Secretary, P&D Department

Section Officer (Estt.)

ATTESTED

Service Appeal No. 284-P/2016

MR. AZMATULLAH KHAN

VERSUS

GOVERNMENT OF KPK AND OTHERS

REJOINDER FOR AND ON BEHALF OF THE APPELLANT

RESPECTFULLY SHEWETH:

The appellant most earnestly craves the permission of this Hon'ble Tribunal to submit the following rejoinder with utmost respect:

REJOINDER ON THE PRELIMINARY OBJECTIONS:

- 1. Para 1 is totally wrong and hence it is denied. The present appeal filed by the appellant is maintainable and is correct in law and the facts as well.
- 2. Para 2 is incorrect, hence denied. The appellant, whose rights have been mortally offended due to the actions and non-actions of the respondents, has got *locus standi* to file the present appeal.
- **3.** Para 3 is incorrect, hence denied. The appellant has come to this Hon'ble Court with clean hands. In fact, it is actually the respondents whose ill will and *mala fide* towards the appellant has been exposed through the present appeal.
- **4.** Para 4 is incorrect, hence it is denied. In an attempt to divert the attention of this Hon'ble Tribunal, the respondents are raising standardized and tangential objections.
- 5. Para 5 is incorrect, hence denied. The appellant has not concealed any facts from this Hon'ble Tribunal. The veracity of the claims raised in the appeal of the appellant are unassailable.

REJOINDER ON THE FACTS:

- 1. Paras 1 to 3 need no comments.
- 2. Para 4 is incorrect, hence is denied. During the relevant period, the appellant's father was gravely ill and was on his deathbed. Feeling utterly distraught, the appellant had even applied for leave which was sanctioned by the competent authority in order to be with his ailing father in his last days. Regrettably the appellant's father passed away on 02/12/2012, just two days shy of the appellant's scheduled meeting with the two-member committee (i.e. 04/12/2012). Greatly saddened by the tragic demise of his father, the appellant entered into a period of intense mourning. Later on, after

- having recovered, the appellant hastened to file his representation before the Additional Chief Secretary KP (P&D) dated 24/05/2013. Hence, the said delay was not in the control of the appellant. Moreover, as is already mentioned in the appellant's appeal petition, he had submitted all the requisite documents with the subject representation.
- 3. Para 5 is incorrect, hence it is vehemently denied. At the outset, it must be mentioned that the appellant was not subjected to a proper/regular inquiry/proceedings in complete contravention of the relevant Laws/Rules. In fact, the respondents had deliberately and maliciously proceeded against the appellant in his absence in spite of being fully aware of his tragic personal circumstances. Hence, the appellant had been condemned unheard, and all because of a bogus email which surprisingly dated back to the year 2001. Moreover, the appellant had submitted his representation as soon as he could; however, the respondents willfully overlooked the same. To the utter shock and dismay of the appellant, instead of re-scheduling another meeting with the him or even responding to his representation, the respondents served on the appellant a Show Cause Notice and Suspension Order and even went as far as seeking to register a criminal case against him. Convinced of the mala fide of the respondents and aggrieved of their illegal and unfair actions, the appellant filed Writ Petition No. 1563-P/2013 before the Hon'ble Peshawar High Court, which was disposed off in his favour vide Order dated 24/09/2013 with the direction to the respondents to verify the degree of the appellant and abort proceedings against him should it turn out to be authentic, otherwise proceed against him with a regular inquiry if it emerged that the degree was fake. Through this Order of the Hon'ble Peshawar High Court, the appellant stood vindicated. Secondly, the appellant's degree is authentic and genuine; in fact, the respondents have miserably failed to disprove the authenticity of the appellant's degree. The email of the KP Public Service Commission referred to by the respondents in their Comments is dated 03/04/2013, which is well before the Order dated 24/09/2013 of the Hon'ble Peshawar High Court whereby it negated the proceedings undertaken by the respondents till that point. In fact, the respondents were directed by the Hon'ble Peshawar High Court to undertake fresh endeavours to verify the authenticity of the appellant's degree and to conduct a regular inquiry against him. Hence, the email of the KP Public Service Commission referred to has no weightage and credibility post the Order dated 24/09/2013 of the Hon'ble Peshawar High Court.
- 4. That, in response to Para 6 of the Comments, it must be noted that, in accordance with the Order dated 24/09/2013 of the Hon'ble Peshawar High Court, the appellant presented his original degree (and other relevant documents in original) to the respondents who, in violation of the directions of the Hon'ble Peshawar High Court, failed to complete the process of verification of the appellant's genuine degree within the one-month time frame. Admittedly, rather than having completed the process of verification as per the directions of the Hon'ble Peshawar High Court, the approached the Higher Education Commission, Islamabad on respondents 27/01/2014 well after the appellant had submitted a copy of his original degree to the respondents. Moreover, the half-hearted, delayed and fruitless attempts of the respondents to disprove the authenticity of the appellant's degree clearly vindicate the appellant in his stance that his degree is indeed authentic. In fact, the respondents have miserably and laughably failed at trying to disprove the authenticity of the appellant's degree, which is indeed genuine. It further proves that the bogus email submitted by the brother of the appellant - which dates back to 2001 - upon which proceedings were illegally commenced against the appellant, was indeed a fake and fabricated one.
- 5. Paras 7 and 8 need no comments.
- 6. Para 9 of the Comments is incorrect, hence it is vigorously denied. It must be noted that the appellant's application dated 28/11/2013 for early retirement was deliberately kept pending until the respondents finally replied to the appellant in the negative vide

letter dated 27/06/2014, after almost 7 whole months. Moreover, it is surprising to note that the appellant submitted his application for early retirement in November 2013 whereas the respondents appointed an Inquiry Officer in the case of the appellant vide letter dated 10/12/2013 and the statement of allegation and the Charge Sheet were issued towards the end of December 2013. Hence, it is more than obvious that the appellant had indeed filed his application for early retirement well before departmental proceedings against him had officially commenced afresh after the Order dated 24/09/2013 of the Hon'ble Peshawar High Court.

7. Para 10 of the Comments is grossly inaccurate, misleading and hence the same is most vigorously denied. Firstly, from a bare perusal of the record, it is instantly made clear that the respondents did not complete the inquiry against the appellant within the one-month time frame as directed by the Hon'ble Peshawar High Court vide Order dated 24/09/2013. In fact, as is discussed above, the respondents miserably failed to disprove the authenticity of the appellant's degree. Hence, feeling frustrated and cornered, the respondents concocted the false charge of willful absence and removed the appellant in a hasty, illegal and slipshod manner vide the impugned l Notification dated 12/10/2015. Secondly, it may be graciously noted that the appellant never applied for any leave but rather he was sent on 120 days forced leave. Moreover, the appellant did indeed submit his arrival report on 14/10/2013. However, despite having placed his services at the disposal of the respondents, the appellant was deliberately made to keep waiting for his posting. Hence, the appellant once again submitted his arrival report on 14/07/2014 but was once again intentionally, and for reasons best known to the respondents, not assigned any duties due to the pendency of an inquiry against him. At this juncture, it must be noted that despite the willful inaction of the respondents regarding the appellant's arrival reports, the latter would regularly attend the office of his previous posting i.e. Industry Section of P&D. Moreover, it does not stand to reason that the respondents would notice the appellant's alleged absence after 6 months from his alleged date of absence i.e. 27/12/2013. It must also be noted that the respondents were well aware, by virtue of the early retirement application dated 28/11/2013 submitted by the appellant that during this period the appellant was diagnosed with and was suffering from "Cutacous T-Cell Lymphoma", which is a type of skin cancer with the severity of Stage III. The appellant's condition naturally required him to undergo hospitalization at the Pakistan Institute of Medical Sciences (PIMS) Islamabad for long term Chemotherapy & Radiotherapy treatment. Thirdly, the appellant had provided the respondents with all the requisite documents in original. Hence, this allegation of the respondents is also baseless, frivolous and is merely a futile attempt at creating a smokescreen in order to cover up their own mala fide and ill will towards the appellant who is terminally ill. Fourthly, at the outset, it must be mentioned that the respondents did not attempt to contact the appellant. Moreover, the notices, which were published in the mentioned dailies on 31/07/2015, required the appellant to report for duty within 15 days. These notices were absurd as they completely, and willfully, failed to take into account the fact that the appellant was due to retire on 15/08/2015. Hence, this is clear evidence of the fact that the respondents were in a rush to remove the appellant from his services in order to deprive him of his pensionary benefits thereby fulfilling their nefarious designs. Finally, the appellant was once again condemned unheard vide impugned Notification 12/10/2015 on the trumped up allegation of willful absence. In fact, neither was any formal inquiry conducted in this regard and nor was any Show Cause Notice issued to the appellant. Hence, the impugned Notification dated 12/10/2015 - which has been passed in a clandestine manner and in total disregard of the available record, law/rules on the subject - is illegal, unlawful, unjust and tainted with mala fide. Moreover, the illegal removal of the appellant from service on a new allegation of willful absence as well as the lack of a proper/regular inquiry/proceedings clearly show the intent of the respondents who have always been hell bent on removing the appellant by hook or by crook.

- 8. That, in response to Para 11, it must be noted that the appellant filed his Review/Appeal petition on 09/11/2015 before the respondents concerning the impugned Notification dated 12/10/2015. The respondents, for reasons best known to them, willfully chose not to reply to the appellant's review petition thereby forcing him to send them a reminder vide application dated 03/02/2016 requesting for the expeditious disposal of his Review petition. This finally prompted the respondents to reply to the appellant vide letter dated 15/02/2016 informing him, in a wholly unconsidered and perfunctory manner, that his Review petition had been rejected without even providing any reasons for the same whatsoever.
- 9. Para 12 of the Comments is incorrect, hence it is denied. Being rightfully and legitimately aggrieved of the unlawful actions and non-actions on the part of the respondents, the appellant has every reason to file the present appeal before this Hon'ble Tribunal challenging the illegality of the treatment meted out to him. Furthermore, far from following all the codal formalities, the respondents did not proceed against the appellant in accordance with the relevant law/rules at all. Furthermore, reliance is placed on the preceding paras of this rejoinder.

REJOINDER TO THE GROUNDS:

- A. Ground A of the Comments is incorrect and is hence denied. The impugned Notification is a manifestation of the ill will of the respondents towards the appellant and is a perfect example of the perversion of the law. In fact, the same is completely contrary to the available record and the facts, hence it is liable to be set aside in the interest of justice.
- B. Grounds B and C are misleading, evasive and hence are vehemently denied as being incorrect. As is discussed in sufficient detail in the preceding paras of this rejoinder, the appellant never absented himself from service. This is evident from the fact that the appellant was forced to go on earned leave for a 120 days w.e.f. 29/08/2013 till 26/12/2013. Moreover, the appellant also submitted his arrival report twice i.e. first on 14/10/2013 and then on 14/07/2014 but he was deliberately not assigned any post/duties due to the pendency of the inquiry against him. In fact, the appellant, despite his ill health and serious condition, would even regularly attend the office of his previous posting i.e. Industry Section of P&D. However, the appellant's earnest efforts to resume his duties were to no avail. Moreover, it must also be noted that the respondents never tried to contact the appellant as they were hell bent on removing him from service one way or another. Hence, in light of the foregoing facts, it is clear that the appellant never absented himself from service and that the respondents completely failed to proceed against him in accordance with the relevant law/rules.
- C. Ground D of the Comments is grossly inaccurate and is, therefore, vehemently denied. The inquiry against the respondent regarding the verification of his degree was never completed. This is a reality that cannot be denied by the respondents. Moreover, the respondents, due to their frustration over their failure to disprove the authenticity of the appellant's genuine degree, leveled the fictitious allegation of willful absence against the appellant and in this regard, they illegally removed him without following the relevant laws, rules on the subject. Hence, the fact that the respondents illegally removed the appellant without framing a charge, conducting a regular inquiry and serving a Show Cause Notice on him clearly shows their mala fide towards the appellant.
- **D.** Ground E is incorrect, hence is denied. As is discussed in the preceding paras of this rejoinder, the appellant's application for early retirement dated 28/11/2013 was deliberately kept pending until the respondents finally replied to the appellant in the negative vide letter dated 27/06/2014, after almost 7 whole months. This gross and unjustifiable delay on the part of the respondents exposes their mala fide towards the

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appellant. Hence, the respondents completely failed to act in accordance with the law and the relevant rules on the subject.

- E. Ground F of the Comments is evasive and hence it is incorrect. The inquiry against the appellant was deliberately kept pending in part due to the malicious intent of the respondents and in part due to their inability to disprove the authenticity of the appellant's genuine degree. In fact, the appellant's application dated 28/11/2013 for early retirement was rejected after 7 months vide letter 27/06/2014 of the respondents for the sole reason that the appellant was still the subject of inquiry proceedings. Hence, the stance of the respondents that the inquiry against the appellant was completed in time is false, frivolous and baseless.
- F. Ground G is laughably inaccurate, hence it is denied. The impugned Notification dated 12/10/2015 was passed in a wholly clandestine manner and neither was the appellant issued any Show Cause Notice and nor was he given an opportunity to defend himself in person. In fact, the respondents did not even attempt to approach/contact the appellant whatsoever. Hence, the appellant was removed in a completely arbitrary and whimsical manner. Moreover, it must be noted that the treatment meted out to the appellant is a glaring violation of the principles of natural justice, good governance and fair trial, which incidentally is enshrined as a fundamental right in the Constitution of the Islamic Republic of Pakistan 1973 ("Constitution").
- G. Ground H is illogical, irrational and hence it is denied as being laughably inaccurate. The sole purpose of the respondents by publishing the absurd notices in the dailies was to achieve their nefarious designs. Furthermore, <u>and more importantly</u>, it is forcefully reiterated here that the impugned Notification was passed on 12/10/2015 whereas the appellant had already reached the age of superannuation on 15/08/2015 and was deemed retired.

H. Ground I needs no comments.

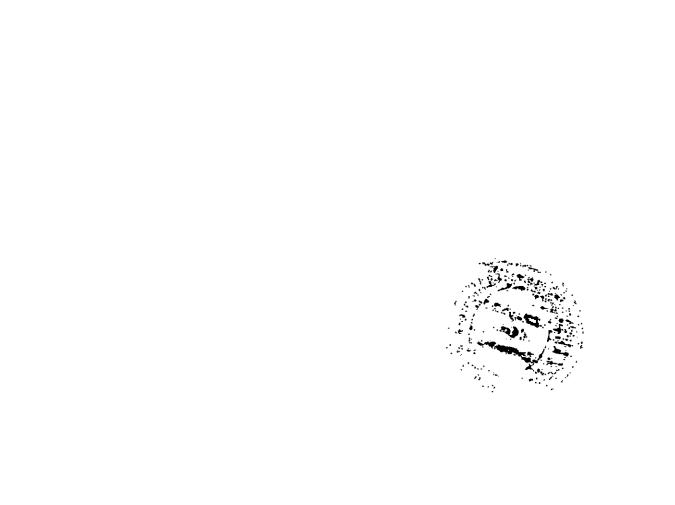
In view of the foregoing facts and circumstances of the case, the appellant out rightly deserves the relief sought and prayed for in his appeal.

Applicate Appellant

Through

Barrister Waqar Ali Khan

Date: 22nd December, 2017



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And the second

Service Appeal No. 284-P/2016

MR. AZMATULLAH KHAN

VERSUS

GOVERNMENT OF KPK AND OTHERS

AFFIDAVIT

I, Azmatullah Khan S/o Fatehullah Khan, the appellant above-named, R/o House No. 37, Sector G-4, Phase II, Hayatabad Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying Rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

DEPONENT April Illeldo

NIC-17301-1298081-1

Identified By:

Aamir Ali Advocate Peshawar.

Service Appeal No. 284-P/2016

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VERSUS

GOVERNMENT OF KPK AND OTHERS

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Waqar Ali Khan

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having recovered, the appellant hastened to file his representation before the Additional Chief Secretary KP (P&D) dated 24/05/2013. Hence, the said delay was not in the control of the appellant. Moreover, as is already mentioned in the appellant's appeal petition, he had submitted all-the requisite documents with the subject representation.

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letter dated 27/06/2014, after almost 7 whole months. Moreover, it is surprising to note that the appellant submitted his application for early retirement in November 2013 whereas the respondents appointed an Inquiry Officer in the case of the appellant vide letter dated 10/12/2013 and the statement of allegation and the Charge Sheet were issued towards the end of December 2013. Hence, it is more than obvious that the appellant had indeed filed his application for early retirement well before departmental proceedings against him had officially commenced afresh after the Order dated 24/09/2013 of the Hon'ble Peshawar High Court.

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REJOINDER TO THE GROUNDS:

- A. Ground A of the Comments is incorrect and is hence denied. The impugned Notification is a manifestation of the ill will of the respondents towards the appellant and is a perfect example of the perversion of the law. In fact, the same is completely contrary to the available record and the facts, hence it is liable to be set aside in the interest of justice.
- B. Grounds B and C are misleading, evasive and hence are vehemently denied as being incorrect. As is discussed in sufficient detail in the preceding paras of this rejoinder, the appellant never absented himself from service. This is evident from the fact that the appellant was forced to go on earned leave for a 120 days w.e.f. 29/08/2013 till 26/12/2013. Moreover, the appellant also submitted his arrival report twice i.e. first on 14/10/2013 and then on 14/07/2014 but he was deliberately not assigned any post/duties due to the pendency of the inquiry against him. In fact, the appellant, despite his ill health and serious condition, would even regularly attend the office of his previous posting i.e. Industry Section of P&D. However, the appellant's earnest efforts to resume his duties were to no avail. Moreover, it must also be noted that the respondents never tried to contact the appellant as they were hell bent on removing him from service one way or another. Hence, in light of the foregoing facts, it is clear that the appellant never absented himself from service and that the respondents completely failed to proceed against him in accordance with the relevant law/rules.
- C. Ground D of the Comments is grossly inaccurate and is, therefore, vehemently denied. The inquiry against the respondent regarding the verification of his degree was never completed. This is a reality that cannot be denied by the respondents. Moreover, the respondents, due to their frustration over their failure to disprove the authenticity of the appellant's genuine degree, leveled the fictitious allegation of willful absence against the appellant and in this regard, they illegally removed him without following the relevant laws, rules on the subject. Hence, the fact that the respondents illegally removed the appellant without framing a charge, conducting a regular inquiry and serving a Show Cause Notice on him clearly shows their mala fide towards the appellant.
- D. Ground E is incorrect, hence is denied. As is discussed in the preceding paras of this rejoinder, the appellant's application for early retirement dated 28/11/2013 was deliberately kept pending until the respondents finally replied to the appellant in the negative vide letter dated 27/06/2014, after almost 7 whole months. This gross and unjustifiable delay on the part of the respondents exposes their mala fide towards the

appellant. Hence, the respondents completely failed to act in accordance with the law a and the relevant rules on the subject.

- E. Ground F of the Comments is evasive and hence it is incorrect. The inquiry against the appellant was deliberately kept pending in part due to the malicious intent of the respondents and in part due to their inability to disprove the authenticity of the appellant's genuine degree. In fact, the appellant's application dated 28/11/2013 for early retirement was rejected after 7 months vide letter 27/06/2014 of the respondents for the sole reason that the appellant was still the subject of inquiry proceedings. Hence, the stance of the respondents that the inquiry against the appellant was completed in time is false, frivolous and baseless.
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H. Ground I needs no comments.

In view of the foregoing facts and circumstances of the case, the appellant out rightly deserves the relief sought and prayed for in his appeal.

Through

Barrister Waqar Ali Khan

Date: 22nd December, 2017

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I, Azmatullah Khan S/o Fatehullah Khan, the appellant above-named, R/o House No. 37, Sector G-4, Phase II, Hayatabad Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying Rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

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Waqar Ali Khan

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The appellant most earnestly craves the permission of this Hon'ble Tribunal to submit the following rejoinder with utmost respect:

REJOINDER ON THE PRELIMINARY OBJECTIONS:

- 1. Para 1 is totally wrong and hence it is denied. The present appeal filed by the appellant is maintainable and is correct in law and the facts as well.
- 2. Para 2 is incorrect, hence denied. The appellant, whose rights have been mortally offended due to the actions and non-actions of the respondents, has got *locus standi* to file the present appeal.
- 3. Para 3 is incorrect, hence denied. The appellant has come to this Hon'ble Court with clean hands. In fact, it is actually the respondents whose ill will and *mala fide* towards the appellant has been exposed through the present appeal.
- 4. Para 4 is incorrect, hence it is denied. In an attempt to divert the attention of this Hon'ble Tribunal, the respondents are raising standardized and tangential objections.
- 5. Para 5 is incorrect, hence denied. The appellant has not concealed any facts from this Hon'ble Tribunal. The veracity of the claims raised in the appeal of the appellant are unassailable.

REJOINDER ON THE FACTS:

- 1. Paras 1 to 3 need no comments.
- 2. Para 4 is incorrect, hence is denied. During the relevant period, the appellant's father was gravely ill and was on his deathbed. Feeling utterly distraught, the appellant had even applied for leave which was sanctioned by the competent authority in order to be with his ailing father in his last days. Regrettably the appellant's father passed away on 02/12/2012, just two days shy of the appellant's scheduled meeting with the two-member committee (i.e. 04/12/2012). Greatly saddened by the tragic demise of his father, the appellant entered into a period of intense mourning. Later on, after

having recovered, the appellant hastened to file his representation before the Additional Chief Secretary KP (P&D) dated 24/05/2013. Hence, the said delay was not in the control of the appellant. Moreover, as is already mentioned in the appellant's appeal petition, he had submitted all the requisite documents with the subject representation.

- Para 5 is incorrect, hence it is vehemently denied. At the outset, it must be mentioned that the appellant was not subjected to a proper/regular inquiry/proceedings in complete contravention of the relevant Laws/Rules. In fact, the respondents had deliberately and maliciously proceeded against the appellant in his absence in spite of being fully aware of his tragic personal circumstances. Hence, the appellant had been condemned unheard, and all because of a bogus email which surprisingly dated back to the year 2001. Moreover, the appellant had submitted his representation as soon as he could; however, the respondents willfully overlooked the same. To the utter shock and dismay of the appellant, instead of re-scheduling another meeting with the him or even responding to his representation, the respondents served on the appellant a Show Cause Notice and Suspension Order and even went as far as seeking to register a criminal case against him. Convinced of the mala fide of the respondents and aggrieved of their illegal and unfair actions, the appellant filed Writ Petition No. 1563-P/2013 before the Hon'ble Peshawar High Court, which was disposed off in his favour vide Order dated 24/09/2013 with the direction to the respondents to verify the degree of the appellant and abort proceedings against him should it turn out to be authentic, otherwise proceed against him with a regular inquiry if it emerged that the degree was fake. Through this Order of the Hon'ble Peshawar High Court, the appellant stood vindicated. Secondly, the appellant's degree is authentic and genuine; in fact, the respondents have miserably failed to disprove the authenticity of the appellant's degree. The email of the KP Public Service Commission referred to by the respondents in their Comments is dated 03/04/2013, which is well before the Order dated 24/09/2013 of the Hon'ble Peshawar High Court whereby it negated the proceedings undertaken by the respondents till that point. In fact, the respondents were directed by the Hon'ble Peshawar High Court to undertake fresh endeavours to verify the authenticity of the appellant's degree and to conduct a regular inquiry against him. Hence, the email of the KP Public Service Commission referred to has no weightage and credibility post the Order dated 24/09/2013 of the Hon'ble Peshawar High Court.
- 4. That, in response to Para 6 of the Comments, it must be noted that, in accordance with the Order dated 24/09/2013 of the Hon'ble Peshawar High Court, the appellant presented his original degree (and other relevant documents in original) to the respondents who, in violation of the directions of the Hon'ble Peshawar High Court, failed to complete the process of verification of the appellant's genuine degree within the one-month time frame. Admittedly, rather than having completed the process of verification as per the directions of the Hon'ble Peshawar High Court, the approached the Higher Education Commission, Islamabad on 27/01/2014 well after the appellant had submitted a copy of his original degree to the respondents. Moreover, the half-hearted, delayed and fruitless attempts of the respondents to disprove the authenticity of the appellant's degree clearly vindicate the appellant in his stance that his degree is indeed authentic. In fact, the respondents have miserably and laughably failed at trying to disprove the authenticity of the appellant's degree, which is indeed genuine. It further proves that the bogus email submitted by the brother of the appellant - which dates back to 2001 - upon which proceedings were illegally commenced against the appellant, was indeed a fake and fabricated one.
- 5. Paras 7 and 8 need no comments.
- 6. Para 9 of the Comments is incorrect, hence it is vigorously denied. It must be noted that the appellant's application dated 28/11/2013 for early retirement was deliberately kept pending until the respondents finally replied to the appellant in the negative vide

letter dated 27/06/2014, after almost 7 whole months. Moreover, it is surprising to note that the appellant submitted his application for early retirement in November 2013 whereas the respondents appointed an Inquiry Officer in the case of the appellant vide letter dated 10/12/2013 and the statement of allegation and the Charge Sheet were issued towards the end of December 2013. Hence, it is more than obvious that the appellant had indeed filed his application for early retirement well before departmental proceedings against him had officially commenced afresh after the Order dated 24/09/2013 of the Hon'ble Peshawar High Court.

7. Para 10 of the Comments is grossly inaccurate, misleading and hence the same is most vigorously denied. Firstly, from a bare perusal of the record, it is instantly made clear that the respondents did not complete the inquiry against the appellant within the one-month time frame as directed by the Hon'ble Peshawar High Court vide Order dated 24/09/2013. In fact, as is discussed above, the respondents miserably failed to disprove the authenticity of the appellant's degree. Hence, feeling frustrated and cornered, the respondents concocted the false charge of willful absence and removed the appellant in a hasty, illegal and slipshod manner vide the impugned Notification dated 12/10/2015. Secondly, it may be graciously noted that the appellant never applied for any leave but rather he was sent on 120 days forced leave. Moreover, the appellant did indeed submit his arrival report on 14/10/2013. However, despite having placed his services at the disposal of the respondents, the appellant was deliberately made to keep waiting for his posting. Hence, the appellant once again submitted his arrival report on 14/07/2014 but was once again intentionally, and for reasons best known to the respondents, not assigned any duties due to the pendency of an inquiry against him. At this juncture, it must be noted that despite the willful inaction of the respondents regarding the appellant's arrival reports, the latter would regularly attend the office of his previous posting i.e. Industry Section of P&D. Moreover, it does not stand to reason that the respondents would notice the appellant's alleged absence after 6 months from his alleged date of absence i.e. 27/12/2013. It must also be noted that the respondents were well aware, by virtue of the early retirement application dated 28/11/2013 submitted by the appellant that during this period the appellant was diagnosed with and was suffering from "Cutacous T-Cell Lymphoma", which is a type of skin cancer with the severity of Stage III. The appellant's condition naturally required him to undergo hospitalization at the Pakistan Institute of Medical Sciences (PIMS) Islamabad for long term Chemotherapy & Radiotherapy treatment. Thirdly, the appellant had provided the respondents with all the requisite documents in original. Hence, this allegation of the respondents is also baseless, frivolous and is merely a futile attempt at creating a smokescreen in order to cover up their own mala fide and ill will towards the appellant who is terminally ill. Fourthly, at the outset, it must be mentioned that the respondents did not attempt to contact the appellant. Moreover, the notices, which were published in the mentioned dailies on 31/07/2015, required the appellant to report for duty within 15 days. These notices were absurd as they completely, and willfully, failed to take into account the fact that the appellant was due to retire on 15/08/2015. Hence, this is clear evidence of the fact that the respondents were in a rush to remove the appellant from his services in order to deprive him of his pensionary benefits thereby fulfilling their nefarious designs. Finally, the appellant was once again condemned unheard vide impugned Notification 12/10/2015 on the trumped up allegation of willful absence. In fact, neither was any formal inquiry conducted in this regard and nor was any Show Cause Notice issued to the appellant. Hence, the impugned Notification dated 12/10/2015 - which has been passed in a clandestine manner and in total disregard of the available record, law/rules on the subject - is illegal, unlawful, unjust and tainted with mala fide. Moreover, the illegal removal of the appellant from service on a new allegation of willful absence as well as the lack of a proper/regular inquiry/proceedings clearly show the intent of the respondents who have always been hell bent on removing the appellant by hook or by crook.

- 8. That, in response to Para 11, it must be noted that the appellant filed his Review/Appeal petition on 09/11/2015 before the respondents concerning the impugned Notification dated 12/10/2015. The respondents, for reasons best known to them, willfully chose not to reply to the appellant's review petition thereby forcing him to send them a reminder vide application dated 03/02/2016 requesting for the expeditious disposal of his Review petition. This finally prompted the respondents to reply to the appellant vide letter dated 15/02/2016 informing him, in a wholly unconsidered and perfunctory manner, that his Review petition had been rejected without even providing any reasons for the same whatsoever.
- 9. Para 12 of the Comments is incorrect, hence it is denied. Being rightfully and legitimately aggrieved of the unlawful actions and non-actions on the part of the respondents, the appellant has every reason to file the present appeal before this Hon'ble Tribunal challenging the illegality of the treatment meted out to him. Furthermore, far from following all the codal formalities, the respondents did not proceed against the appellant in accordance with the relevant law/rules at all. Furthermore, reliance is placed on the preceding paras of this rejoinder.

REJOINDER TO THE GROUNDS:

- A. Ground A of the Comments is incorrect and is hence denied. The impugned Notification is a manifestation of the ill will of the respondents towards the appellant and is a perfect example of the perversion of the law. In fact, the same is completely contrary to the available record and the facts, hence it is liable to be set aside in the interest of justice.
- B. Grounds B and C are misleading, evasive and hence are vehemently denied as being incorrect. As is discussed in sufficient detail in the preceding paras of this rejoinder, the appellant never absented himself from service. This is evident from the fact that the appellant was forced to go on earned leave for a 120 days w.e.f. 29/08/2013 till 26/12/2013. Moreover, the appellant also submitted his arrival report twice i.e. first on 14/10/2013 and then on 14/07/2014 but he was deliberately not assigned any post/duties due to the pendency of the inquiry against him. In fact, the appellant, despite his ill health and serious condition, would even regularly attend the office of his previous posting i.e. Industry Section of P&D. However, the appellant's earnest efforts to resume his duties were to no avail. Moreover, it must also be noted that the respondents never tried to contact the appellant as they were hell bent on removing him from service one way or another. Hence, in light of the foregoing facts, it is clear that the appellant never absented himself from service and that the respondents completely failed to proceed against him in accordance with the relevant law/rules.
- C. Ground D of the Comments is grossly inaccurate and is, therefore, vehemently denied. The inquiry against the respondent regarding the verification of his degree was never completed. This is a reality that cannot be denied by the respondents. Moreover, the respondents, due to their frustration over their failure to disprove the authenticity of the appellant's genuine degree, leveled the fictitious allegation of willful absence against the appellant and in this regard, they illegally removed him without following the relevant laws, rules on the subject. Hence, the fact that the respondents illegally removed the appellant without framing a charge, conducting a regular inquiry and serving a Show Cause Notice on him clearly shows their mala fide towards the appellant.
- D. Ground E is incorrect, hence is denied. As is discussed in the preceding paras of this rejoinder, the appellant's application for early retirement dated 28/11/2013 was deliberately kept pending until the respondents finally replied to the appellant in the negative vide letter dated 27/06/2014, after almost 7 whole months. This gross and unjustifiable delay on the part of the respondents exposes their mala fide towards the

appellant. Hence, the respondents completely failed to act in accordance with the law and the relevant rules on the subject.

- E. Ground F of the Comments is evasive and hence it is incorrect. The inquiry against the appellant was deliberately kept pending in part due to the malicious intent of the respondents and in part due to their inability to disprove the authenticity of the appellant's genuine degree. In fact, the appellant's application dated 28/11/2013 for early retirement was rejected after 7 months vide letter 27/06/2014 of the respondents for the sole reason that the appellant was still the subject of inquiry proceedings. Hence, the stance of the respondents that the inquiry against the appellant was completed in time is false, frivolous and baseless.
- F. Ground G is laughably inaccurate, hence it is denied. The impugned Notification dated 12/10/2015 was passed in a wholly clandestine manner and neither was the appellant issued any Show Cause Notice and nor was he given an opportunity to defend himself in person. In fact, the respondents did not even attempt to approach/contact the appellant whatsoever. Hence, the appellant was removed in a completely arbitrary and whimsical manner. Moreover, it must be noted that the treatment meted out to the appellant is a glaring violation of the principles of natural justice, good governance and fair trial, which incidentally is enshrined as a fundamental right in the Constitution of the Islamic Republic of Pakistan 1973 ("Constitution").
 - Ground H is illogical, irrational and hence it is denied as being laughably inaccurate. The sole purpose of the respondents by publishing the absurd notices in the dailies was to achieve their nefarious designs. Furthermore, and more importantly, it is forcefully reiterated here that the impugned Notification was passed on 12/10/2015 whereas the appellant had already reached the age of superannuation on 15/08/2015 and was deemed retired.

H. Ground I needs no comments.

In view of the foregoing facts and circumstances of the case, the appellant out rightly deserves the relief sought and prayed for in his appeal.

Through

Barrister Waqar Ali Khan

Date: 22nd December, 2017

Service Appeal No. 284-P/2016

MR. AZMATULLAH KHAN

VERSUS

GOVERNMENT OF KPK AND OTHERS

AFFIDAVIT

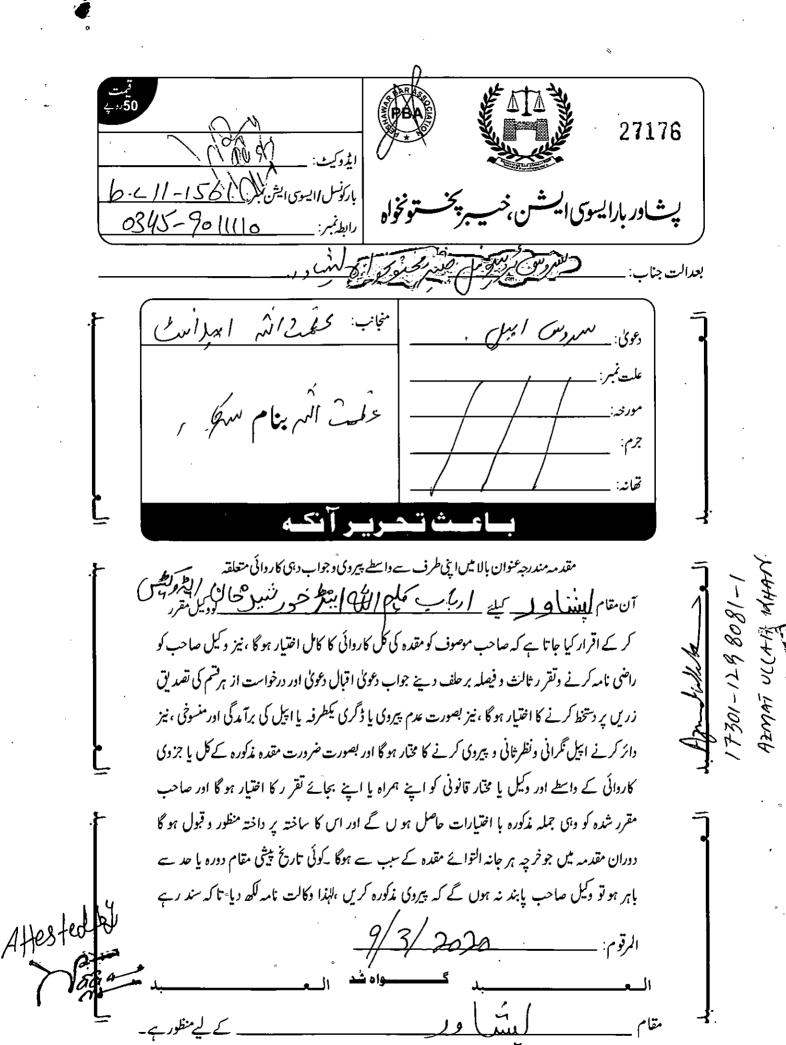
I, Azmatullah Khan S/o Fatehullah Khan, the appellant above-named, R/o House No. 37, Sector G-4, Phase II, Hayatabad Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying Rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

DEPONENT April del de Azmatullah Khan

NIC-17301-1298081-1

Identified By:

Aamir Ali Advocate Peshawar.



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KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2158 /ST

Dated: 29 /10 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281 Fax:- 091-9213262

To

The Secretary Planning & Development Department, Government of Khyber Pakhtunkhwa Peshawar.

Subject:

JUDGMENT IN APPEAL NO. 284/2016 MR. AZMATVLLAH KHAN.

I am directed to forward herewith a certified copy of Judgement dated 08.10.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR