

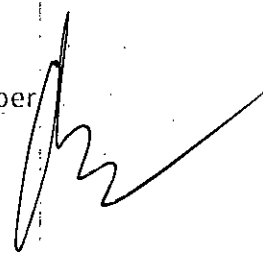
01.07.2016

Appellant in person, M/S Saleem Shah, Supdt and Kefayat Ullah, Admin Officer alongwith Mr. Ziaullah, GP for respondents present. Written reply submitted. Copy handed over to the appellant. To come up for rejoinder and final hearing on 17.08.2016.


Member

17.08.2016

Counsel for the appellant, M/S Kifayatullah, A.O and Gul Nawaz, Assistant alongwith Additional AG for respondents present. Rejoinder not submitted and requested for further time to file rejoinder. Request accepted. To come up for rejoinder and arguments on ~~30-9-16~~ before D.B.

Member 

Member 

30.09.2016

Appellant with counsel, M/S Kifayatullah, Admin Officer and Saleem Shah, Superintendent alongwith Mr. Muhammad Jan, Government Pleader for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today in connected Service Appeal No. 370/2016 titled "Muhammad Pervez-vs-Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others", this appeal is also disposed of as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
30.09.2016


(PIR BAKHSH SHAH)
MEMBER


(ABDUL LATIF)
MEMBER


12.04.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as ~~Asst. Sub~~ Engineer when subject to enquiry on the allegations of certain financial irregularities made in repair of ADP schemes and vide impugned order dated 08.11.2011 appellant compulsorily retired from service with directions of recoveries where-against appellant approach this Tribunal and vide judgment dated 11.09.2015 in service appeal No. 406/2012, this Tribunal directed the appellate authority to decide the departmental appeal of the appellant in accordance with law. That vide impugned order dated 10.3.2016, the appellate authority has maintained the findings of the enquiry committee and hence the instant service appeal on 06.04.2016.

Appellant Deposited
Security & Process Fee


It is that the enquiry was not conducted in the prescribed manner and opportunity of personal hearing was not afforded to the appellant. That the allegations were not substantiated in the enquiry and no opportunity of cross examination extended to the appellant.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 01.06.2016 before S.B.


Chairman

01.06.2016

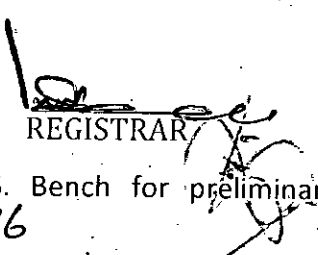

Appellant with counsel and Mr. Saleem Shah, Supdt. and Kifayatullah, Admn. Officer for the respondents present. Requested for adjournment. To come up for written reply/comments on 01.07.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 373 /2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06.04.2016	<p>The appeal of Syed Iftikhar Hussain presented today by Mr. Shumail Ahmad Butt Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p>
2	11-04-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>12.4.16</u></p> <p style="text-align: right;"> REGISTRAR</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 373/2016

Sayed Iftikhar Hussain

Versus

The Govt. of KPK and Others

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3.	Copy of Questionnaire	B	12
4.	Copy of Reply to Questionnaire	C	13
5.	Enquiry Report dated:02/04/2011	D	14-16
6.	Letter of addition in Enquiry Report dated:02/06/2011	E	17
7.	Show Cause Notice dated: 09/06/2011	F	18-19
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APPELLANT

Through

Shumail Ahmad Butt,

H Bilal Khan

&

Zarshad Khan

Advocates, Peshawar

TF-39, Deans trade Center,

Cell#03018580077

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 373 /2016

Sayed Iftikhar Hussain,
Ex-Sub Engineer Highway Division,
R/o Zeran Qubadshah Khel,
Parachinar, Kurram Agency.

**K.W.P. Provincial
Service Tribunal**
Diary No. 339
Dated 06-04-2016

.....Appellant

Versus

1. The Govt. of Khyber Pakhtunkhwa,
Through Chief Secretary,
Civil Secretariat, Peshawar.
2. The Secretary,
To Govt. of Khyber Pakhtunkhwa,
Communication and Works Department,
Civil Secretariat, Peshawar.
3. Additional Chief Secretary FATA,
FATA Secretariat,
Warsak Road, Peshawar.

.....Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 10/03/2016, WHEREBY THE MAJOR PENALTY OF COMPULSORY RETIRMENT AND RECOVERY OF RS.9,27,840/- REMAINED INTACT.

May it please this Honorable Court

1. That while serving as Sub Engineer in the office of XEN Highway Division Kurram Agency, appellant was served with a Charge Sheet and Statement of allegations dated 08/01/2011 alleging therein that irregularities have been committed in the Kirman-Sikaram Road and Surpakh to Star Patti Road when appellant was posted as Sub Engineer Highways Division Kurram Agency.

6/4/16

(Copy of Covering letter, Charge Sheet and Statement of allegations is annex "A")

2. That subsequently an irregular enquiry was conducted by the Enquiry Committee by issuing a questionnaire to the appellant which was duly answered vide reply to the questionnaire and after which the so

called Enquiry Report was submitted to the competent authority on 02/04/2011 and subsequently much after the statutory period vide letter dated 02/06/2011 an addition was also made to the recommendations of the Enquiry Report *ibid*.

(Copy of the Questionnaire is annexure "B")
(Reply to questionnaire is annexure "C")
(Enquiry report dated 02/04/2011 is annexure "D")
(Recommendation of enquiry report dated 02/06/2011 is annexure "E")

- 3. That the final Show Cause Notice was served upon the Appellant vide letter dated 09/06/2011 wherein Major Penalty of compulsory retirement besides recovery of RS.9,27,840/- was proposed against the appellant to which he once again submitted a comprehensive reply thereby clarifying the entire position to the competent authority and denied the charges leveled against him.

(Final Show Cause Notice is annexure "F")
(Reply to the Final Show Cause is annexure "G")

- 4. That without considering the reply of the appellant, the impugned order No.SOE/C&WD/8-21/2010 dated the Peshawar 12/01/2012 was passed whereby major penalty of compulsory retirement besides recovery of RS.9, 27,840/- were imposed upon the appellant.

(Impugned order dated 12/01/2012 is annexure "H")

- 5. That being aggrieved by the impugned order *ibid*, appellant preferred a departmental appeal to the appellate authority on 20/01/2012 who referred the matter to the Chief Engineer (FATA) Works & Services Department, who called for the Report of the Executive Engineer concerned who submitted his report back vide letter dated 07/03/2012 wherein the actual position was explained "*that structural works including retaining walls and removal of slips on both the roads were found completed and intact and at the moment no road slips were found. In short whatsoever been paid to the contractor under the AMO&R 2008-2009 AND 2009-2010 was found on the spot and even after lapse of more than three years, no slip was found and no pulverization of the structural work was observed. The roads were found neat and clean*" but in spite of the same the appeal was rejected and communicated vide letter dated 11/05/2012.

(Departmental Appeal dated 20/01/2012 is annexure "I")
(Report of Executive Engineer is annexure "J")
(Appeal rejected dated 11/05/2012 is annexure "K")

6. That then the appellant feeling aggrieved knocked the door of this Honorable Tribunal by way of Service Appeal No. 604 of 2012 under Section-10 of The Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 Read with Section-4 of the Khyber Pakhtunkhwa Service Tribunals Act, 1974.

(Copy of the Service Appeal No.604/2012 is annexure "L")

7. That this Honorable Tribunal was kind enough to remand the above mentioned service appeal on 11/09/2015 to the appellate authority with directions to examine the case in its entirety and to decide the appeal strictly in accordance with rule 5 *ibid*. Furthermore the appellate authority was also directed to decide the same within 60 days.

(Copy of the Judgment dated 11/09/2015 is annexure "M")

8. That the Appellate Authority once again rejected the appeal of appellant ritualistically vide its judgment and order dated 10.03.2016 (hereinafter referred to as the "impugned appellate decision" for facility of reference) while ignoring altogether not only the judgment and order of this Honorable Tribunal and shutting eyes from the material available on record.

Hence this appeal inter-alia on the following grounds:-

Grounds:

- A. *Because* the Appellate authority was mandated not only by this Honorable Tribunal but the law applicable to the matter that the appeal must be decided fairly, objectively and in light of the directions of this Honorable Tribunal but instead of applying independent judicial mind, the Appellate authority has chosen to remain mechanical and ritualistic.
- B. *Because* the impugned appellate order is passed without any legal or plausible justification and is therefore liable to be reversed.
- C. *Because* the impugned appellate decision is fraught with partiality and is scant and scrimpy in material particulars.

- D. *Because* the impugned appellate decision is based on misreading and non-reading of material available on record.
- E. *Because* the impugned appellate decision has ignored altogether the report of the XEN dated 07.03.2012, deputed by the Appellate Authority himself in previous round of litigation.
- F. *Because* in previous round, before this Honorable Tribunal, Government has absolved the Appellant of Charge No. 2 in view of the statement of Sr.G.P., yet the Appellate Authority chose to repeat earlier decision mechanically and ritualistically.
- G. *Because* even in the inquiry report, previously, the inquiry officer has opined that nobody can determine the age of the structure therefore charge No. 1 also becomes without basis or substantiation.
- H. *Because* so far as the charge No.3, is concerned, which has also been resounded in the impugned order of the appellate authority regarding slips, the same has not been supported by the XEN deputed by the appellate authority itself.
- I. *Because* charges are vague in nature as the Appellant has not been charged for any specific stretch or KM. He cannot be held liable for the entire length of road but can only be made answerable for the given stretch/reach/portion that was subject matter of work done during his tenure.
- J. *Because* Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eyes of law.
- K. *Because* no regular enquiry, which is mandatory under Section-5 of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 was conducted into the allegations leveled against the appellant. No statement was recorded in the presence of the appellant nor any documentary evidence was collected in his presence nor was he provided any opportunity of cross-examination, thus the entire proceedings of the enquiry being violative of mandatory provision of law are void and hence the impugned penalty is not sustainable on the eye of law and liable to be set aside. Moreover, the Enquiry Report has been submitted after 84 days, whereas under the law, the same was to be completed within 25 days and even competent

authority the same to be completed within the same statutory period.

- L. *Because* since there was factual controversy involved in the matter which necessitated the holding of a detailed regular enquiry into the allegations without which the controversy could not be resolved but unfortunately the regular enquiry was deliberately omitted which was prejudicially affected the appellant and as such has resulted in serious miscarriage of justice. It is a settled law enunciated by the Apex Court that in cases of factual controversies, regular enquiry is must otherwise no penalty much less major could legally be imposed. Viewed from this angle the impugned penalty is without lawful authority and hence of no legal effect.

- M. *Because* the impugned order is against the principle of natural justice in as much as appellant has not been afforded a meaningful personal hearing by the Enquiry Committee. He was also not provided the same opportunity by the competent authority and by the appellate authority in spite of his repeated requests. Thus the impugned order is against the principle of natural justice and as such is not maintainable.

- N. *Because* the appellant has served the Department for quite a long time during which period no complaint whatsoever has ever been made against him from any quarter, thus appellant has longstanding unblemished service record and keeping in view the circumstances of the case the impugned penalty is quite harsh, excessive and does not commensurate with his guilt.

- O. *Because* the perusal of the Enquiry Report would reflect that the same is not based upon any solid proof and evidence rather the same has been upon surmises, conjectures and only suspicions which, however, strongest they might be cannot take the place of a proof. Moreover the Enquiry Committee has gone beyond the scope of the charges contained in the Charge Sheet and the Statement of allegations and it is also a settled principle of law that finding beyond the scope of Charge Sheet is nullity in the eye of law in as much as the accused is to be informed about the charges which he will be required to meet in advance.

- P. *Because* recommendation No.2 of the Enquiry Committee provides that *"Sub-Engineer has signed the M.B Book; therefore, it cannot be proved that the site was not visited before the payments."*

Thus the charge No.2 regarding the fudge payment to the contractor without visiting the Roads has not been proved by the Enquiry Committee but in spite of the same, the same charge has been included in the Show Cause Notice as proved, which signifies that the competent authority has neither gone through the Enquiry Report nor applied his independent judicious mind to the material on the record.

- Q.** *Because* in the recommendation No. 1 the Enquiry Committee has stated that *"it is very difficult to differentiate between the old structures with the new one after one and half years' time and floods affecting the structure."* Now the question arises that how the charge can be said to have been proved when the Enquiry Committee has categorically admitted that it was difficult to differentiate between old structures and the new ones because of the lapse of time and due to the impact of subsequent floods. It appears that the Enquiry Committee has not visited the spot but has prepared the Report while sitting at Peshawar. Moreover, in the remaining part of the recommendations, the Committee observed that *"it seems that irregularities have been made in payment"* whereby 'seems' cannot take the place of 'proves'.
- R.** *Because* the Enquiry Committee has failed to pinpoint any violation of rules, instructions and has not established any sort of misappropriation of public money on the part of the appellant. This particular charge is also beyond the scope of Charge Sheet and Statement of allegations and is therefore, bad in the eye of law. No one can be penalized on the basis of "seems, appears, etc".
- S.** *Because* Charge No.3 says that fudge payment of Rs.27,83,520/- for removal of heavy slips was made but the roads were found full of heavy slips. As per the Show Cause the charges have been proved, which reflects that the competent authority has blindly relied upon the ipse dixit of the Enquiry Committee. As earlier submitted the Enquiry Committee has never visited the spot for confirmation/verification, otherwise it would have collected evidence of local witnesses in support of the charge. Since there is no verbal and documentary evidence to this effect therefore the charge has not been established.
- T.** *Because* the Report of the Enquiry Committee is also clearly belied by the letter of the incumbent Executive Engineer dated 14/01/2011 wherein he has confirmed that he *has inspected all those M&R works in Para Chamkain area of Central Kurram on*

30/12/2010 which were under enquiry and payments made thereon during 2008-2009 and 2009-2010 and that the respective M&R contractor has completed all the works pointed out by the Enquiry Committee in their report according to the standard specification and payment made thereon during 2008-2009 and 2009-2010. Thus this is a certificate to the fact that the charge was false and the Government sustained no loss.

- U. Because even the appellate authority enquired into the actual facts on the spot by referring the matter to the Chief Engineer (FATA) who directed the Executive Engineer C&W Division Battagram concerned for the needful who has reported back the matter vide his letter dated 07/03/2012 and thus has elucidated the correct position in the favor of the appellant but even then strange enough that the appeal of the appellant has been rejected. That the Appellate Authority(Chief Minister) has not given any weight to the report of Executive Engineer*

- V. Because the findings of the Enquiry Committee in Para-1 of the observations are also the result of the going beyond the scope of the Charge Sheet. The condition introduced by the Chief Engineer is the creation of his own mind unconcerned with the facts and not supported by any law and rules that same was meant for black topped roads and cannot be applied to the shingled roads which do not involve resurfacing. The release letters say that the expenditure should be incurred judiciously with consultation of the concerned Political Agent and the appellant has followed it being meant for shingled roads approved and decided by the Political Agent as is evident from the list of roads approved Political Agent, thus no irregularity has been committed.*

- W. Because the Competent Authority (Chief Minister) while re-examining the appeal of the appellant has rejected the appeal without following the requirements of rule-5 of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986.*

- X. Because the appellate authority was directed by the Honorable Tribunal to decide the same within 60 days however it was decided after almost 180 days which is glare violation of the Court order.*

- Y. Because the Appellant was not given chance of being heard by the appellate authority in spite of request.*

- Z. *Because* after completion of work on site traffic remained flowing smoothly and no complaint has been made from public in duration of **18 months** since its opening till floods however Suddenly after floods in the mid of 2010 roads were inspected and reported to be full of slips.
- AA. *Because* all the Executive Engineers were directed through a letter dated 18/08/2010 to submit the report of damages occurred during the ongoing flood catastrophe.
- BB. *Because* none of the members of the enquiry Committee bothered to visit the site in person and carry out the spot inspection to verify the facts on grounds.
- CC. *Because* appellant will raise other grounds at the time of arguments with the prior permission of the Court.

It is therefore most humbly prayed that on acceptance of the instant appeal, the impugned order of the appellate authority dated 10/03/2016 as well the impugned orders dated 12/01/2012 and 11/05/2012 may graciously be set aside and appellant be reinstated into service with all back benefits.

Any other relief not specifically asked for may also be granted to the appellant if deemed fit, just and appropriate.

[Signature]
Appellant

Through

[Signature]
Shumail Ahmad Butt,
Advocate Supreme Court
of Pakistan,

[Signature]
H Bilal Khan

&
[Signature]
Zarshad Khan
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2016

Sayed Iftikhar Hussain

Versus

The Govt. of KPK and Others

AFFIDAVIT

I, SAYED IFTIKHAR HUSSAIN, Ex-Sub Engineer Highway Division, R/o Zeran Qubadshah Khel, Parachinar, Kurram Agency do hereby solemnly declare that the accompanying Appela is true and correct to the best of my Knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Iftikhar Hussain
DEPONENT

ATTESTED



6-4

6

9A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No _____/2016

Sayed Iftikhar Hussain

Versus

The Govt. of KPK and Others

ADDRESSES OF PARTIES

Appellant

Sayed Iftikhar Hussain, Ex-Sub Engineer Highway Division, R/o Zeran Qubadshah Khel, Parachinar, Kurram Agency

Respondents

1. The Govt. of Khyber Pakhtunkhwa,
Through Chief Secretary,
Civil Secretariat, Peshawar.
2. The Secretary,
To Govt. of Khyber Pakhtunkhwa,
Communication and Works Department,
Civil Secretariat, Peshawar.
3. Additional Chief Secretary FATA,
FATA Secretariat,
Warsak Road, Peshawar.

ANNEXURE "A"

10

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No.D(P&M)C&W/1-31/2010
Dated Peshawar the, 27/01/2011

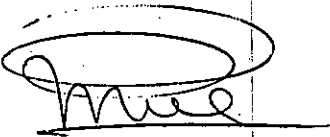
To

✓ Mr. Iftikhar Hussain
Sub Engineer
O/O Highway Division
Kurram Agency


Subject: MIS-APPROPRIATION IN PUBLIC EX-CHEQUER

Enclose please find herewith copies of the Charge Sheet and Statement of Allegations duly signed by the competent authority and submit your written defence within seven (7) days time positively.

DA/As above



ENGR. ZARIFUL MANI (BPS-18)
(PCS SG) PPHI, FR PESHAWAR
(INQUIRY OFFICER)




ENGR. SHAHID HUSSAIN
DIRECTOR P&M
(INQUIRY OFFICER)

Copy to the:

Chief Engineer (FATA) C&W Peshawar. He is requested to depute an officer to assist the inquiry committee and provide them all relevant record as required to the inquiry committee.

- 2) Section Officer (Establishment), C&W Department, Peshawar
- 3) PS to Secretary C&W Department, Peshawar

ENGR. ZARIFUL MANI (BPS-18)
(PCS SG) PPHI, FR PESHAWAR
(INQUIRY OFFICER)



ENGR. SHAHID HUSSAIN
DIRECTOR P&M
(INQUIRY OFFICER)

Attested
Advocate
S

CHARGE SHEET

Whereas, I, Ghulam Dastgir, Chief Secretary, Khyber Pakhtunkhwa, charge you, Iftikhar Hussain, presently posted as Sub Engineer office of XEN, Highway Division Kurram Agency as under:-

"That you while posted as Sub Engineer, Highway Division Kurram Agency, committed the following irregularities in the (i) Kirman-Sikaram Road and (ii) Surpakh to Star Patti Road:

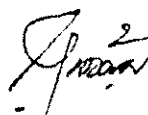
- i. You have made fudge payment amounting to Rs.23,86,863/- to the contractor on old structures i.e. retaining walls, toe walls etc, on the above noted schemes constructed in 2006-07 as an ADP scheme and none of the fresh structures taken in MB were at site.
- ii. You have made fudge payment out of AOM&R funds during 2009-10 to the contractor but not visited these roads for verification/inspection and the measurements have been supplied by the Munshi of the contractor.
- iii. You have made fudge payment amounting to Rs. 27,83,520/- on removal of heavy slips but all the roads were found full of heavy slips.

2. By reasons of the above, you appear to be guilty of misconduct under section-3 of Khyber Pakhtunkhwa, Removal from service (Special Powers) Ordinance, 2000 and have rendered yourself to all or any of the penalties specified in the Section-3 of the Ordinance ibid.

3. You are therefore required to submit your written defence within seven (7) days of the receipt of this charge sheet to the Inquiry Officer/Committee, as the case may be.

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

5. A statement of Allegations is enclosed.


(Ghulam Dastgir)
Chief Secretary
Khyber Pakhtunkhwa

___/01/2011

DISCIPLINARY ACTION

I, Ghulam Dastgir, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, am of the opinion that Iftikhar Hussain, presently Sub Engineer office of XEN Highway Division Kurram Agency, has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of Section-3 of the NWFP, Removal from Service (Special Powers) Ordinance, 2000:-

STATEMENT OF ALLEGATIONS

That he while posted as Sub Engineer, Highway Division Kurram Agency, committed the following irregularities in the (i) Kirman-Sikaram Road and (ii) Surpakh to Star Patti Road:

- i. He has made fudge payment amounting to Rs.23,86,863/- to the contractor on old structures i.e. retaining walls, toe walls etc, on the above noted schemes constructed in 2006-07 as an ADP scheme and none of the fresh structures taken in MB were at site.
- ii. He has made fudge payment out of AOM&R funds during 2009-10 to the contractor but not visited these roads for verification/inspection and the measurements have been supplied by the Munshi of the contractor.
- iii. He has made fudge payment amounting to Rs.27,83,520/- on removal of heavy slips but all the roads were found full of heavy slips.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Inquiry Committee consisting of the following is constituted under Section-5 of the Ordinance:-

- i. Engr Shahid Hussain Director (P&M) C&N
- ii. Mr. Zahirul Manni PPH FR Peshawar

3. The Inquiry Committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within 25 days of 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.

Approved

to the Secretary

(Ghulam Dastgir)
Chief Secretary
Khyber Pakhtunkhwa

Attested
Ahmed
2-

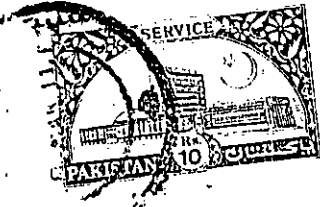
/01/2011

QUESTIONNAIRE

8-2019-1
ON PAKISTAN STATE
SERVICE

ANNEXURE "B"

To ✓
Mr. Iftikhar Hussain,
Sub Engineer, O/O Executive Engineer,
Highway Division, Kurram Agency,
Parachinar



Subject:

MIS-APPRPRIATION OF FUNDS ON ACCOUNT OF M&R FUNDS IN C&W DIVISION
KURRAM AGENCY AT PARACHINAR

1. Your full Name and designation
2. Your tenure as Sub Engineer O/O Executive Engineer Highway Division Kurram Agency at Parachinar (Given dates).
3. Have you supervised the AOM&R / repair works of the following two Nos. roads during your stay at C&W Division Kurram Agency:
 - a. Kirman - Sikaram Road
 - b. Surpakh to Star Pattti Road
4. What nature of works, you have executed, on the above mentioned roads and where?
5. How much payment, you have made to the contractors against their work done on these 2 Nos. roads. And whether the works done at site have been measured by yourself?
6. Have you checked the quality of work done and how?
7. Have you prepared the Cross-section of the slips/cutting before it's removal and got signed those from Executive Engineer, SDO and Contractors?
8. Are all the repair work executed under your supervision on these roads still intact or damaged or mashed way by floods etc?
9. Have you released the security deposits of M&R works in question to their contractors? If yes, when you have released the security?
10. During execution of works, have any responsible officer inspected the said works? (Give names)
11. What was the estimated cost of these works and when their estimates were prepared?
12. When these works were got technically sanctioned?
13. How much total No. of bills, you have prepared for these M&R works in 2008-09 and 2009-10 and why you have splitted these in many parts?
14. How much total funds were released for these AOM&R works during 2008-09 and 2009-10?

Your reply must reach to the enquiry committee before 7th March, 2011.

(ZARIFUL MANI)
(PCS SG) PPHI,
FR Peshawar

(ENGR. SHAHID HUSSAIN)
DIRECTOR (P&M)
C&W Deptt, Peshawar

C.C.

- Chief Engineer, FATA, C&W Department Peshawar
- Section Officer (Estab) C&W Department Peshawar
- PS to Secretary Govt; of Khyber Pakhtunkhwa, Peshawar

(ZARIFUL MANI)
(PCS SG) PPHI,
FR Peshawar

Attested
Advocate
S.

(ENGR. SHAHID HUSSAIN)
DIRECTOR (P&M)
C&W Deptt, Peshawar

To,

The Director (P&M),
C&W Department Peshawar.

Annexure "C"

13

(Handwritten initials)

Subject:-

MIS-APPROPRIATION OF FUNDS ON ACCOUNT OF M&R FUNDS IN
C7W DIVISION KURRAM AGENCY AT PARACHINAR.

Reference:-

Your letter No.Nil, dated Nil.

The requisite para-wise replies of respective questionnaire are submitted as
under:-

Para No.	Particular of Para	Reply
1	Full name and designation	S. Iftikhar Hussain
2	Tenure as Sub Engineer	From 12-05-2006 (F.N) to date
3	Supervision of AOM&R/ repair work of Sikaram road and Surpakh to Star Patti road.	Yes, I have supervised the work at sites of roads.
4	Nature of work executed in the respective two roads.	i. <u>Sikaram road</u> (a) Structure work (Constn: of Retaining wall). (b) Removal of slips. ii. <u>Surpakh to Star Patti Road.</u> As per Sikaram road.
5	(i) Payments made	1. Sikaram road Rs.2390228/- 2. Surpakh Star Patti road Rs.2780155/-
	(ii) Measurement of work done at site	Yes, I have measured personally.
6	Checking of Quality of work done and how.	Yes, I have checked the quality of work done and was satisfactory.
7	Preparation of X-Section of slip and signing from SDO/ XEN.	Yes, I have do the needful.
8	Present position of work done at present.	(a) The work done on Sikaram road are partially damaged during flood in 2009-10. (b) The work done during (2009-10) on Surpakh Star Patti road are still intact.
9	Release of security.	I have not proposed the release of security of work done on both roads.
10	Inspection of respective work by responsible Officer.	Yes, the same have been checked by Mr. Mohammad Pervez as SDO.
11	Estimates cost of work and date of preparation estimate.	(a) The estimate of the respective work was as under as per approved list by P.A Kurram 1. Sikaram road = Rs.2.00 (M) 2. Surpakh Star Patti road = Rs.9.500 (M) (b) 1. In May 2009. 2. In Nov: 2009.
12	Date of Technical Sanction of work	?
13	Nos of Bills and its splitting.	1. Sikaram road = 6 Nos. (2008-09) 2. Surpakh Star Patti road = 7 Nos (2009-10) And the splitting was according the nature of work in various Kilometer/ reaches.
14	Release of funds for AOM&R during (2008-09) and (2009-10) for this works.	Rs.15.901 (M) and Rs.16.938 (M) were released during the year 2008-09 and 2009-10 respectively for AOM&R of roads in Kurram Agency.

(Handwritten signature)
Dated
20/06/10

(Handwritten signature)
S. Iftikhar Hussain
SUB ENGINEER
HIGHWAY DIVISION KURRAM

INQUIRY REPORT

ANNEXURE

Annexure D

14

Subject: - MIS-APPROPRIATION IN PUBLIC EXCHEQUER

AUTHORITY / ORDER OF INQUIRY: Secretary to Govt. of Khyber Pakhtunkhwa Communication and Works Department, letter No. Secy: C&W Department letter No.SOE/C&WD/8-21/2010, Dated 08.01.2011. (Annexure-I).

CHARGES:

1. Engr. Muhammad Pervez in the capacity of Executive Engineer, Highway Division Kurram Agency and holding the charge of SDO Highway Sub-Division Kurram Agency (now reverted as Assistant Engineer BPS-17), and Engr. Iftikhar Hussain, in the capacity of Sub-Engineer, Highway Sub-Division Kurram Agency, have committed the irregularities in the
 - i. Kirman-Sikaram Road and
 - ii. Surpakh to Star Patti Road
 And made payment of Rs.23,86,863/- to the contractor on old structures i.e, retaining walls, toe walls etc, on the above noted schemes constructed in 2006-07 as ADP scheme and non of the fresh structures were taken in MB at site.
2. He also made payment out of AOM&R funds during 2009-10 to the contractor but not visited these roads for verification/inspection and the measurements have been supplied by the Munshi of the Contractor.
3. Further they made payment amounting to Rs.27,83,520/- on removal of heavy slips but all the roads were found full of heavy slips.

BACKGROUND:

On the nomination of Political Agent Kurram, (Annexure-I), for the M&R works (bridges/Roads) in Central Kurram, "M&R of all roads during 2009-10 in Parachamkani area of Central Kurram" works were awarded to Mr. Muhammad Hayat, by the then Executive Engineer, C&W Highway Division Kurram at Parachinar, (Annexure-2 & 3) and two Nos. Agreements were signed by the parties as Annexure-4 & 5, for the following:-

- i. AOM&R work: SH: Parachamkani area Central Kurram, 2008-09
- ii. SH: All Roads/Bridges in Paramchamkani area (C.K), during 2009-10.

Accountant General Pakistan Revenue Sub. Office Peshawar through a confidential letter: No. WAD(F)/CPWA-60/2009-10/3634-35 dated 10-05-2010 and No. WAD(F)/CPWA-60/2009-10/369-92 dated 01-06-2010 whereby the Chief Engineer (FATA) W&S Department Peshawar was requested to Conduct an inquiry in the case and take action against the persons at fault. Also Recover the amount Rs 10,581,004/- and Rs 3,178,389/- respecting from the persons involved in the mis-appropriation. (Annexure-4).

In line with the Accountant General (PR) Sub office Peshawar office letter No. mentioned above, the Chief Engineer (FATA) office requested Political Agent Kurram to conduct fact finding (Departmental) inquiry at site physically through Technical Committee comprising Executive Engineer Building Division Kurram, representative from Irrigation and local Govt: Department or A.P.A and submit the report within 15 days.

The political Agent constituted an inquiry Committee comprising Assistant Political Agent Central Kurram, Executive Engineer Building Division Kurram and Executive Engineer Irrigation and Hydle Kurram. The Committee Members visited the site for physical verification on 04-10-2010 (Annexure-5).

In light of recommendation, made by the inquiry Committee punitive action was recommended vide Political Agent Kurram letter No. 1072-78/Dev./Inquiry/M&R/Highway/ Kurram dated 08-10-2010 (Annexure-6).

On recommendation of the Political Agent Kurram / Inquiry Committee, Draft sheet / statement of Allegation, was submitted to Secretary (AOC) FATA Secretariat Peshawar vide Chief Engineer (FATA) letter No. 539/3/46-E dated 25-10-2010 (Annexure-7).

PROCEEDING OF INQUIRY:

The charge sheet and statement of allegations served upon accused duly signed by the Competent authority, (Annexure-8) with the direction to submit written defenses within seven (7) days time (Annexure-9) and the same have been provided by the accused, (Annexure-10 & 11).

On the request of the Inquiry Committee, (Annexure-12 & 13) the Executive C&W Division Kurram at Parachinar provided the relevant record to the inquiry committee (Annexure-14). The accused were called upon for appearing before the Inquiry Committee on 28.01.2011 & 17.02.2011 (Annexure-15 & 16) and were heard in person. Engr. Muhammad pervez was heard in the capacity of Executive Engineer, Kurram Agency Parachinar and as a Sub-Divisional Officer Kurram Agency at Parachinar.

Questionnaires were also served upon the accused officer / officials and Divisional Accounts Officers, Highway Division Kurram Agency, Mr. Abdur Rehman to furnish their replies by the March 2011, but Unfortunately no one could submit his reply to the questionnaire till date.

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[Signature]

Page 1 of 2

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OBSERVATIONS:

The following documents supplied to the Committee provided enough ground to the Inquiry Committee to prove the charges.

1. AOM&R funds were released to the Executive Engineer, Highway Division Kurram (as Parachinar) by the Chief Engineer (FATA) during 2008-09 & 2009-10 vide his letter Nos.:
 - i. 565/BW-I/13(2008-09) dated 19-08-2008
 - ii. 920/BW-I/13(2008-09) dated 12-02-2009
 - iii. 172/BW-I/13(2008-09) dated 12-05-2009
 - iv. 317/BW-I/13(2009-10) dated 03-09-2009
 - v. 934/BW-I/13(2009-10) dated 27-01-2010
 - vi. 1214/BW-I/13(2009-10) dated 19-04-2010

In all the above release letters the Chief Engineer (FATA) has categorically stated that "No funds should be spent on retaining walls, Dunga walls and Earth work", whereas on the other hand, all the funds under inquiry have been spent on Retaining walls, Dunga wall and Earthwork.
2. The contractor bills and technical sanctions have been splitted and deliberately restricted to total amounts less than Rs 4.00 Million each just to hide the gross irregularity from the higher authorities.
3. From the study of measurement books, it is noticed that so called slips were occurred and removed by the contractor in long lengths in kilometers without any break of even a single inch. This un-natural phenomenon is quite interesting and as touching. This is a sufficient proof of fudge measurement.
4. It is necessary to prepare x-section for any cutting / slip removal works prior to its execution, which should have been signed by all stakeholders. As after removal of any slips / cutting works, its exact measurement at site is impossible, without x-section.
5. In this specific case, the x-section of the slips / cutting of Earthwork were neither prepared nor provided to the Inquiry Committee.

RECOMMENDATION

1. It is very difficult to differentiate between the old structures with new one after one and half years time and floods affecting the structure, however, it seems that irregularities have been made in payment. As discussed in para 1 & 2 of above Observations, the payment to the contractor on structure work was not allowed at all, and the accused could not present any proof of sanction to that effect, therefore the inquiry committee recommends minor penalty for Mr. Muhammad Pervez (In capacity of Executive Engineer, SDO and Mr. Iftikhar Hussain Sub Engineer.
2. The Sub Engineer has signed the MB Book, therefore it cannot be proved that the site was not visited before the payments.
3. As discussed in para 3 of the Observations, payments on slips show that every inch of it was full of slips which is rather improbable to happen. The Sub Engineer Iftikhar Hussain and SDO / Executive Engineer have passed the bills, therefore directly involved in the scheme; hence the charge is proven against Executive Engineer, SDO & Sub Engr. Therefore major penalty is recommended for Mr. Muhammad Parvez (Executive Engineer / SDO) and Mr. Iftikhar Hussain (Sub Engineer).
4. As discussed in para 1 & 2 of the observations, authorization from the competent authority was avoided by splitting the bills which is possible only with connivance of the Divisional Account Officer Mr. Abdur Rehman. Moreover the account office was supposed to abide by the instructions contained in the release letter but he failed to do so. Therefore the inquiry committee recommends that strict disciplinary action be initiated against the Divisional Account Officer.
5. Recovery of Rs. 2783520/- may be made from all concerned.

Zairful Mani
Engr. ZAIRFUL MANI
(PCS SG) PPHI, FR Peshawar
Inquiry Officer

Shahid Hussain
Engr. SHAHID HUSSAIN
Director Planning & Monitoring
Inquiry Officer

*Attested
Advocate
A.*

ANNEXURE

16

A

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNATION AND WORKS DEPARTMENT

No. D (P&M)/C&W/1-31/2011
Dated Peshawar the, 02, 04, 2011

To

The Secretary,
Govt of Khyber Pakhtunkhwa,
C & W Department Peshawar.

Subject: MIS-APPROPRIATION IN PUBLIC EX-CHEQUER

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07/4/11
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RDSA

Please refer to your letter No.SOE/C&WD/8-21/2010,dated 08-01-2011, and enclosed please find herewith Inquiry report, regarding the subject matter, for favor of further necessary action as desired please.

DA.
Inquiry Report

(ENGR. SHARIF HUSSAIN)
DIRECTOR P & M
Inquiry Officer

ANNEXURE
9/4/11

Attended
Admoralis
A.

GOVERNMENT OF KHYBER PAKHTONKHWA
COMMUNICATION AND WORKS DEPARTMENT

No. D (P&M)/C&W// -3// 2011
Dated Peshawar the, June 02, 2011

To

Section Officer (ESTT)

Subject: MIS-APPROPRIATION IN PUBLIC EX-CHEQUER.

With reference to your letter No: SOE/C&WD/8-21/2010, Dated: 27-04-2011, on the subject cited above, Please read with the recommendations part of the inquiry report:

At the end of para (i) the following should be included:

"Both the officers are censured".

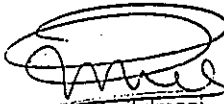
At the end of para (iii) of the recommendations, the following should be included
"Major penalty of reduction to a lower post, grade or time scale or to a lower stage in a time scale" should be accorded to Mr. Muhammad Parvez (Executive Engineer/ SDO) and Mr Iftikhar Hussain (Sub Engineer).

At the end of para (v) of the recommendations, the following should be added:

"Recovery of 27,83,520/- be made from the accused in the following manner:

1) From Muhammad Parvez (In capacity of Executive Engineer)-	927,840/-
2) From Iftikhar Hussain (In capacity of Sub Engineer)-	927,840/-
3) From Muhammad Parvez (As SDO)-	927,840/-
Total-	27,83,520/-

Enquiry Report is already submitted.


Zariulmani 4/4/11
PCS (SG)
Inquiry Officer


Eng Shauhid Hussain
Director Planning & Monitoring
Inquiry Officer

Copy to:

1) Secretary to Govt of Khyber Pakhtonkhwa C&W Department Peshawar for information.

Attested

to

Attested
Approved
1.

T.C.S.

ANNEXURE

~~ANNEXURE~~

18



GOVT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-21/2010
Dated Peshawar, the July 09, 2011

Annexure 'F'²

TO


Mr Iftikhar Hussain
Sub Engineer O/O XEN
Highway Division Kurram Agency
at Parahinar


Subject: MIS-APPROPRIATION IN PUBLIC EX-CHEQUER

I am directed to refer to the subject noted above and to enclose herewith two copies of the show cause Notice containing tentative major penalty of "COMPULSORY RETIREMENT AND RECOVERY OF Rs.9,27,840/-" alongwith inquiry report conducted by Engr. Shahid Hussain, SE C&W Circle Kohat and Zariful Mani, PPHI, FR Peshawar and to state that the 2ND copy of the show cause Notice may be returned to this Department after having signed as a token of receipt immediately.

2. You are directed to submit your reply, if any, within 7 days of the delivery of this letter, otherwise, it will be presumed that you have nothing to put in your defence and ex-party action will follow.
3. You are further directed to intimate whether you desire to be heard in person or otherwise.


(RAHIM BADSHAH)
SECTION OFFICER (ESTT)

Attested

COPY

Attested
Advocate


A ~~Amir~~

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SHOW CAUSE NOTICE

I, Ghulam Dastgir Akhtar, Chief Secretary Khyber Pakhtunkhwa as competent authority do hereby serve you, Iftikhar Hussain (BPS-11), presently posted as Sub Engineer O/O XEN Highway Division Kurram Agency, under Removal from Service (Special Powers) Ordinance, 2000 with this notice for the charges mentioned in the disciplinary action/statement of allegations already served upon you vide C&W Department's endorsement No.SOE/C&WD/S-21/2010 dated 08.01.2011.

2. That on going through the inquiry report of the inquiry committee, material on record and other connected documents, I am satisfied that the following charges leveled against you have been proved:-

"That you while posted as Sub Engineer, Highway Division Kurram Agency, committed the following irregularities in the (i) Kirman-Sikaram Road and (ii) Surpakh to Star Patti Road:

- i. You have made fudge payment amounting to Rs.23,86,863/- to the contractor on old structures i.e. retaining walls, toe walls etc, on the above noted schemes constructed in 2006-07 as an ADP scheme and none of the fresh structures taken in MB were at site.
- ii. You have made fudge payment out of AOM&R funds during 2009-10 to the contractor but not visited these roads for verification/inspection and the measurements have been supplied by the Munshi of the contractor.
- iii. You have made fudge payment amounting to Rs.27,83,520/- on removal of heavy slips but all the roads were found full of heavy slips".

3. That as a result thereof, I as the authority in the exercise of powers conferred on me under RSO 2000, have tentatively decided to impose upon you the major penalty(s) of "Compulsory retirement and recovery of Rs 927840/-".

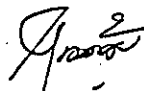
4. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you, and intimate whether you desire to be heard in person.

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

6. The copy of the fresh inquiry report is enclosed.

Attested

to [unclear] copy


(Ghulam Dastgir Akhtar)
Chief Secretary
Khyber Pakhtunkhwa

___/06/2011

Attested
Advocate
S.

To: The Chief Secretary,
Khyber Pakhtunkhwa, Peshawar.
(Competent Authority)

Annexure "G"
20
[Handwritten signatures and marks]

Subject: REPLY TO SHOW-CAUSE NOTICE:
(Wish the Authority personally go through my reply)

Respected Sir,

(A) As per Show-Cause Notice, the following charges were proved against me:

That you while posted as Sub Engineer in Highway Division Kurram Agency committed the following irregularities in (i) Kirman-Sikaram road and (ii) Surpakh to Star Patti Road:

- i. You have made fudge payment amounting to Rs.23,86,863/- to the contractor on old structures i.e. retaining walls, toe walls etc. on the above noted schemes constructed in 2006-07 as an ADP scheme and none of the fresh structures taken in MB were at site.
- ii. You have made fudge payment out of AOM&R funds during 2009-10 to the contractor but not visited these roads for verification/ inspection and the measurements have been supplied by the Munshi of the contractor.
- iii. You have made fudge payment amounting to Rs.27,83,520/- on removal of heavy slips but all the roads were found full of heavy slips.

The competent authority has tentatively decided to impose major penalty of "Compulsory retirement" and "Recovery of Rs.9,27,840/-" against me.

(B)

Charging Sub Engineer for making payments is comical. A Sub Engineer doesn't make any payment but only supervise the work on site while payment is made by Divisional office. One can be charged to the extent of his own responsibility. The charge is, therefore, defective and suggests inefficiency of the dealing hands having no idea of the role of different functionaries in the department.

It is against law to hold one responsible for a wrong without bringing any oral or documentary evidence on record in support of the charges. Mere "Suspicion" can not take the place of "Proof".

Despite my request I was not provided an opportunity to Cross Examine the Complainant or any witness. In fact there was none to support charge.

In the instant case, the Inquiry Committee has gone far beyond the scope of CHARGES contained in the Charge-sheet while the Competent authority seems to have decided the case without looking into the record and/ or applying his independent/ judicious mind to the facts of the case.

Attested
Advocate
[Handwritten signature]

(C)

Recommendation-2 of the Inquiry report is worth perusal:

"The Sub Engineer has signed the MB Book, therefore it cannot be proved that the site was not visited before the payments.

Charge (ii) is regarding fudge payment to the contractor without visiting roads and the Committee says that "in view of the signature of Sub Engineer on MB, the charge cannot be proved.

But the competent authority has blindly incorporated this charge in the Show-cause against the findings of the Committee? It proves that he has neither gone through the inquiry report nor has applied his independent/ judicious mind to the material on record.

(D)

Recommendation-1 of the Inquiry report reads as under:

"It is very difficult to differentiate between the old structures with new one after one and half years time and floods affecting the structure."

How the charge can be said proven where the Inquiry Committee admits that it is very difficult to differentiate between old structure and new work because of the lapse of time and due to the structure affected by the subsequent floods?

The Inquiry Committee has not visited the roads but has prepared its report while sitting in their office at Peshawar, which is a joke in the name of inquiry. None can be held guilty without seeing the site.

The Inquiry Committee further says that "however, it seems that irregularities have been made in payment". But strangely they have not pointed out any particular rule violated by the undersigned or others.

The word "it seems" cannot be read as "it proves". No punishment can be awarded on the basis of surmises and conjectures. Further more this part of the recommendation is beyond the scope of charge served upon me.

Charge (iii) says that I have made fudge payment of Rs.27,83,520/- for removal of heavy slips but the roads were found full of heavy slips and the Committee has held the charge proved in a childish manner.

*Noted
to be taken up by
Batesed
Advocate
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For God, when the Committee has neither visited the site nor have they examined any witness in support of the charge, how could they confirm the charge as proved? Were they not required to inspect the road and record statement of any local in support of the charge?

They have given a false/ non sense and childish reason in support of their recommendation for awarding major penalty on charge (iii) that the payment for slips on every inch was improbable.

Whether law allow punishment on probabilities? Perhaps they have never seen heavy slips, which are always cleaned with dozers, not with hands.

Show-Cause suggests that the Authority has not applied its independent/ judicious mind to the matter, but has blindly relied upon the ipse dixit of the Inquiry committee, while stating the charge as proved.

In order to belic the ipse dixit of inquiry committee, a copy of the incumbent Executive Engineer letter dated 14.1.2011 is attached (Annexure-A) for perusal, wherein he has confirmed that:

He has inspected all those M&R works in Para Chamkani area of central Kurram on 30.12.2010, which were under enquiry and payment made there on during 2008-09 and 2009-10 and that:

The respective M&R contractor has completed all the works pointed out by the enquiry committee in their report according to standard specification and payment made there on during 2008-09 and 2009-10.

This letter in fact is a certificate of my innocence and falsity of the charge. It proves that the government has not sustained any loss; hence there arises no question of any recovery and/ or awarding major penalty.

So far as the release letters referred to in the inquiry report are concerned, they do not prove the charge contained in the Charge-sheet i.e. fudge payment. In para-1 of their observations the Inquiry Committee has gone far beyond the scope of the Charge-sheet, which is against law.

*Attorney
Advocate
A.*

The so called condition introduced by the Chief Engineer is not supported by any law/ rules beside that the same was meant for "black topped" roads and cannot be applied on to the "shingled roads", which do not involve any resurfacing.

As per release letters "the expenditure should be incurred judiciously with consultation/ approval of the concerned Political Agent" and the undersigned has followed it for "shingled roads approved and decided by the Political Agent".

In this regard copy of sanction by P.A. Kurram are attached Annexure-B and C) to prove that the M&R works were carried judiciously with consultation and approval of the concerned P. A. The letters of the Chief Engineer empowers Political Agent to approve and decided the roads for M&R works and hence no irregularity committed.

No charge was framed regarding splitting contractor bills and technical sanctions in the Charge-sheet. It is mere concoction as nothing has happened as such. The findings are therefore out of place.

(G) With due respect, the Inquiry Committee was not only inefficient but also inimical towards the undersigned. It has falsely been alleged in last para of their Report at page1 and in Observation-4 and 5 at page-2 that the accused have neither responded to the questionnaires nor have they furnished the X-section for the cutting/ slips.

In fact they have not served any questionnaire on me. While the Executive also holding the charge of Sub Divisional Officer has not only submitted his replies to the questionnaire served upon him with an incorrect address, but has also furnished X-Sections to Engr. Shahid Hussain through his assistant namely Mr. Hashmat on 2.4.2011 as is evident from the acknowledgement receipt (Annexure-D) attached with his reply, which prove falsity of the Inquiry committee and that they were inimical towards the accused. The Inquiry committee has falsely alleged so in their report to fill color in their sketchy report. I request the Hon'ble Competent authority to issue proper charge-sheet to the inefficient and inimical members of Inquiry Committee for the falsehood and ruining the career of others for personal motives.

Attended Advocate
LS

Whether the Inquiry Committee was not required to provide a fair opportunity to the undersigned/ accused to cross examine the complainant or informant of the case? Strange to see that the Inquiry Committee has not examined a single witness in support of the charges and hence no conviction can be inflicted against the undersigned on the hearsay.

Whether an inefficient and inimical Inquiry Committee can be relied upon for deciding the fate of the others? No not at all until and unless one is in league with them and predetermined to award punishment.

Whether the tentative decision arrived at by the competent authority and ipse dixit of the inquiry committee can meet or face the test of judicial review, if a petition is filed before the august Supreme Court for looking into the state of affairs/ governance? Will it not throw the Competent authority into an embarrassing situation, if the Supreme Court asks for justification of penalty?

With the aforesaid submissions, it is most humbly prayed that the Show-Cause Notice issued to the undersigned, may graciously be withdrawn/ vacated being it against law/ facts and natural justice and the undersigned may kindly be exonerated of the vague / false charges leveled against him in a whimsical manner.

I also wish to be heard in person.

Yours Obediently,

Iftkhar Hussain
(Iftkhar Hussain)

Sub Engineer/ Accused Official:

*Attested
Advocate
A*

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A
~~Annexure H~~
GOVT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

25

Dated Peshawar, the January 12, 2012

ORDER:

No. SOE/C&WD/8-21/2010. WHEREAS, Mr. Iflikhar Hussain, Sub Engineer (BS-11) C&W Department was proceeded against under the Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance 2000 for the the following irregularities committed in the "(i) Kirman-Sikaram Road and (ii) Surpakh to Star Palli Road".

2 AND WHEREAS, for the said act of misconduct, he was served with charge sheet/statement of allegations.

3. AND WHEREAS, Engr Shahid Hussain Director (P&M) C&W Department and Mr Zairful Mani, (PSC SG) PPHI, FR Peshawar was appointed as inquiry committee, who submitted inquiry report.

4. AND WHEREAS, show cause Notice for imposition of major penalty of "compulsory retirement besides recovery of Rs.9,27,840/-" was served upon the accused officer alongwith a copy of inquiry report, who submitted his reply.

5. NOW THEREFORE, the competent authority after having considered the charges, material on record, inquiry report of the inquiry committee, in exercise of the powers conferred by Section-3 of Khyber Pakhtunkhwa Removal from Services (special powers) Ordinance 2000, has been pleased to impose the major penalty of "compulsory retirement besides recovery of Rs.9,27,840/-" upon the aforementioned officer.

Secretary to
Govt of Khyber Pakhtunkhwa
Communication & Works Department

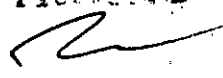
Lists of even number and date

Copy is forwarded to the:-

FATA W&D	1)	Additional Chief Secretary FATA Secretariat, Warsak Road, Peshawar
...	2)	Accountant General Khyber Pakhtunkhwa, Peshawar
...	3)	All Chief Engineers, C&W Peshawar
...	4)	Chief Engineer (North) C&W Peshawar
...	5)	Chief Engineer FATA C&W Peshawar
...	6)	Secretary (Admn & Coordination) FATA Secretariat, Warsak Road, Peshawar
...	7)	Executive Engineer Highway Division Kurram Agency at Parachinar
...	8)	Agency Accounts Officer Kurram Agency at Parachinar
...	9)	PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
...	10)	PS to Secretary Establishment Deptt. Khyber Pakhtunkhwa, Peshawar
...	11)	Incharge Computer Centre C&W Department, Peshawar
...	12)	PS to Secretary C&W Peshawar
...	13)	Official concerned
...	14)	Office order File/Personal File


(RAHIM BADSHAH)
SECTION OFFICER (ESTT)

*Attested
Advocate*

Attested

to be a copy

The Honourable Chief Minister,
Khyber Pakhtunkhwa.

Subject: APPEAL FOR RE-INSTATEMENT IN SERVICE.

Respected Sir,

It is submitted that I the undersigned, was proceeded against the different charges leveled under the Removal from Service (Special Powers) Ordinance, 2000, amongst one of the same was at (iii) of Charge Sheet and Statement of Allegation:-

"You have made fudge payment amounting to Rs. 27,83,520/- on removal of heavy slips but all the roads were found full of heavy slips"

Engr. Shahid Hussain Planning & Monitoring C&W Department and Mr. Zaif-ul-Maan PCS (SG) were appointed as Inquiry Officer/Committee.

I replied to the inquiry committee with supporting documents (Annexed) and was also personally heard.

On their report / findings, the Chief Secretary as Competent Authority, issued a show cause notice where the Authority in exercise of his powers vested under the RSO, 2000, tentatively decided to impose a major penalty of "Compulsory retirement and recovery of Rs. 9,27,840/-" to which I submitted my reply and was also personally heard by the Authority.

Now vide order: No. SOE/C&WD/8-21/2010 of the Secretary C&W, after having approved the penalty by the Competent Authority (Chief Secretary) I am "Compulsory retired, besides recovery of Rs. 9,27,840/-".

So, I hereby submit that the orders of Competent Authority may kindly be set-aside and I may please be re-instated into my status of Sub Engineer as I am not guilty and every work of M&R nature in the Agencies are always/usually are carried-out on the Nomination basis even the scope and nature of works is duly approved by the respective Political Agents who generally discuss all repair works of Roads/Bridges as well as Buildings with his line staff viz. Assistant Political Agents / Tehsildars of the area, well before the issue direction to the executing agency to take work in hand through his Nominated Contractors and the C&W Department as its executing agency follows with the direction of Political Administration in accordance with the powers vested in XEN as per the Delegation of Powers under Financial Rules of the Provincial Govt. because for Agencies/FRs, no specific Financial Rules are defined/introduced, the same are applied since long as per practice in past in FATA/FRs.

It is worth to say that the Inquiry Officer who is though of Engineer category but he is lacking of the experience and practice in vogue in FATA as he in his entire services right from SDO to the present status has not worked even for a single day in those areas, so his findings are totally un-just and not based with ground reality and the situation prevailing in FATA.

It is hoped that your kind honour will consider my request as prayed in preceding Paras favourably and orders for my reinstatement in service.

Thanks in advance!

Dated 20/01/2012

Sincerely yours,

Syed Itikhar Hussain
(Syed Itikhar Hussain)
Ex-Sub Engineer (Captain Rtd)
R/O Village & P.O. Kubat Shah Khel
Zeran, Kurram Agency.

Attested

to be in copy

Attested
Advocate
A.

Annexure I
8A
Time 2:00 PM 11/23
(26)

Annexure I



CHIEF MINISTER'S SECRETARIAT
KHYBER PAKHTUNKHWA

No.SOVI/CMS/KPK/1-13/2011/
Dated Peshawar the, 25-01-2012.

Y
28
27

To

The Secretary to Govt: of Khyber Pakhtunkhwa,
Communication & Works Department, Peshawar.

Subject:- APPEAL FOR RE-INSTATEMENT IN SERVICE.

Dear Sir,

I am directed to refer to the subject noted above and to forward herewith a copy of self explanatory appeal (alongwith enclosures) received from Syed Iflikhar Hussain, Ex-Sub Engineer (Captain Rtd), resident & PO Kubat Shah Khel Zeran, Kurram Agency for necessary action as per rules as desired by the Hon'able Chief Minister Khyber Pakhtunkhwa.

Encls: (As above).

Yours faithfully,

sd/-

(DILAWAR SHAH)
Section Officer-VI

Endst: of even No. & Date.

Copy forwarded to:-

1. PS to Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
2. Syed Iflikhar Hussain, Ex-Sub Engineer (Captain Rtd), resident & PO Kubat Shah Khel Zeran, Kurram Agency.

sd/-

Section Officer-VI

[Signature]
to the Secretary

*Attested
Advocate
A*

Annexure "J" *[Handwritten signature]*

No. 1565 / PR

Dated Battagram the 07/3/2012

[Handwritten marks]
28 *[Handwritten mark]*

To,

The Chief Engineer (Fata)
Works & Services Department
Khyber Pakhtun Khwa Peshawar

Subject: APPEAL FOR REINSTATEMENT IN SERVICE
MIS-APPROPRIATION OF PUBLIC FUNDS ON ACCOUNT OF
AOM&R FUNDS IN CENTRAL KURRAM.
Reference: Your letter No 913/2/46-F dated 3/03/2012.

In continuation of the letter No as mentioned above, will due honour and most humbly it is submitted that all the road were inspected by the undersigned in two consecutive days dated 21/12/2011 and 22/12/2011 of para chamkain area i/c Kirman -Sikaram Road (28-Kms) and Surpakh to Star Patti Road (30Kms)

It is worth mentioned that the structural works including retaining walls and removal of slips on both the roads were found completed and intact. At the moment no road slips were found. In short what so ever been paid to the contractor under AMO&R 2008-09 and 2009-10 was found completed on spot and even after lapse of more than three year, no slip was found and no pulverization of structural work was observed. The Roads were found neat and clean. The report is submitted for further necessary action please.

[Handwritten signature]
Executive Engineer
C&W Division Battagram

copy done

*Attended
Advocate
S*

[Handwritten signature]
ATTACHED

29
~~28~~

No. 1445 IAC-I, Dated Parachinar the 14 /1/2011.
To,

The Political Agent,
Kurram Parachinar.

Subject:- MIS-APPROPRIATION OF PUBLIC FUNDS ON ACCOUNT OF
M&R FUNDS IN CENTRAL KURRAM.

Reference 1. This Office No. 1462/2-B. dated 28.12.2010.
2. Your office memo No. 37-39/Dev:M&R/H/Way/inquiry/Kurram: dt:8.1.2011

With reference to above, the detail report regarding subject issue is
submitted as under :-

The undersigned has inspected all those M & R works in Para Chamkani
area of Central Kurram on 30.12.2010, which were under enquiry, and payment made
there on during 2008-09 and 2009-10.

The respective M & R contractor has completed all the works pointed out
by the enquiry committee in their report according to standard specification and payment
made there on during 2008-09 and 2009-10.

EXECUTIVE ENGINEER,
HIGHWAY DIVISION KURRAM

Copy with reference to above forwarded to the Chief Engineer (FATA) W
& S Peshawar for information please.

EXECUTIVE ENGINEER,
HIGHWAY DIVISION KURRAM

ATTESTED

works done

Attested
Advocates
A

(B)

Request

Annexure "K"

30



GOVT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-21/2010
Dated Peshawar, the May 11, 2012

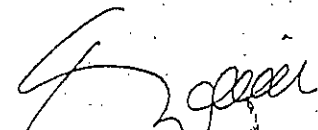
TO

Syed Iftikhar Hussain
Ex-Sub Engineer
Village & P.O. Kubat Shah Khel
Zeran, Kurram Agency

Subject: Appeal for Reinstatement in Service

I am directed to refer to your appeal/petition dated 20.01.2012 for withdrawal of your major penalty of "Compulsory Retirement besides recovery of Rs.9,27,840/-" was processed and submitted to competent authority (Chief Minister) for orders, however, the competent authority has rejected your appeal.

2. You are hereby informed accordingly.


(RAHIM BADSHAH)
SECTION OFFICER (ESTT)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department

SECTION OFFICER (ESTT)

*Attested
Advocate
S*

Attested

Annexure "L"

31

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 604 /2012



~~599~~
~~04-6-2012~~

Sayed Iftikhar Hussain Ex: Sub Engineer Highway Division,
Kurram Agency, Parachinar R/O Zeran qubadshah khell Kurram
Agency Parachinar.....Appellant.

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary to government of Khyber Pakhtunkhwa, Communication & Works (C&W) Peshawar.
3. Additional Secretary FATA, Fata Secretariat Warsak Road Peshawar.....Respondents.

Filed to ~~the~~

APPEAL U/S SECTION 10 OF REMOVAL FROM SERVICE
(SPECIAL POWERS) ORDINANCE 2000 AGAINST ORDER
DATED 17/01/2012 AND ORDER DATED 11/05/2012
WHEREBY THE COMPETENT AUTHORITY IN EXERCISE
OF POWERS CONFERRED BY SECTION 3 OF KPK
REMOVAL FROM SERVICE (SPECIAL POWERS)
ORDINANCE 2000 IMPOSED THE MAJOR PENALTY OF
"COMPULSORY RETIREMENT FROM SERVICE BESIDES
RECOVERY OF RS.9,27,840" AND THEREAFTER
DEPARTMENTAL APPEAL OF THE APPELLANT WAS
REJECTED VIDE ORDER DATED 11/05/2012.

Attended
Advocate
S.

Respectfully Sheweth,

1. That the government of Khyber Pakhtunkhwa through Chief Secretary (Respondent No.1) vide letter dated Peshawar the January,27/2011 issued charge sheet and statement of allegations against the appellant containing allegations of misappropriation of public money and at the same time directed enquiry through an inquiry committee consisting of following:-

- i. Engineer Shahid Hussain, Director R&M (C&W).
- ii. Mr.Zarif Man PPIH FR Peshawar.

(Copies of covering letter, charge sheet and statement of allegations are Annexure A to A/2)

2. That the inquiry committee issued questionnaire which was replied by the appellant as desired by the inquiry committee.
(Copy of questionnaire and reply are Annexure B & B/1)

3. That the inquiry committee submitted its report to the Authority who vide covering letter dated the July, 09/2011 served Show Cause Notice upon the appellant which was replied by him accordingly. **(Copy of inquiry report, covering letter, show cause notice and reply to show cause are Annexure C to C/4)**

4. That thereafter Secretary to Government of KPK Communication and Works (Respondent No.2) communicated the final order of the authority vide letter dated January,12/2012 to the effect that the authority in exercise of powers conferred by section 3 of KPK Removal from Service (Special Powers) Ordinance 2000, has imposed

*Attended
Advocate
A*

the major penalty of "Compulsory Retirement beside recovery of Rs.9,27,840/-" **(Copy of order is Annexure D)**

5. That thereafter the appellant being aggrieved by the said order filed appeal on 20/01/2012 challenging the findings of the inquiry committee as well as the order of his compulsory retirement and recovery of aforementioned amount. **(copy of the appeal is Annexure E)**

6. That on receipt of appeal, the Hon'ble Chief Minister vide letter dated 25/01/2012 directed the Secretary to Government of KPK, Communication & Works to probe into the matter and take necessary action as required. **(Copy of letter is Annexure F)**

7. That thereafter vide letter dated 03/03/2012, Chief Engineer FATA Works & Services Department KPK appointed XEN C&W Battagram Mr.Tassaduq to probe into the matter and submit his report. Accordingly the later submitted his report vide his letter No.1565 dated 07/03/2012 and completely exonerated and declared the appellant innocent and reported that there was no evidence about misappropriation of any fund under AMO & R 2008-09 and 2009-10. This report was forwarded to the secretary communication & works from FATA Secretariat under covering letter dated 29/03/2012. **(Copy of Report and covering letter are Annexure G,H & H/1)**

8. That it is worthwhile to mention that once before Agency Coordination Officer Parachinar vide letter dated 27/10/2010 addressed to the Executive Engineer Highway Division Kurram directed him to complete the incomplete work, if any, and accordingly despite completion of work at

Attested
Advocate
A.

the site, the subject schemes were re-visited and were reported to be according to standard specification and payment made thereon during 2008-09 and 2009-10. **(Copy of letter dated 27/10/2010 is Annexure I)**

9. That thereafter vide letter dated 14/01/2011 Executive Engineer Highway Division Kurram after inspection of the site reported that the work had been carried out satisfactorily, according to the prescribed standard and specification. **(Copy of letter is Annexure J)**

10. That despite the aforementioned reports in favour of appellant's innocence, the authority rejected the appeal of the appellant vide order dated 11/05/2012. **(Copy of order is Annexure K)**

11. That the copy of order rejecting appeal has never been communicated/sent to the appellant up till now, however, he through his own efforts could get the copy on 26/05/2012.

12. That the appellant feeling aggrieved by both the orders referred to above, files this appeal, inter alia, on the following grounds:-

GROUNDS

a. That the impugned order of compulsory retirement as well as recovery of Rs.9,27,840/- is based on surmises and conjectures.

b. That the appellant was not provided any chance of hearing at any stage nor was he associated with the inquiry proceedings. The inquiry committee conducted the inquiry in a

*Attested
Advocate
A.*

slipshod and post hast manner without examining any witness or record in presence of appellatant and thus he has been condemned unheard.

c. That the appeal of the appellatant has been dismissed without taking into consideration the various inquiry reports carried out by the competent and technical senior most officers of the department.

d. That the inquiry committee was not constituted by the competent authority as required by the law.

e. That there was caused abnormal and inordinate delay in the inquiry, inspection of site and by that time due to unprecedented rains and floods, the road might have been damaged but theses were immediately repaired by the contractor at his own expenses, therefore, elements of misappropriation and embezzlement of government money could not be established against the appellatant.

f. That no one from the public made any complaint in respect of work done at the site but due to departmental rivalry the whole story was concocted by the opponents of the appellatant, therefore, in these circumstances both the impugned orders of compulsory retirement etc and rejection of appellatant's appeal are not based on proper reasoning and correct exposition of law.

*Attended
Advocate
A.*

It is, therefore, prayed that on acceptance of appeal, impugned orders may graciously be set aside and the appellant be reinstated with all back benefits.

Iftikhar Hussain
Appellant

Through

Ghulam Mohy-ud Din Malik
Ghulam Mohy-ud Din Malik

Advocate,
Supreme Court of Pakistan.

Dated 02/06/2012

AFFIDAVIT

I, Iftikhar Hussain Ex: Sub Engineer Highway Division, Kurram Agency, Parachinar R/O Zeran qubadshah khell Kurram Agency Parachinar (Appellant) do hereby solemnly declare that the accompanying **Appeal** is true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Iftikhar Hussain
Deponent

CNIC # 21303-2059807-3

Identified by

Ghulam Mohy-ud-din Malik
Ghulam Mohy-ud-din Malik,
Advocate, Peshawar.

Attested Advocate A.

ATTESTED
MALIQ MAJID QADRI ADVOCATE
COMMISSIONER
PESHAWAR HIGH COURT

2-6-12

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____/2012

Sayed Iftikhar Hussain.....Appellant.

VERSUS

Government of K.P.K & others..... Respondents

ADDRESSES OF PARTIES

Appellant

Sayed Iftikhar Hussain Ex: Sub Engineer Highway Division,
Kurram Agency, Parachinar R/O Zeran qubadshah khell Kurram
Agency Parachinar

Respondents

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary to government of Khyber Pakhtunkhwa, Communication & Works (C&W) Peshawar.
3. Additional Secretary FATA, Fata Secretariat Warsak Road Peshawar

Sayed Iftikhar Hussain
Appellant

Attended Advocate
D

Dated: 02/06/2012

Through

Ghulam Mohyuddin Malik

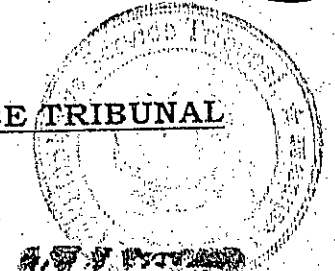
Ghulam Mohyuddin Malik,
Advocate,
Supreme Court of Pakistan.

Annexure "M"

38

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 604 /2012



599
04-6-2012

Sayed Iftikhar Hussain Ex: Sub. Engineer Highway Division,
Kurram Agency, Parachinar R/O Zeran qubadshah khell Kurram
Agency Parachinar.....Appellant.

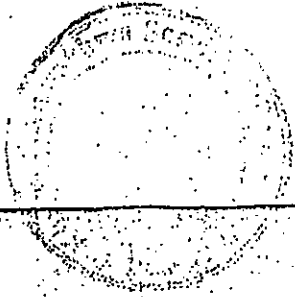
VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary to government of Khyber Pakhtunkhwa, Communication & Works (C&W) Peshawar.
3. Additional Secretary FATA, Fata Secretariat Warsak Road Peshawar.....Respondents.

Filed to 4/6/12

APPEAL U/S SECTION 10 OF REMOVAL FROM SERVICE
(SPECIAL POWERS) ORDINANCE 2000 AGAINST ORDER
DATED 17/01/2012 AND ORDER DATED 11/05/2012
WHEREBY THE COMPETENT AUTHORITY IN EXERCISE
OF POWERS CONFERRED BY SECTION 3 OF KPK
REMOVAL FROM SERVICE (SPECIAL POWERS)
ORDINANCE 2000 IMPOSED THE MAJOR PENALTY OF
"COMPULSORY RETIREMENT FROM SERVICE BESIDES
RECOVERY OF RS.9,27,840" AND THEREAFTER
DEPARTMENTAL APPEAL OF THE APPELLANT WAS
REJECTED VIDE ORDER DATED 11/05/2012.

Attested
Advocate
A.



11.09.2015

Appellant with counsel (Mr. Khalid Rahman, Advocate) and Senior Government Pleader (Mr. Usman Ghani) for the respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day in connected appeal No. 585/2012, Muhammad Pervez Versus the Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Sectt. Peshawar etc.", this appeal is also disposed off as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record.

Consigned

ANNOUNCED
11-9-2015

Slgs
Usman Ghani

Slgs
Khalid Rahman

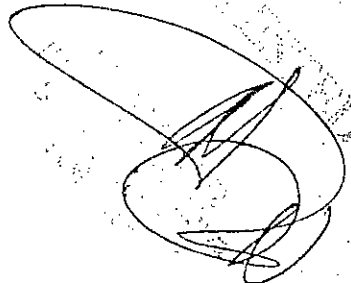
17-9-2015
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17-9-2015
17-9-2015

Attended
Advocate

45

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	11.09.2015	<p>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p>Service Appeal No. 585/2012</p> <p>Muhammad Pervez Versus the Government of Khyber Pakhtunkhwa through Chief Secretary Civil Sectt. Peshawar .</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Khalid Rahman, Advocate) and Senior Government Pleader (Mr. Usman Ghani Marwat) for the respondent-department present.</p> <p>2. Besides recovery of a sum of Rs. 18,55,680/- from the appellant, he was also compulsorily retired from service vide impugned order of the competent authority dated 12.1.2012. The appellant Muhammad Pervez at the relevant time was posted as Executive Engineer Highway Division Kurram Agency, C&W Department. The following charges were leveled against him:-</p> <ol style="list-style-type: none"><li data-bbox="523 1798 1319 2029">i. You have made fudge payment amounting to Rs. 23,86,863/- to the contractor on old structures i.e. retaining walls, toe walls etc. the above noted scheme constructed in 2006-07 as an ADP scheme and none of the fresh structures taken in MB were at site.<li data-bbox="523 2037 1319 2235">ii. You have made fudge payment out of AOM&R funds during 2009-10 to the contractor but no visited these roads for verification/inspection and the measurements have been supplied by the Munshi of the contractor.<li data-bbox="523 2243 1319 2362">iii. You have made fudge payment amounting to Rs. 27,83,520/- on removal of heavy slips but all the roads were found full of heavy slips.



*Attested
P. Baksh Shah*

The enquiry committee comprising of Engineer Shahid Hussain, then Director (P&M), C&W Department, Peshawar and Mr. Zariful Mani(PCS SG)PPHI, FR, Peshawar conducted the enquiry and submitted their report available on record. Consequently, the competent authority issued final show cause notice to the appellant to which he submitted his reply. The competent authority in the light of material before him imposed the penalty of recovery and compulsory retirement on the appellant against which he submitted departmental appeal. It appears from record that in response to this departmental appeal, Executive Engineer Kurram was directed to personally visit the spot and submit the report. His report bearing No. 1565/PF, dated 07.3.2012 is also on record. The appellate authority, however, rejected departmental appeal of the appellant vide his order dated 11.5.2012, hence this appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Actg,1974.

3. The learned counsel for the appellant submitted that no regular enquiry was conducted against the appellant because no witness was examined nor physical inspection of the spot was made but the report was prepared by the committee in its office and which report is also not in accordance with the requirements of Section 5 of the Khyber Pakhtunkhwa Removal from Service (Special

*Attested
Advocate
S.*

Powers) Ordinance, 2000. It was further submitted that even the enquiry committee vide its letter No. D(P&M)/C&W/1-31/2011, dated 02.6.2011 recommended that the penalty of censure with respect to charge No.1 and reduction to a lower post/grade in time scale with respect of charge No. (iii) be imposed against the appellant whereas charge (ii) has been held not proved but the penalty imposed is contravention of this recommendation. It was further submitted that so far recommendation No. 5 for penalty in the enquiry report is concerned so this recommendation is beyond the scope of the charge sheet for the reason that this recommendation pertains to the alleged splitting of the bills which is none of charges in the charge sheet. In this regard it was also submitted that the enquiry committee also recommended action against the Divisional Accounts Officer with respect to allegation of splitting of the bills but no action has been taken against him and thus the appellant has been discriminated. That the mode of enquiry, through questionnaire is not appreciated by the august apex court of the country but in the instant case, the enquiry was made through questionnaire. That major penalty has been imposed on the appellants but the same is without any regular enquiry. That no opportunity of personal hearing has been provided to the appellant. The learned counsel finally submitted that the matter involved factual controversy which could not be resolved without

*Attended
Advocate
A.*

process of regular enquiry in accordance with Section 5 of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 but it is evident that the same was not complied with and that no recommendation of the impugned penalty has been prescribed by the enquiry officer. In support of his contentions the learned counsel for the appellant relied on 2009-PLC (C.S)19, PLJ 2005-Supreme Court-113, 1993-SCMR-1440, 2008-PLC(C.S) 786 and 2007-SCMR-963. Finally he submitted that the appellant is innocent, therefore, the appeal may be accepted and the penalty removed.

4. The learned Sr.GP resisted the appeal by stating that the charges except charge No. 2 have been proved against the appellant. That the appellant was associated in the enquiry proceedings and he has been given full chance of defence. It was further stated that all codal formalities for proceedings against the appellant have been complied with and that enquiry through questionnaire is also a valid mode of enquiry. Reliance was placed on 2005-SCMR-1802.

5. We have considered the submissions of the learned counsel for the appellant & learned Sr.G.P for the respondent department and carefully gone through the record with their valuable assistance.

7/8

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pc

M. H. Khan
Advocate
D

6. Report of the departmental enquiry committee shows that the committee has not physically inspected the spot. When in response to departmental appeal of the appellant then XEN Kurram was directed to report who reported vide his letter No. 1565/PF, dated 07.3.2012 (copy available on file as annexure-J) that all is well. The Tribunal does not find any reason in the order of the appellate authority as to why and for what reasons this report was ignored. Similarly, the record shows that then XEN Kurram vide his letter dated 14.1.2011, after inspection of the spot reported that all works was complete; the same also seems to have not been taken into account by the appellate authority. This being so, we have carefully gone through order of the appellate authority dated 11.5.2012 by way of which the appeal of the appellant has been rejected but we are unable to find it having any reason for such rejection in contemplation of Section 24-A of the General Clauses Act. Further this rejection order is also not in accordance with the requirements of rule-5 of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 which is here below reproduced for facilitation of reference:-

"5. Action by the appellate authority.--(1) The appellate authority, after making such further inquiry or calling for such information or record or giving the appellant an opportunity of being heard, as it may consider necessary, shall determine-

(a) Whether the facts on which the order appealed against was based have been established;

*Attended
Advocate
S.*

(b) Whether the facts established afford sufficient ground for taking action; and

(c) Whether the penalty is excessive, adequate or inadequate

and after such determination, shall confirm, set aside or pass such order as it thinks proper; provided that no order increasing the penalty shall be passed without giving the appellant an opportunity of showing cause as to why such penalty should not be increased.

(2) The competent authority against whose order an appeal is preferred under these rules shall give effect to any order made by the appellate authority and shall cause the order so passed to be communicated to the appellant without undue delay."

7. For the reasons stated above, the Tribunal is constrained to set aside order dated 11.5.2012 passed by the appellate authority and to remand the case to the appellate authority with direction to examine the case in its entirety and to decide the appeal strictly in accordance with rule 5 ibid. The appeal be decided within 60 days of the receipt of this order. Parties are left to bear their own costs. File be consigned to the record.

8. This judgment will also dispose of another connected appeal bearing No. 406/2012, titled "Sayed Iftikhar Hussain Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar etc.", involving common facts and question of law, in the same manner.

ANNOUNCED
11-9-2015

sd/-

sd/- Mr. Behkud Dick
Member

sd/- Mr. Iqbal Latif
Member
Attended
Advocate
AS

11-9-2015
17-9-2015

17.9.2015

[Signature]

Annexure N²

(46)



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. No. SOE/C&WD/13-9/2012
Dated Peshawar, the March 10, 2016

TO

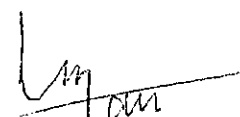
Syed Iftikhar Hussain
Ex- Sub Engineer
C&W Department
(Now compulsory retired)
Village & P.O. Kubat Shah Khel Zeran
Kurram Agency

Subject:

**SERVICE APPEAL NO.604/2012 --- SYED IFTIKHAR HUSSIAN VS
GOVT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY
CIVIL SECTT: PESHAWAR & OTHERS.**

I am directed to refer your Appeal/petition dated 20.01.2012 for withdrawal of your major penalty of "Compulsory Retirement besides recovery of Rs.9,27,840/-" which was re-examined in light of Service Tribunal Judgment dated 11.09.2015 and submitted to the Competent Authority (Chief Minister). The Competent Authority has rejected your appeal on the reasons that the inquiry committee has clearly mentioned in the recommendations of the inquiry report that it seems irregularities have been made in the payment. The payment to the structure was not allowed at all. The accused could not present any proof of sanction to that effect. Moreover, payment on slips shows that every inch of it was full of slips, which is rather improbable to happen. Moreover the Sub Engineer (S.Iftikhar Hussain) and XEN (Muhammad Pervaiz) have passed the bills involved in the scheme and avoided authorization from Competent Authority by splitting the expenditure. Moreover the report of Engr. Muhammad Tassaduq the then XEN C&W FATA Highway Division Lower/Central Kurram Agency was also considered during the process of their appeals being rejected on the basis as the appellants have added no fresh grounds worth consideration.

2. You are hereby informed accordingly.


(USMAN JAN)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to the:

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar
2. PS to Secretary C&W Department, Peshawar


SECTION OFFICER (Estb)

*Attended
Amrools
S*

FDMA

FLOODS-2010 Letter-Dt:-18/8/2010



OFFICE OF THE CHIEF ENGINEER (FATA)
WORKS & SERVICES DEPARTMENT
PESHAWAR

No. 731/1-FD
Dated Peshawar the 18/8/2010

(47)

To

All Executive Engineers
In Works & Services FATA.

Annexure "O"

Subject: RECOVERY PLAN IN THE BACKDROP OF PRESENT ONGOING FLOOD CATASTROPHE

Enclosed please find herewith a copy of Administrative Officer, FATA Disaster Management Authority, Peshawar letter No. FS/FDMA/Floods/Damages/2010/428-435, dated 18.8.2010 for information and necessary action.

You are directed to submit the requisite information on the above noted subject pertaining to communication, PHE and Housing sectors (in soft and hard copies) within 3 days positively.

D./As Above

(Signature)
(Engr. Amir Shahbaz Khan)
Chief Engineer

Copy forwarded to the Administrative officer, FATA Disaster Management Authority, House No. 38-1/D, Old Jamrud Road Peshawar w/r. to his letter No. quoted above for information.

Chief Engineer

*Sub submitted for removal pd
19/8*

put up covering memo

To: The C.E (FATA)

Sub
Ref-1. FDMA No F.S./FDMA/Floods/Dam
12010/428-435 Dt: 18/8/10
2 Your No 731/1-FD Dt:-18/8/10

Enclosed please find a/w requisite information for favour of further work.
(Signature)
18/8/10

*Attended
Advocate
A*

48 (circled) (circled)

REPORT TO P.A.
FROM THE ^{KURRAM} THEN XEN.

No. 1495 IAC-1, Dated Parachinar the 14 11/2011.
To,

The Political Agent,
Kurram Parachinar.

Subject:- MIS-APPROPRIATION OF PUBLIC FUNDS ON ACCOUNT OF
M&R FUNDS IN CENTRAL KURRAM.

Reference 1. This Office No. 1462/2-B, dated 28.12.2010.
2. Your office memo No. 37-39/Dev:M&R/H/Way/inquiry/Kurram, dt:8.1.2011

With reference to above, the detail report regarding subject issue is submitted as under :-

The undersigned has inspected all those M & R works in Para Charikara area of Central Kurram on 30.12.2010, which were under enquiry and payment made there on during 2008-09 and 2009-10.

The respective M & R contractor has completed all the works pointed out by the enquiry committee in their report according to standard specification and payment made there on during 2008-09 and 2009-10.

EXECUTIVE ENGINEER,
HIGHWAY DIVISION KURRAM

Copy with reference to above forwarded to the Chief Engineer (FATA) W & S Peshawar for information please.

[Signature]
EXECUTIVE ENGINEER,
HIGHWAY DIVISION KURRAM

Received in
CE (FATA) office

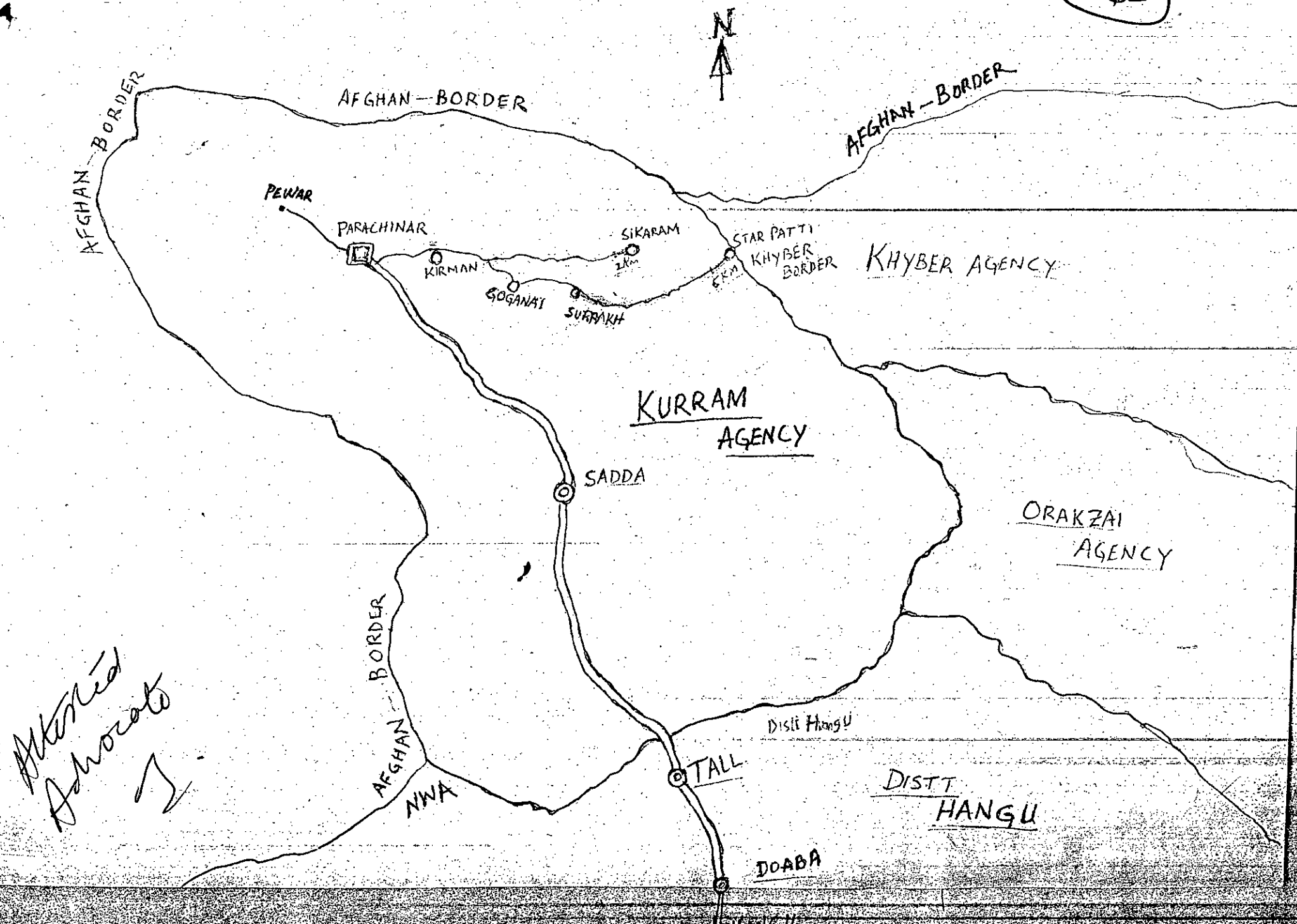
Vide Diary # 11633/1463 Dt = 18-1-2011

[Signature]
Attested
Adhikari
[Signature]

INDEX MAP OF SIKARAM AND STAR PATTI ROADS

49

4

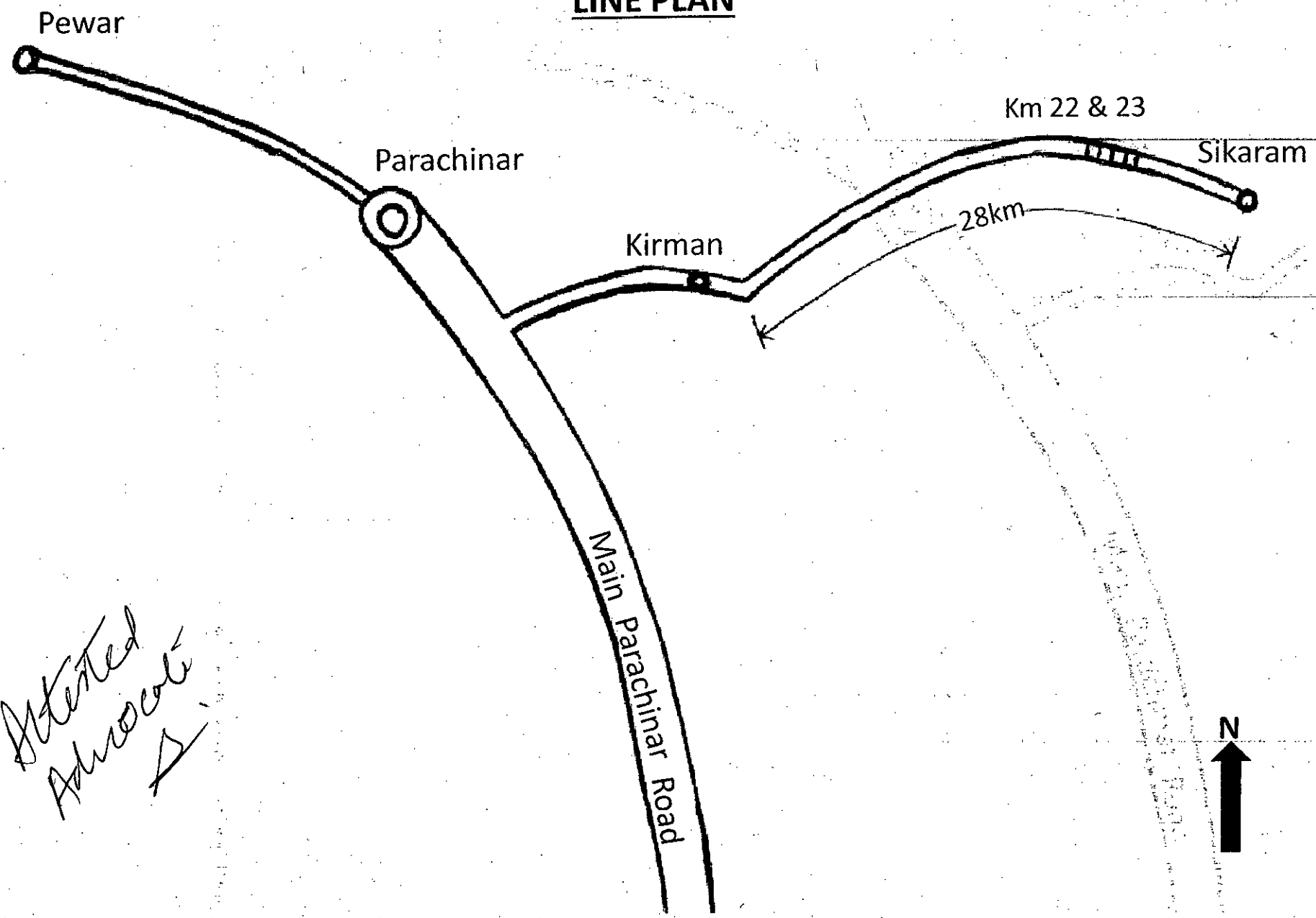


Attested Ashwari

(S) (50)

Kirman Sikaram Road 28 km

LINE PLAN



*Attended
Advocate
S.*

95

Surpakh Star Patti Road 30 km

LINE PLAN

Pewar

Parachinar

Surpakh

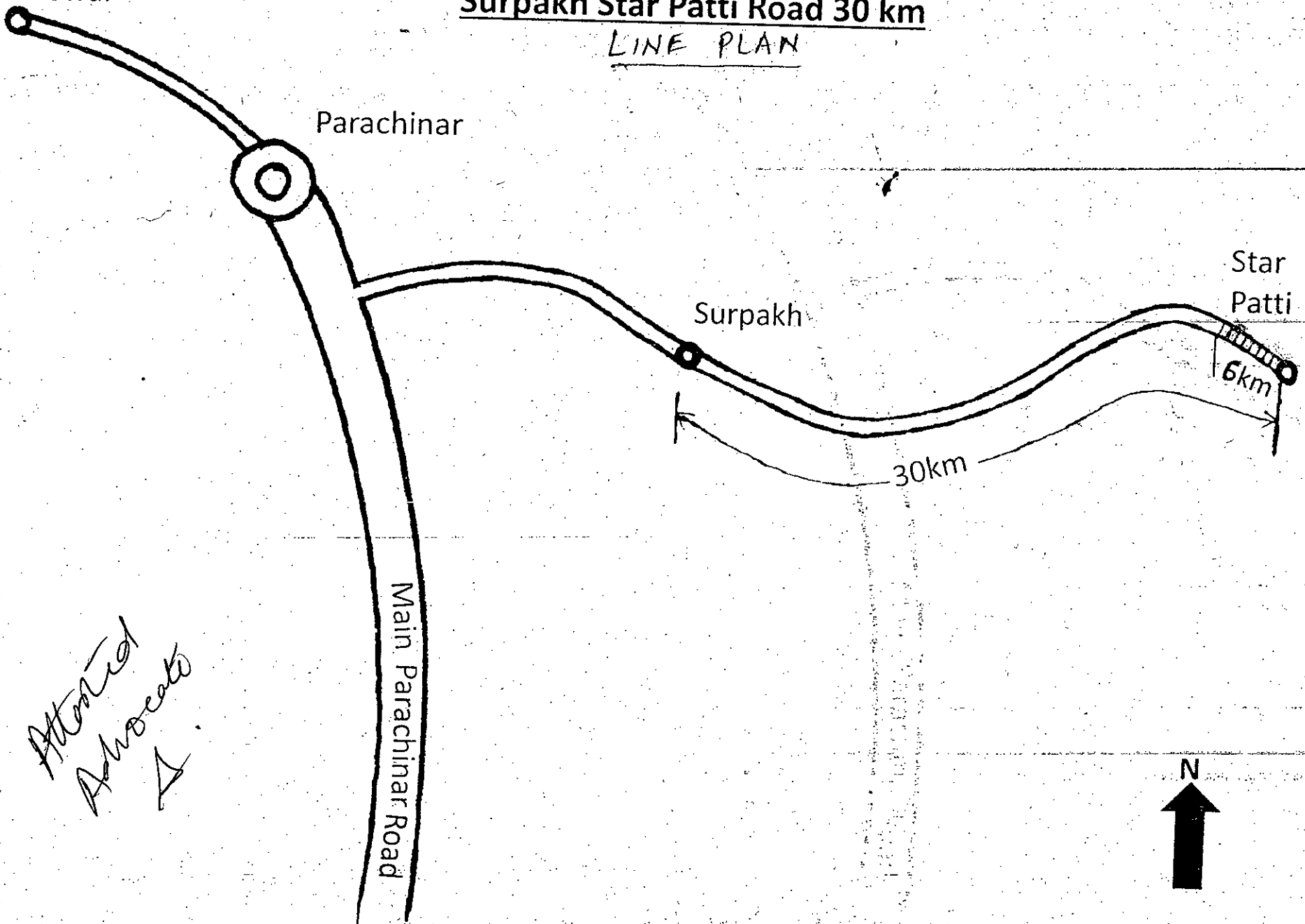
Star Patti

6km

30km

Main Parachinar Road

Attended
Advocate
A



51

To

The Political Agent
Kurram Agency Parachinar

Subject: - AOM & R OF ROADS IN KURRAM AGENCY DURING 2008-09

It is submitted that the Roads/Bridges as noted below are in deplorable condition and in dire need of AOM&R during current financial year.

UPPER KURRAM

S.No	Name of work	Estimated Cost Rs (M)	Expenditure Rs (M)	Remarks
1.	Parachinar to Kimran Road.	0.553836	0.398836	
2.	Ahmad Zai Road.	0.648452	0.448452	
3.	Parachinar Kara Khail Burqui Road.	1.231257	1.131257	
4.	Parachinar Tarimangal Road.	0.826174	0.626174	
5.	Parachinar Nasti Kot Road.	0.744195	0.644195	
6.	Alamsher Dangila Road.	0.396259	0.396259	
7.	Parachinar to Maulana Road.	0.600	---	
TOTAL		5.000	3.645	

CENTRAL KURRAM

S.No	Name of work	Estimated Cost Rs (M)	Expenditure Rs (M)	Remarks
1.	Sarpakh to Bagzai Road.	3.00	---	
2.	Makhrni Surpakh via Gogani Road.	2.00	---	
3.	Repair of Said Ali Mela to Central Kurram	2.00	---	
TOTAL		7.00	---	

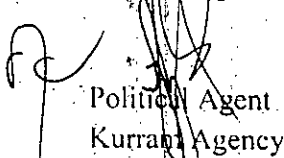
LOWER KURRAM

S.No	Name of work	Estimated Cost Rs (M)	Expenditure Rs (M)	Remarks
1.	Baggan to Zarrana Road.	0.523		
2.	Ali Zai Bridge	3.378	---	Governor No. 1062 SOP/35 dated 29/05/09
TOTAL		3.901	---	
Grand Total		15.901	3.645	

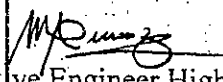
Note: - In case Ali Zai Bridge is not further endorsed by ACS then Dad Kamar to Pastawani Road. Arwali to Narrari Road. Sadda to Koochi Bridge and bridge Protection work will be repaired against the amount allocated to Ali Zai Bridge

As the fund to the tune of Rs. 15.901 Million has been released, it is therefore requested that sanction to above mentioned roads may please be granted to carry out AOM&R during the current financial year.

Counter Signed by: -


Political Agent
Kurram Agency

*Attended
Dawlati*


Executive Engineer Highway
Division Kurram Agency
at Parachinar

(52)

LIST OF AOM & R CF DURING 2009-10 IN RESPECT OF HIGHWAY DIVISION KURRAM AGENCY.

S/No.	Name of Road.	Estimated Amount Allocated for.
Upper Kurram		
1	Special Repair to Parachinar Karkhela Burki road	Rs.4000000
2	Special Repair to Parachinar Nastkot road road	Rs.4000000
3	Special Repair to Shalozan village road	Rs.2500000
4	Special Repair to Malana road	Rs.2500000
5	Special Repair to Alamsheer Dangeela road	Rs.1500000
6	Special Repair to Tari Managal Road	Rs.3000000
7	Special Repair to Ahmadzai Road	Rs.2000000
8	Special Repair to Village Kirman road	Rs.2000000
9	Special Repair to Mali Kali to Abdullah Khan Kali road	Rs.2000000
10	Special Repair to Rehandling of all Causeways in Upper Kurram	Rs.900000
11	Special Repair to Agra Sultan road	Rs.1000000
12	Special repair to Luqman Khe road	Rs.1500000
13	Special repair to Kirman Bughaki road	Rs.1500000
Total		Rs.28400000
OR		Rs.28.40 Million
Lower Kurram		
1	Special Repair to Shakardara road	Rs.2500000
2	Special Repair to track in Sadqa under APA & Kurram Militia	Rs. 2000000
3	Special Repair to Jalandar road	Rs. 2000000
4	Special Repair of Sadda Link road Kochi Bridge	Rs. 1700000
Total		Rs. 8200000
OR		Rs.8.20 Million
Central Kurram		
1	Special Repair of Narrari to Jarana road	Rs. 4000000
2	Special Repair of Shashoo Chinarak Mundan road	Rs. 3500000
3	Special Repair of Bagan Jarana road	Rs.2000000
4	Special Repair of Sadda Murghan road	Rs. 2500000
5	Special Repair to Khyber Agency Border via Wacha Mela Star Patti & Koki Khei road (Km 6-18)	Rs. 4500000
6	Special Repair to Khyber Agency Border via Wacha Mela Bazi Star Patti & Koki Khei road (Km 26-30)	Rs. 4000000
7	Special Repair of Surpakh to Taudc Obo via Gurdal (5 Kms)	Rs. 4000000
8	Special Repair to Ghakhal to Surpakh Pattak (16 Kms)	Rs.3900000
Total		Rs.28400000
OR		Rs.28.40 Million

1)	Upper Kurram	Rs. 28.40 Million
2)	Lower Kurram	Rs. 8.20 Million
3)	Central Kurram	Rs. 28.40 Million
	Total	Rs. 65.00 Million

[Signature]
Political Agent Kurram

[Signature]
**Executive Engineer
 Highway Division Kurram**

*Noted
 Advocate
 R*



OFFICE OF THE CHIEF ENGINEER (FATA)
WORKS & SERVICES DEPARTMENT

Police Line Road, Civil Secretariat, NWFP Peshawar
Phone No. 091-9211725
091-9210428
Fax No. 091-9211835

53

No. 317 /BW-1/13 (2009-10)

Dated Peshawar the 03 /09/2009

To

The Executive Engineer,
Highway Division Kurram (at Parachinar).

Subject: - **RELEASE OF 40% FUNDS FOR 1ST HALF OF CURRENT FINANCIAL YEAR 2009-10 UNDER HEAD: -**

04- Economic Affairs,
045- Construction & Transport,
0452- Road Transport,
045202- Highways, Roads & Bridges
A-13 Repair & Maintenance
A-136 Roads Highways & Bridges
A-13602- Other Roads & Bridges.
Demand No.118-FATA.

A sum of Rs. 6,947,000 /- (Six million Nine hundred Forty-seven thousand only) is hereby placed at your disposal for expenditure during the 1st Half of Current Financial Year 2009-10 (1.7.2009 to 31.12.2009) on repair and maintenance of Roads Highways & Bridges in Kurram Agency out of the authorized Budget Grant allowed by the Finance Department vide his letter No. SO (F-I) FD/FS/FA/09 dated 28.07.2009, subject to fulfillment of all codal formalities and observance of strict financial regularities.

Out of the above amount, 70% funds should be utilized on Resurfacing and no funds should be spent on Retaining Walls, Dunga Walls and Earthwork. The expenditure should be incurred judiciously with consultation /approval of the concerned Political Agents.

Please ensure that no expenditure is incurred without prior completion of all codal formalities and is restricted to the above releases. Incurrence of any liability without proper budget cover and sanctioned Estimate will be viewed seriously and responsibility will rest with the officers/ officials at fault.

The expenditure involved will be met out from within the Sanctioned Budget Grant 2009-10 under Demand No. 118-FATA and charged to the budget head noted above.

You are directed to please furnish Monthly progress report of expenditure on prescribed proforma to this office regularly, well in time

Please ensure that the expenditure should be restricted to the available grant

(ENGR: AMIR SHAHBAZ KHAN)
CHIEF ENGINEER (FATA)

Copy to:-

- 1 The Accountant General (PR) Sub Office Peshawar.
- 2 The Section Officer (F-I) FATA Secretariat Finance Department Peshawar w/r to his above quoted letters for information.
- 3 The Agency Accounts Officer Kurram (at Parachinar).
- 4 Master File.

CHIEF ENGINEER (FATA)

*Admitted
Advocate
A*

54

FORM 24
FIRST AND FINAL BILL
(Central P.W.A Code Paragraphs 212 & 213)

Division

Sub Division

‡For Contractors & Suppliers To be used when a single payment is made for a job or contract i.e. only on its completion. A single form may be used for making payment to several contractors or suppliers if they relate to the same work or to the same head of account in the case of suppliers and are billed for the same time.)

Name of work (in the case of bills for work done) Cash Book Voucher No. Date

Name of contractor or suppliers & reference to agreement	Items or work or supplies (grouped under sub heads and sub works of estimate)*	Reference: to recorded measurements and date			§ Dates of		Quantity	Rate	*Amount	Total amount payable to contractor/supplier		Payee's dated signature in token of (1) acceptance of bill and (2) acknowledgement of payment	Dated signature of witness.//	Dated certificates of disbursement	
					Written order to commence work	Actual completion of work				In figures	In words			Mode of payment cash of cheque (No. and date)	† Paid by me
		Book No.	Page No.	Date											

Date20

****signature of officer preparing the bill**

Pay Rs (.....) in cash and Rs.

signature of officer authorizing payment

*Attested
 Advocate
 S*

(S) (S)

.....by cheque

dated20

‡ In case of payments to suppliers a red ink entry should be made across the page above the entries relating thereto, in one of the following forms, applicable to the case :- (1) Stock (2) Purchases for Stock (3) purchases of the direct issue to work (4) purchases for the work For issue to contractor

§ Not required in case of works done or supplies made under a piece work agreement.

* In case of works the accounts of which are kept by sub heads the amounts relating to all items of work falling under the same sub heads should be totaled in red ink.

// Payment should be attested by some known person when the payees acknowledgement is given by a mark, seal or thumb impression.

† The person actually making the payment should initial (and date) in this column against each payment

** This signature is necessary only when the officer authorizing payment is not the officer who prepares the bill.

Para 212 and 213 are reproduced as under for ready reference:

212. The authorized forms of bills and vouchers are the following:

- (a) First and Final Bill, **Form 24.**
- (b) Running Account Bill A, Form 25.
- (c) Running Account Bill B, Form 26.
- (d) Running Account Bill C, Form 27.
- (e) Hand Receipts, Form 28.

The use of forms is explained in the following paragraphs and a few explanatory footnotes are printed on the forms.

213. **First and Final Bill, Form 24.** – This form should be used for making payments both to contractors for work and to suppliers, when a single payment is made for a job or contract, i.e. on its completion. A single form may be used for making payments to several payees, if they relate to the same work (or to the same head of account in the case of supplies) and are billed for at the same time.

Attested
Authorized
S.

THIRD SCHEDULE

SPECIAL POWERS TO CERTAIN DEPARTMENTS

S.No.	Nature of Power	To whom delegated	Extent and Condition if any
(1)	(2)	(3)	(4)

c) Ordinary and Special Repairs to residential Buildings.

1. Administrative Department
2. Chief Engineers
3. Superintending Engineers/
Director Public Works
4. Executive Engineers/Deputy
Director Public Works

upto Rs.500,000
upto Rs.100,000 in case
of each building
Rs.50,000 in case of
each building.
Rs.10,000 in case of
each building

Note:- Subject to the conditions:-

- a) the Works relating to repair have been approved by the Zila Council or the Government as the case may be
- b) Works are awarded only against the funds released only and liabilities shall not be accrued
- c) No works shall be carried out in anticipation of funds.

d) Ordinary and Special Repairs to roads.

1. Administrative Department.
2. Managing Director PHA
3. Chief Engineers
4. Superintending Engineers/
Director Public Works
5. Executive Engineers

Full Powers
Full Powers
Full Powers
Rs.2,000,000
Rs. 400,000

Note:- Subject to the conditions that:-

- a) the Works relating to repair have been approved by the Zila Council or the Government as the case may be.
- b) Works are awarded only against the funds released only and liabilities shall not be accrued
- c) No works shall be carried out in anticipation of funds.

*Attested
Author
S*

(57) ~~KSDA~~

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No.D (P&M) C&W/1-71/2010

Dated Peshawar the 10-02-2011

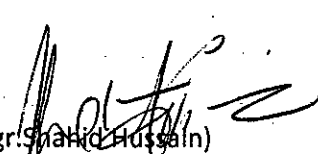
To

- ✓ 1. Mr. Muhammad Pervez (BPS-17),
Assistant Engineer (B&R);
O/O Chief Engineer (North) C & W Department Peshawar
2. Mr. Iftikhar Hussain, Sub Engineer,
O/O Highway Division Kurram Agency.

SUB: MIS - APPROPRIATION IN PUBLIC EX-CHEQUER.

Your replies of charge sheets leveled against you in the subject Inquiry have been received to the Inquiry Committee constituted for the purpose.

You are directed to appear before the Inquiry Committee for hearing on 17-02-2011 at 11.00 AM in the subject Inquiry at C&W Secretariat Peshawar.

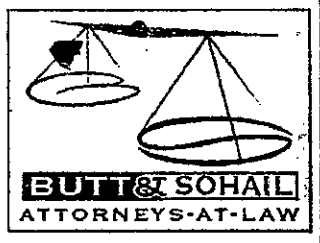

(Engr. Shahid Hussain)
DIRECTOR P&M

Copy to the:-

1. Engr. Zariful Mani (BS-18), (PCS.SG) PPHI, FR, Peshawar (Member Inquiry Committee) for participating in the hearing please.
2. Section Officer (E) C&W Department.
3. PS to Secretary C&W Department.


(Engr. Shahid Hussain)
DIRECTOR P&M

Attested
Advocate
A



Memorandum of Authorization For Representation as Legal Counsel/Lawyer (Agreement for Legal Services)

عقد توكيل - اتفاقية خدمات قانونية
وكالت نامہ

BEFORE THE Honorable Service Tribunal, KPK

Judicial Stamp (Court Fees), If Required
(Affix Here)

Parties of the Proceedings (If Applicable)	Sayed Iftikhar Hussain	PETITIONER(S)	
		PLAINTIFF(S)	
		COMPLAINANT(S)	
		OBJECTOR(S)	
		APPELLANT(S)	<input checked="" type="checkbox"/>
	VERSUS		
Nature of the Proceedings or Legal Services to be rendered	Service Appeal	RESPONDENT(S)	<input checked="" type="checkbox"/>
		DEFENDANT(S)	
		ACCUSED	

I/We, the Appellant (Executants on margins)

hereby appoint and constitute **Shumail Ahmad Butt & Sheraz Butt, Advocates** of M/s Butt & Sohail LLP, Attorneys at Law Hazrat Bala and Zardad Khan

as my/our attorney(s) counsel for me/us and on my/our behalf, to appear, plead in the said proceedings with powers to sign, file pleadings and all kinds of applications including appeal/revision, execution etc. up to apex court/forum to withdraw and receive documents, to withdraw or compromise in the said proceedings or to refer to arbitration, bind me/us by oath, withdraw or receive any money(s) on my/our behalf and to give valid receipts and discharges, to do himself/themselves or through appointment of other lawyer(s) counsel for me/us & in my/our name and on my/our behalf, to do all acts, deeds, matters and things relating to the proceeding(s) in all its stages that I/we personally could do if this instrument had not been executed. The appointment is subject to the following special terms and conditions:

- The fee paid, or agreed to be paid, to the aforesaid counsel is for his/their work at this forum alone. The retainer, however, shall continue and remain in the courts or fora through out. I/We shall however make separate arrangements as to his/their fees in respect of appeals revisions, transfer proceedings and execution of decree or orders.
- Unless the whole amount of fee is paid, the said counsel is/are not bound to prosecute my case nor is/are he/they bound to do so (unless especially under separate arrangement) at any place other the courthouse/place of proceedings/beyond the usual court hours, on public holiday or in any other court/forum. In addition, upon submission of proper documentation, I/we shall reimburse the said counsel for all reasonable and customary expenses incurred while providing services for me/us.
- No part of the said counsel's fee is returnable under any circumstances and cost of adjournments payable by the opposite party will be received and retained by him/them in addition to his/their fees payable by me/us.
- At any time the said counsel is/are unable to attend the court/forum of proceedings because of illness, absence from station or other unavoidable reasons or preoccupation, he/they will make alternate arrangements for appearance on his/their behalf. But he/they shall not be responsible for any loss caused to me/us should these arrangements fail.
- I/we shall make my/our own arrangements for attending the court/forum on every hearing, to inform my/our said counsel when the case/proceeding is called. The counsel shall in no way be responsible for any loss caused to me/us through my/our failure so to inform him/them or owing to a decision ex parte for any reason.
- I/We also undertake to pay his full professional fees as per stipulation. In case his/their full professional fees are not paid the counsel can withdraw and/or suspend his/their services at any time. Additionally the said counsel enjoy(s) a lien over my assets in case of non-payment.
- I/We have been told, recognize and understand that said counsel have made NO GUARANTEE promising the success or outcome of the proceedings in a particular way.
- I/We have read/understood the contents of this document in full and thus put my/our respective hands to empower the

said counsel as stated on this 24 day of March 2016 at Peshawar

Sayed Iftikhar Hussain

[Signature]

Executant(s)

I/We accept this Assignment

[Signatures]

[Signature]

BEFORE THE KHYBER PAKHUNKHWA
SERVICE TRIBUNAL, PESHAWAR
SERVICE APPEAL NO. 373/2016

Syed Iftikhar Hussain,
Ex-Sub Engineer
Highway Division Kurram Agency

Appellant

Versus

1. Govt of Khyber Pakhtunkhwa
through Chief Secretary
Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa
C&W Department, Peshawar
3. Additional Chief Secretary FATA
FATA Sectt, Warsak Road, Peshawar

Respondents

PARA-WISE REPLY ON BEHALF OF RESPONDENT NO. 1, 2 & 3

Respectfully Sheweth:

Preliminary Objections

- i. That the Appellant has got no cause of action
- ii. The appeal is badly time barred
- iii. That the appeal is not maintainable in its present form
- iv. That the appeal is bed for mis-joinder and non-joinder of necessary parties
- v. That the appellant has not come to this Hon'able Tribunal with clean hands

FACTS:

1. Correct to the extent, that appellant while posted as Sub Engineer O/O XEN Highway Division Kurram Agency was found involved in massive irregularities committed by him, as reported by FATA Sectt. Charge sheet and statement of allegations was served upon him, with the approval of competent authority and formal inquiry was conducted under RSO 2000, in which the charges were found proved against him, and the competent authority after fulfillment of all codal formalities, imposed major penalty of "Compulsory retirement, besides recovery of Rs.9,27,840/-" upon him.
2. No comments
3. Correct to the extent, that after observing the codal formalities with regard to inquiry proceedings, a show cause notice was served upon the appellant with tentative decision for imposition of major penalty of "compulsory retirement, besides recovery of Rs.9,27,840/-". The appellant replied to the show cause notice, reply to the show notice was processed by respondent No.2 and the case was placed before the competent authority for final decision.

4. Correct to the extent, the appellant was given proper opportunity of defence, i.e. he replied to the charge sheet, reply to the show cause notice and granted personal hearing by the competent authority, however, he could not defend himself satisfactorily, therefore, the tentative major penalty communicated through show cause notice, confirmed by the competent authority, and subsequently the order was issued on 12.01.2012, based on facts of the case.
5. Correct to the extent, that the appellant prefer a departmental appeal against the impugned order to the appellate authority on 20.01.2012, his appeal was processed and placed before appellate authority. Since plausible grounds for considering appeal were not found, therefore, the appeal was rejected by the appellate authority, and was communicated to him on 11.05.2012.
6. No comments
7. No comments
8. Correct to the extent, that on the direction of Hon'able Service Tribunal order dated 11.09.2015, the Chief Minister Khyber Pakhtunkhwa in terms of Rule-17(2) of Khyber Pakhtunkhwa Govt Servants (E&D) Rules, 2011, rejected the appeal after observing all codal formalities.


GROUND


- A. Not correct. The whole process of the inquiry in respect of appellant was processed and completed by the respondents purely in light of the rules/law in the subject, no violation of constitution of Islamic Republic of Pakistan 1973 was made. The penalty imposed upon the appellant is justified, fair and correctly according to law/regulation.
- B. Not correct. On receipt of FATA Sectt report, formal inquiry under Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance, 2000 was conducted by constituting an inquiry committee to probe allegations leveled against the appellant, proper charge sheet and statement of allegation was served upon him, to which he replied. Proper opportunity of defence was given to the appellant by the inquiry committee, after fulfillment of all codal formalities, personal hearing as prescribed in the rules, the competent authority imposed major penalty as per provision of law upon the appellant, which is purely in line with rules/law, hence cannot be set-aside. The inquiry report after due completion was submitted by the inquiry committee and placed before the competent authority for appropriate orders.
- C. Not correct. As explained in Para A & B of the Grounds.
- D. Not correct. The inquiry committee after due consideration, processed the inquiry proceedings in light of the prevailing rules/regulations by giving proper opportunity of defence to the appellant as evident from the questionnaire to enable the appellant to explain his position in a better way thus the inquiry committee proceedings are not required to be challenged in the court of law. The inquiry committee correctly completed the inquiry proceedings under the rules, which was completed and submitted to the competent authority for appropriate orders and finally the appellant who was responsible for massive irregularities committed by him while posted as Sub Engineer Highway Division Kurram Agency.

- E. Not correct. The order is in accordance with rules/law and justice and the appellant was given sufficient time/ opportunity to prove his innocence, but he failed and in light of the recommendations of inquiry committee, the penalty awarded to the appellant is justified.
- F. Not correct. Since the charges against the appellant were proved after thorough probe by inquiry committee, the plea taken by the appellant is to misguide the Hon'able Tribunal, as he remained involved in the massive irregularities due to which he was penalized by the competent authority after fulfillment of codal formalities.
- G. Not correct. The inquiry report reveals that the charges leveled against the official is established with solid proof/evidence. Moreover, the inquiry committee probed the matter as per charge sheet and statement of allegations which were found established against him, therefore, the penalty imposed is clearly in accordance with rules/laws and need not to be reversed.
- H. Not correct. As per recommendations of the inquiry committee the charges leveled against him were found proved, therefore, mentioning it in the show cause notice, as no excuse, proper opportunity of defence was given to the appellant to provide proof of his innocence but he badly failed and could not present any proof to satisfy the inquiry committee. Charges No. 3 & 4 as per inquiry report are sufficient grounds for imposition of major penalty upon the appellant, thus the inquiry committee correctly recommended the penalty.
- I. Not correct. The appellant should have explained his position of his innocence before the inquiry committee. Since the charges were found established against him for the massive irregularities/illegal payments, the Govt exchequer occurred financial loss on the act of the appellant as he was found guilty of the charges and the punishment awarded to him is in line with the rules/law.
- J. Not correct. As explained in para-A of the grounds.
- K. Incorrect. As explained in para-B of the grounds
- L. Not correct. The appellant while posted as Sub Engineer Highway Division Kurram was found incompetent, involvement in massive irregularities was proved and a fudge payment of millions of rupees was paid to the contractor causes huge losses to the Govt exchequer, therefore, all the charges proved against him and the penalty imposed is justified.
- M. As explained in Ground-L.
- N. Not correct. The findings of the inquiry committee read with the recommendations of inquiry committee from the charges mentioned in the charge sheet leveled against the appellant is fact that the appellant involved in committing massive financial irregularities, the charge probed by the inquiry committee proved and he could not provide proper proof of his innocence to the inquiry committee and now justifying his innocence with reference to the routine correspondence of local Administration, he was supposed to clarify his position to the inquiry committee to which he badly failed and the Respondent No. 1 & 2 after fulfillment of all codal formalities processed (the inquiry report, show cause notice served, the opportunity of personal hearing given to him and) finally imposed the major penalty of "compulsory retirement beside recovery of Rs. 9,27,840/-" which is based on facts and was not mala-fide intention as he badly failed to perform official duties as Sub Engineer Highway Division Kurram Agency.
- O. Not correct. The appellant while posted as Sub Engineer O/O XEN Highway Division Kurram Agency was found incompetent, involvement in massive irregularities found proved, a fudge payment of millions of rupees was paid to the contractor caused huge losses to the Govt exchequer, therefore, all the charges were proved against him, therefore, the penalty imposed is justified.

- P. Incorrect. As explained in para-F of the grounds
Q. Incorrect. As explained in para-J of the grounds
R. Incorrect. As explained in para-2 of the facts
S. Incorrect. As explained in para-H of the grounds
T. Incorrect. As explained in para-L of the grounds
U. Incorrect. As explained in para-L of the grounds
V. Incorrect. As explained in para-N of the grounds
W. Incorrect. As explained in para-8 of the facts
X. Incorrect. As explained in para-8 of the facts
Y. As replied in para-8 of the facts
Z. No comments
- AA. Incorrect. As explained in para 1 & 2 of the facts
BB. Incorrect. As explained in para 2 & 3 of the facts
CC. The respondents seek permission of this Hon'able Tribunal to relay additional grounds at the time of arguments.

In view of the above, it is humbly prayed that the instant appeal which is not based on facts may please be dismissed with cost.


Additional Chief Secretary
FATA Secretariat
Warsak Road, Peshawar
(Respondent No.3)


SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department
(Respondent No. 1 & 2)

BEFORE THE KHYBER PAKHUNKHWA
SERVICE TRIBUNAL, PESHAWAR
SERVICE APPEAL NO. 373/2016

Syed Iftikhar Hussain,
Ex-Sub Engineer
Highway Division Kurram Agency

Appellant

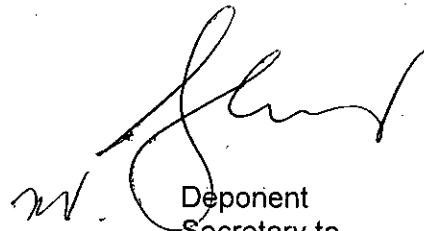
Versus

1. Govt of Khyber Pakhtunkhwa
through Chief Secretary
Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa
C&W Department, Peshawar
3. Additional Chief Secretary FATA
FATA Sectt, Warsak Road, Peshawar

Respondents

COUNTER AFFIDAVIT

We the respondent hereby affirm and declare that all the contents of the reply are correct to the best of our knowledge and belief and nothing has been concealed.



Deponent
Secretary to
Govt of Khyber Pakhtunkhwa
C&W Department

Before the Honorable Service Tribunal, KPK

Sayed Iftikhar Hussain

Versus

Government of KPK & Others

REJOINDER TO THE WRITTEN STATEMENT

Respectfully Sheweth:

The appellant very earnestly crave permission to submit his rejoinder against the Written Statements to the appeal submitted on 17/08/2016 as follows:

ON PRELIMINARY OBJECTIONS RAISED IN WRITTEN STATEMENT

1. Para (s) 1 to 3 of the Preliminary objections are wrong, false and inane, hence denied with vehemence, these are all stereotype, flimsy and without reason objections raised by the Defendants just for the sake of raising some objections.
2. Para No. 4 and 5 of the Preliminary objections are wrong, based on mala fide and white lies, hence refuted. It is the constitutional right as well as the principal of natural justice that "no one shall be condemned unheard", thus creating the right of the answering defendant to submit before this hon'ble Tribunal his views against the comments put by the defendants before this court.

On Facts:

1. Reply to Para 1 is correct to the extent that the appellant was posted as Sub Engineer in O/O XEN Highway Division Kurram Agency and was served a charge sheet and statement of allegations on account of irregularities alleged upon him. **However the rest of para is incorrect** where it is stated that massive irregularities were conducted by the appellant. The appellant have clearly replied the charge sheet and statement of allegations where he with facts and figures clarified his position and denied the allegations leveled against him within time

period prescribed. It is also denied that a regular and formal inquiry was conducted against the appellant by the competent authority. Unfortunately a ritualistic farce in the name inquiry was conducted by the so-called enquiry committee by issuing a questionnaire to the appellant which although was duly answered by the appellant but not been given due consideration by the Enquiry Committee who were happy to sing the song of respondents and dovetail their instructions. It is to be noted that the August Supreme Court Of Pakistan have given many judgments in which such irregular enquiries are said to be inconsistent with requirements of Rule 6 of Government Servants (efficiency and discipline) Rules 1973. After that, a so called enquiry report was submitted to the competent authority on 02/04/2011 and subsequently much after statutory period vide letter dated 02/06/2011 an addition was also made to the enquiry report *ibid*. It is worth mentioning that the inquiry officers stated in their recommendation in enquiry report that *"it is very difficult to differentiate between the old structures with new one after one and half year time and floods affecting the structure, however, it SEEMS that irregularities have been made in payments"* which clearly indicates that the appellant was alleged with charges merely on the basis of presumptions therefore this para is denied to this extent.

2. **Reply to Para 2 is not sufficient** as it shall not be sufficient for a defendant in his written statement to deny generally or remain silent on the grounds alleged by the plaintiff, but the defendant must need to reply specifically with each allegation to which he does not admit the truth (ORDER VIII, RULE III CPC). Where a defendant denies an allegation of fact in the plaint, he must not do so evasively, but answer the point of substance.
3. Reply to Para 3 is correct to the extent that the appellant was served with the final show cause notice wherein major penalty of compulsory retirement besides recovery of Rs. 9,27,840/- was proposed against the appellant to which he submitted a detailed reply thereby clarifying the entire position to the competent authority and denied the charges leveled against him. **However rest of the para is incorrect** as the appellant was not given proper opportunity of defense because the impugned order No. SOE/C&WD/8-21/2010 was passed without considering the reply of the appellant whereby major penalty of compulsory retirement besides recovery of Rs.9, 27, 840/- were imposed upon appellant. It is to be noted that the imposed penalty is against law and far away from justice as nothing has been proved against the appellant because the suspicion however strong it may be cannot take the place of "proof". Moreover the competent authority has decided the case without looking into record or applying its independent judicious mind to the facts of the case. For instance, charge 2 is regarding the fudge payments to the contractor

without visiting the roads, and the committee says that *"in view of the signature of sub engineer on MB, the charge cannot be proved"* which proves that the competent authority has neither gone through the inquiry report, nor has applied its judicious mind to the material on record. Moreover charge 3 says that the appellant have made fudge payments of Rs. 27,83,520/- for removal of heavy slips but the roads were found full of heavy slips. In this regard, incumbent Executive Engineer letter dated 14/01/2011 was issued to competent authority wherein the Executive Engineer has confirmed that: *"he has inspected all those M&R works in Para Chamkani area of central kurram on 30.12.2010 which were under inquiry and payment made thereon during 2008-09 and 2009-10 and that the respective M&R contractor has completed all the works pointed out by the enquiry committee in their report according to standard specification and payment made thereon during 2008-09 and 2009-10"*. This letter is in fact a certificate of the fact that the charge was false and flimsy and the government has sustained no loss, hence there arises no question of awarding major penalties.

4. **Reply to Para 4 is incorrect** as explained above.
5. Reply to Para 5 is correct to the extent that the appellant referred a departmental appeal against the impugned order to the appellate authority on 23.01.2012. **However it is incorrect** that the appeal was rejected due to the lack of plausible grounds, as the competent authority injudiciously neglected the reports submitted by the Executive Engineer C&W Division Battagram and the Executive Engineer Highway Division Kurram which negated the charges leveled upon the appellant. Therefore the appeal was rejected by the appellate authority clearly in defiance of norms of justice, fair play and impartiality.
6. **Reply to Para 6 is not sufficient** as it shall not be sufficient for a defendant in his written statement to deny generally or remain silent on the grounds alleged by the plaintiff, but the defendant must need to reply specifically with each allegation to which he does not admit the truth (ORDER VIII, RULE III CPC). Where a defendant denies an allegation of fact in the plaint, he must not do so evasively, but answer the point of substance.
7. **Reply to Para 7 is not sufficient** as it shall not be sufficient for a defendant in his written statement to deny generally or remain silent on the grounds alleged by the plaintiff, but the defendant must need to reply specifically with each allegation to which he does not admit the truth (ORDER VIII, RULE III). Where a defendant denies an allegation of fact in the plaint, he must not do so evasively, but answer the point of substance.

8. Reply to Para 8 is correct to the extent that the Chief Minister Khyber Pakhtunkhwa rejected the appeal, **however it is incorrect** that the codal formalities were fulfilled as he altogether ignored not only the judgment and order of this Hon'ble Tribunal but also shut eyes from the material available on record. The discretion was thus not exercised in accordance with law but ritualistically by some bureaucrat to dovetail the departmental direction. It is to be noted that this case was remanded back to the appellate authority by the Hon'ble Service Tribunal with directions to examine the case in its entirety and to decide the appeal within sixty days which was decided mechanically without application of independent judicious discretion after almost 180 days which was glare violation of the Honorable Service Tribunal's order.

Grounds

- A. Reply to **Ground "A" is incorrect** because the appellate authority has chosen to remain mechanical and ritualistic instead of applying judicial mind and also violated the constitution of Islamic Republic of Pakistan.
- B. Reply to **Ground "B" is incorrect** because the authority have decided the matter without keeping in consideration the reply of the appellant in which it was clearly demonstrated with help of fact and figures that alleged irregularities were not committed by the appellant.
- C. Reply to **Ground "C" is incorrect** because the impugned decision was given by the authority without keeping in view the material particulars as discussed in detail above.
- D. Reply to **Ground "D" is incorrect** because the inquiry committee very conveniently rather callously ignored the reports of Executive Engineers which clearly shows that the works were completed without any irregularity. Moreover it is also a matter of record that inquiry through questionnaire is not a proper inquiry in the light of judgments given by the August Supreme Court of Pakistan.
- E. Reply to **Ground "E" is incorrect** because as discussed in ground D, the reports of Executive Engineers have been neglected by the appellate authority in previous round of litigation.
- F. Reply to **Ground "F" is incorrect** because the Sr.G.P representing the Government absolved the appellant from Charge Number 2 before this Hon'ble Service Tribunal, as duly recorded by the Tribunal in its

previous decision yet the Appellate Authority chose to repeat the same earlier decision ritualistically.

G. Reply to **Ground "G" is incorrect** in the light of the observation made by the inquiry officer which clearly shows that it is difficult to differentiate between the old structures with the new ones after the lapse of one and a half year time. Thus this ambiguous statement lacks the substance through which the appellant can be considered guilty under charge number 1.

H. Reply to **Ground "H" is incorrect** because of the self contradiction between charge sheet and inquiry report wherein the charge sheet states that *"all the roads were full of slips"* however the reports states that technically it is improbable that every inch of road were full of slips, thus proving that charge number 3 is invalid and unacceptable in its true sense.

I. Reply to **Ground "I" is incorrect** because one cannot be incriminated for an act or omission which has not been done by him in the light of principles of natural justice and the provisions of the constitution of Pakistan and not even charge has been established against him. The appellant cannot be held liable for the entire stretch of road but can only be made answerable for the given stretch that was under the subject matter of work done during his time.

J. Reply to **Ground "J" is incorrect** because all the allegations are vague and whimsical and nothing has been proved against him as both the XEN deputed for enquiry have reported that all the work has been done accordingly. Moreover the appellant is not treated in accordance with law, rules and policies on the same subject and thus respondents acted in violation of Article 4 of the constitution of Pakistan by unlawfully issuing the impugned orders which is unjust, unfair and hence not sustainable in the eyes of law.

K. Reply to **Ground "K" is incorrect** because no regular inquiry was conducted against the appellant for the charges leveled against him. Moreover the inquiry report was submitted after 84 days whereas under the law, the same was to be completed within 25 days. Thus the inquiry was not conducted keeping in view the pros and cons of Section 5 of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000.

L. Reply to **Ground "L" is incorrect** because the appellant was prejudicially affected due to the non holding of detailed regular inquiry

of the allegations leveled against him as there was a mash up of factual controversies, therefore, all the charges against him and penalty imposed ✓ in not justified.

M. Reply to **Ground "M" is refuted** as explained in Para "D" and "L" of Grounds.

N. Reply to **Ground "N" is incorrect** as explained in Para I, J, K and L of the Grounds.

O. Reply to **Ground "O" is incorrect**. Moreover respondents have gone beyond the scope of charges contained in the charge sheet and the same have been depending upon suspicions and surmises rather than solid proof. It is a settled principle that finding beyond the scope of charge sheet is nullity in the eye of law inasmuch as the accused is to be informed about the charges which he will require to meet in advance. Moreover the authority is bent upon punishing the appellant at all costs, as is reflected by their biased and partial attitude towards the appellant.

P. **Reply to Ground "P" is incorrect** as It shall not be sufficient for a defendant in his written statement to deny generally the grounds alleged by the plaintiff, but the defendant must need to reply specifically with each allegation to which he does not admit the truth (ORDER VIII, RULE III). Where a defendant denies an allegation of fact in the plaint, he must not do so evasively, but answer the point of substance. Moreover in the light of the recommendation No.2 of enquiry report which states: "*sub engineer has signed the M.B Book, therefore it can not be proved that the site was not visited before the payments.*". Thus even after the disproving of charge No.2 by enquiry committee, the same has been included in the Show Cause Notice as proved, which signifies that the competent authority have not considered the matter on the record with judicious mind.

Q. **Reply to Ground "Q" is incorrect** as explained in para "P". Further the Enquiry Committee has accepted the fact that it is very difficult to differentiate between the new structure with the old structures after one and the half year time and floods have also affected the structures. Moreover the committee observed that "*it seems that irregularities have been made in payments*" whereby 'seems' cannot take place of 'proves'. Now the question arises that whether law permits to convict any person on basis of suspicions? The answer is crystal clear in negative.

R. **Reply to Ground "R" is incorrect** as explained in Para "P" & "Q" of the Grounds.

- S. **Reply to Ground "S" is incorrect** as explained in Para "P" & "Q" of the Grounds.. The report was submitted too early, which clearly indicates that the enquiry committee has never visited the spot for confirmation or verification, otherwise it would have collected the evidences of local witnesses in support of the charge. Since there is no verbal or documentary evidence to this effect, therefore the charge has not been established.
- T. **Reply to Ground "T" is incorrect** as explained in Para "P" & "Q" of the Grounds.
- U. **Reply to Ground "U" is incorrect** as explained in Para "P" & "Q" of the Grounds. Further the appellate authority have not given the weight to the report of Executive Engineer C&W Division Battagram who reported back the matter vide letter dated 07/03/2012 and thus highlighted the correct position in favor of the appellant.
- V. **Reply to Ground "V" is incorrect** as explained in Para "P" & "Q" of the Grounds. Moreover no irregularity has been conducted on part of the appellant and he was intentionally made suffer even ignoring the material on record which proved to be in his favor.
- W. **Reply to Ground "W" is incorrect** as explained in Para "P" & "Q" of the Grounds. Further because the competent authority (Chief Minister) violated the provisions of Rule 5 of Khyber Pakhtunkhwa Civil Servants Appeal) Rules, 1986 while rejecting the appeal of the appellant.
- X. **Reply to Ground "X" is incorrect** as explained in Para "P" & "Q" of the Grounds as the appellate authority violated the court orders of deciding the matter within 60 days, whereas the authority decided the same after the lapse of 180 days.
- Y. **Reply to Ground "Y" is incorrect** as explained in Para "P" & "Q" of the Grounds.
- Z. **Reply to Ground "Z"** as explained in Para "P" of the Grounds
- AA. **Reply to Ground "AA" is incorrect** as explained in Para "P" of the Grounds. The roads remained smooth and the traffic flow was normal and none a single complaint was recorded from the public during 18 months after its opening till the floods once again hit the area and destroyed the infrastructure. Suddenly after floods in the mid of 2010, roads were inspected and reported to be full of slips.

BB. Reply to Ground "BB" is incorrect as explained in Para "P" of the Grounds. No member of the enquiry committee bothered to visit the site in person and carry out the spot inspection to confirm the facts on grounds.

CC. Reply to Ground "CC" is that appellant will raise other grounds at the time of the arguments with prior permission of the court.

It is therefore most humble prayed that in light of this rejoinder to the written reply of the respondents, the impugned order of the appellate authority dated 10/03/2016 as well as the impugned orders dated 12/01/2012 and 11/05/2012 may graciously be set aside and appellant be reinstated into service with all back benefits.

Any other relief not specifically asked for may also be granted to the appellant if deemed fit, just and appropriate.

Dated 23/08/2016

[Signature]
Appellant

Through

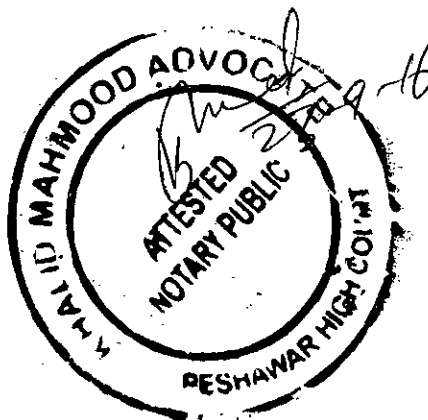
[Signature]
Shumail Ahmad Butt,
Advocate Supreme Court of
Pakistan

& *[Signature]*
Hazrat Bilal Khan
Advocate High Court

Verification

It is hereby verified on oath that the contents of the instant rejoinder/ written statement are true and correct and nothing contained therein is false.

[Signature]
Deponent



N/C 21803-2059807-3