

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	10.12.2015	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.1597/2013</p> <p style="text-align: center;">(Bashir Khan-vs-Govt: of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER:</u></p> <p>Appellant with counsel (Mr. Naveed Akhtar, Advocates) and Mr. Sultan Shah, Assistant alongwith Additional Advocate General for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the notification dated 29.08.2013 whereby the major penalty of removal from service has been imposed upon the appellant, against which his departmental appeal dated 10.09.2013 has also been rejected vide order dated 07.11.2013. He prayed that on acceptance of this appeal the impugned notification dated 29.08.2013 and the rejection order dated 07.11.2013 may please be set aside and the appellant may be reinstated into service with all back benefits.</p> <p>3. Brief facts giving rise to the instant appeal are that the appellant was initially appointed as Junior Clerk in the Secretariat, with the</p>

	AFI	<p>passage of time and satisfactory service he was promoted to the post of Superintendent (BPS-16). That it is pertinent to mention that the appellant remained posted at different departments he was also posted/transferred at Home and Tribal Affairs Department vide order dated 12.02.2011, where he remained for 7 to 8 months. That an issue regarding inter-provincial transfer of prisoners was highlighted in the media, consequently a fact finding inquiry was conducted and without associating the appellant with the preliminary enquiry, disciplinary proceedings were initiated against him. That the appellant was served with charge sheet and statement of allegations dated 14.02.2013, containing the false and baseless allegations that the appellant while posted as Superintendent Prisons Section Home Department, Khyber Pakhtunkhwa took bribe and issued fake NOC for transfer of prisoners from Punjab. That the appellant duly replied the charge sheet vide reply dated 20.02.2013, and refuted the false and baseless allegations leveled against him. That thereafter a partial inquiry was conducted and the inquiry officer without properly associating the appellant with the inquiry proceedings gave his findings and recommended the appellant for punishment. That the appellant was served with show cause notice dated 15.05.2013, which he duly replied vide reply dated 28.05.2013, wherein besides refuting the allegations leveled against him he also pointed out the partial attitude of the inquiry officer during the inquiry proceedings against him by not giving him fair opportunity to defend himself. That it is pertinent to mention that alongwith the reply to the show cause notice, the appellant also attached the copies of the statements of the witnesses wherein the denied the involvement of the appellant in the alleged incident. Consequently the competent authority with direction to verify the statements of the witnesses and to allow the</p>
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appellant to cross examine the witnesses. The enquiry officer again adopting the partial attitude did not allow the appellant to cross examine the witness and submitted re-inquiry report. It is also pertinent to mention that the appellant submitted different application expressing his no confidence against the enquiry officer and for marking the inquiry to any other officer, However his request were turned deaf ear. That without considering the defense reply of the appellant the competent authority quite illegally awarded the appellant the major penalty of removal from service vide notification dated 29.08.2013. That appellant preferred departmental appeal on 10.09.2013 which was rejected on 07.11.2013, communicated to the appellant on 12.11.2013, hence the instant appeal.

4. The learned counsel for the appellant argued that the appellant had not been treated in accordance with law, hence his rights secured under the law had been badly violated. He further argued that no proper procedure as provided under the law had been followed nor appellant had been associated with enquiry proceedings, appellant not provided opportunity to cross examine the witnesses and also full opportunity of defense not given to the appellant, the entire proceedings were thus violative of law and not tenable. He further argued that Competent Authority returned the enquiry to the Enquiry Officer with clear ToR's and opportunity of cross examination, however the said directions were not complied with in letter and spirit and the proceedings were completed in a slipshod manner, the appellant was thus deprived of fair opportunity of defense hence the impugned orders were against the principles of natural justice. He further contended that no charge was proved against the appellant and Enquiry Officer only based his

OFF

findings on surmises and conjunctures. He further contended that though the tout Bashir admitted to have got transferred prisoners on the basis of bribes but no action whatsoever was taken under the law against the said person which reflected the partial attitude and malafide of the respondent-department against the appellant. He also argued that on re-enquiry of the case the Competent Authority did not issue his afresh show cause and thus he was deprived of defense which was his basic rights under the law. He prayed that on acceptance of this appeal the impugned order dated 29.08.2013 may be set aside and the appellant may be reinstated in service with all back benefits of service. He relied on 1997 PLC (CS) 333, 1999 SCMR 2321, 2011 SCMR 1504, 2007 PLS (CS) 1101 and this Tribunal judgment in Service Appeal No. 484/2013 dated 01.09.2015.

5. The learned AAG resisted the appeal and argued that all codal formalities were fulfilled before imposition of major penalty of removal from service on the appellant and there was no illegality in the impugned order. He further argued that 2<sup>nd</sup> statement of the Bashir (tout) in favor of the appellant was a result of pressure and coercion on the part of the appellant and in this regard also cited the two witnesses which were drawn from the subordinate officials of Energy and Power Department where appellant was posted as Superintendent at the relevant time and it was not credible evidence in support of the innocence of the appellant. He prayed that appeal being devoid of any merits may be dismissed.

6. Arguments of learned counsels for the parties heard and record perused with their assistance.

QFL

7. From arguments of the counsels for the parties and from perusal of the record, it transpired that the appellant was not given opportunity of fair trial and full opportunity of defense before inflicting on him the major penalty of removal from service. It is ironical that upon reply of the appellant to the show cause notice, the competent authority re-referred the enquiry to the Enquiry Officer with clear TOR's for revisiting of the report which was not done in an objective manner and opportunity of cross examination as directed by the competent authority was not given to the appellant. Moreover, opportunity of defense was also not provided to the appellant after the revised enquiry report which renders the proceedings defective in the eyes of law. In view of the forgoing, the impugned orders dated 29.08.2013 and dated 07.11.2013 are set aside, the appellant is reinstated in service for the purpose of *de-novo* enquiry strictly in accordance with law and rules which shall be completed in 45 days after receipt of this judgment. Back benefits will be subject to outcome of the fresh proceedings. Parties are left to bear their own costs. File be consigned to the record.

8. Our this single judgment will also dispose of in the same manner appeal No. 1543/2013 titled Jehanzeb, where same question of law and facts are involved.



(PIR BAKHSH SHAH)  
MEMBER



(ABDUL LATIF)  
MEMBER

ANNOUNCED  
10.12.2015

19.08.2015

Appellant with counsel and Addl: A.G for respondents present. The learned Member (Executive) is on official tour to Abbottabad therefore, case is adjourned to 08-10-2015 for arguments.

  
Member

08.10.2015

Appellant with Mr. Naveed Akhtar, Advocate present and submitted Wakalat Nama. Addl: A.G for respondents also present. The Bench is incomplete therefore, case is adjourned to 12-11-15 for arguments.

  
MEMBER

12.11.2015

Appellant in person and Mr. Naheed, Senior Clerk alongwith Sr. GP for respondents present. Arguments could not be heard due to paucity of time. To come up for arguments on

10-12-15

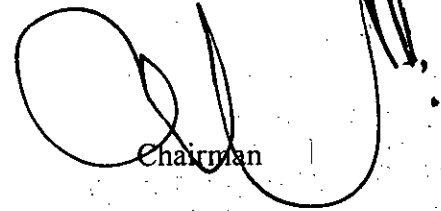
  
Member

  
Member

5.

6.6.2014

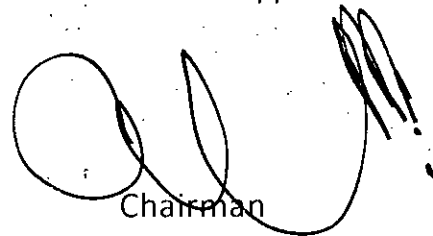
Appellant in person and Mr. Sultan Shah, Assistant for respondents No. 1 and 2 with AAG for the respondents present. Written reply has not been received. To come up for written reply/comments on 12.9.2014.

  
Chairman

6.

12.09.2014

Appellant in person and Mr. Sultan Shah, Assistant for respondents No. 1 & 2 with Mr. Kabeerullah Khattak, Asstt. A.G present. Joint written reply/parw-wise comments received on behalf of the respondents, copy whereof is handed over to the appellant for rejoinder on 14.1.2015.

  
Chairman

14.01.2015

Appellant with counsel and Addl: A.G for respondents present. Rejoinder submitted. To come up for final hearing/arguments on 01.07.2015.

  
Chairman

01.07.2015

Counsel for the appellant and Mr. Mohammad Jan, GP for the respondents present. Counsel for the appellant requested for adjournment and stated that identical cases are fixed for arguments before this bench on 19.08.2015, therefore the same may also be clubbed with the said appeal. Requested accepted. To come up for arguments on 19.08.2015.

  
Member

  
Member

Appeal No. 1597/2013  
Mr. Bagha Khan

3  
15.01.2014

Counsel for the appellant present and filed re-drafted page No. 1 of the instant appeal. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the order dated 07.11.2013, the appellant filed instant appeal on 27.11.2013. He further contended that the impugned final order is not a speaking order and has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules-1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 07.04.2014.

Appellant Deposited  
Security Process Fee  
Rs. 180/- Bank  
Receipt is attached with File.

*[Handwritten signature]*

Member

4  
15.01.2014

This case be put before the Final Bench I for further proceedings.

*[Handwritten signature]*  
Chairman

2-4-14



The Honbl. Bench is on Roll  
Refer. can is adjud. B 6.6.14

*[Handwritten signature]*  
Reader



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Case No. 1597 /2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/12/2013	<p>The appeal of Mr. Bashir Khan resubmitted today by Mr. Ijaz Anwar Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>15-12-2013</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2	13-12-2013	

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

D NO 1592  
OF 27-11-2013

1592  
Appeal No. /2013

Bashir Khan, Ex-Superintendent (BPS-16) Home & Tribal Affairs  
Department, R/O House No 44 Sector C-2, Phase-V, Hayatabad,  
Peshawar.

(Appellant)

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Govt Khyber Pakhtunkhwa, Establishment Department, Khyber Pakhtunkhwa, Peshawar.
3. Secretary to Govt Khyber Pakhtunkhwa, Home and Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.

(Respondents)

**Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the final order dated 07.11.2013, whereby the departmental appeal of the appellant against the Notification dated 29.08.2013 whereby the major penalty of "REMOVAL FROM SERVICE" imposed upon the appellant, has been rejected.**

Prayer in Appeal: -

**On acceptance of this Service Appeal the impugned Final Order dated 07.11.2013, and Notification No. SOE.IV (E&AD) 10(237) /2012, dated 29.08.2013, may please be set aside and the appellant may be reinstated into service with all back benefits of service.**

Respectfully Submitted:

1. That the Appellant was initially appointed as Junior Clerk in the Secretariat, with the passage of time and satisfactory service he was promoted to the post of Superintendant (BPS-16), he remained posted on different posts. Ever since his appointment, the Appellant has performed his duties as assigned to him with zeal and devotion and there was no complaint whatsoever regarding his performance.

The appeal of Mr. Bashir Khan Ex-Superintendent Home department received today i.e. on 27.11.2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.


- 1- Copy of order dated 12.2.2011 mentioned in para-2 of the memo of appeal (Annexure-A) is not attached with the appeal which may be placed on it.
- 2- Annexure-D of the appeal is incomplete which may be completed.

No. 1691 /S.T.

Dt. 28/11 /2013

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Ijaz Anwar Adv. Pesh.

*Annexure D is complete and  
is re-submitted after complaint*  


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

Appeal No. 1597/2013

Bashir Khan, Ex-Superintendent (BPS-16) Home & Tribal Affairs  
Department, R/O House No 44 Sector C-2, Phase-V, Hayatabad,  
Peshawar.

(Appellant)

**VERSUS**

Govt. of Khyber Pakhtunkhwa through Chief Secretary Khyber  
Pakhtunkhwa, Peshawar and others.


(Respondents)

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Appellant

Through

  
**IJAZ ANWAR**  
Advocate Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 1597/2013

1597  
27-11-13

Bashir Khan, Ex-Superintendent (BPS-16) Home & Tribal Affairs  
Department, R/O House No 44 Sector C-2, Phase-V, Hayatabad,  
Peshawar.

(Appellant)

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Govt Khyber Pakhtunkhwa, Establishment Department, Khyber Pakhtunkhwa, Peshawar.
3. Secretary to Govt Khyber Pakhtunkhwa, Home and Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.

(Respondents)

**Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Notification No. SOE.IV (E&AD) 10(237) /2012 dated 29.08.2013, whereby the major penalty of "REMOVAL FROM SERVICE" has been imposed upon the appellant, against which his departmental Appeal dated 10.09.2013 has also been rejected vide order dated 07.11.2013.**

✓  
Page: 41

Prayer in Appeal: -

On acceptance of this Service Appeal the impugned Notification No. SOE.IV (E&AD) 10(237) /2012, dated 29.08.2013, and the rejection order dated 07.11.2013, may please be set aside and the appellant may be reinstated in to service with all back benefits of service.

Respectfully Submitted:

1. That the Appellant was initially appointed as Junior Clerk in the Secretariat, with the passage of time and satisfactory service he was promoted to the post of Superintendant (BPS-16), he remained posted on different posts. Ever since his appointment, the Appellant has performed his duties as assigned to him with zeal and devotion and there was no complaint whatsoever regarding his performance.

Co-submitted to  
and filed

27/11/13

2. That it is pertinent to mention that the appellant remained posted at different departments he was also posted/transferred at Home and Tribal Affairs department vide order dated 12.02.2011, where he remained for 7 to 8 months. ( Copy of the order dated 12.02.2011 is attached as Annexure A)
3. That an issue regarding inter-provincial transfer of prisoners was highlighted in the media, consequently a fact finding inquiry was conducted and without associating the appellant with the preliminary enquiry, disciplinary proceedings were initiated against him.
4. That the appellant was served with Charge Sheet and Statement of allegations dated 14.02.2013, containing the false and baseless allegations that the Appellant while posted as Superintendent Prisons Section Home Department, Khyber Pakhtunkhwa, committed the following irregularities:-
  - a. ***“You are direct beneficiary in the transfer cases of prisoners from Punjab to Prisons of Khyber Pakhtunkhwa on fake NOCs, as well having links in all inter Provincial transfer cases.***
  - b. ***You are the manufacturer of forged signatures of the then Section Officer Prison (Mr. Ghulam Marwat Home Department).***
  - c. ***You refused to record the statement during enquiry proceedings when you were called upon for the same.***
  - d. ***You threatened to go to Court if any Order is passed against.”***
 (Copies of the Charge Sheet and Statement of allegations dated 14.02.2013 are attached as Annexure B).
5. That the Appellant duly replied the Charge Sheet vide reply dated 20.02.2013, and refuted the false and baseless allegations leveled against him. ***(Copy of the Reply dated 20.02.2013, is attached as Annexure C).***
6. That thereafter a partial inquiry was conducted and the inquiry officer without properly associating the appellant with the inquiry proceedings gave his findings and recommended the appellant for punishment.(Copy of the inquiry report is attached as Annexure D)
7. That the Appellant was served with Show Cause Notice dated 15.05.2013, which he duly replied vide reply dated 28.05.2013, wherein besides refuting the allegations leveled against him he also pointed out the partial attitude of the inquiry officer during the inquiry proceedings against him by not giving him fair opportunity to defend himself. ***(Copy of the Show Cause Notice***

*dated 15.05.2013, and Reply to the Show Cause Notice are attached as Annexure E & F).*

8. That it is pertinent to mention that along with the reply to the Show Cause Notice, the appellant also attached the copies of the statements of the witnesses wherein they denied the involvement of the appellant in the alleged incident. Consequently the Competent authority vide letter dated 05.07.2013, ordered re-inquiry with direction to verify the statements of the witnesses and to allow the appellant to cross examine the witnesses. The inquiry officer again adopting the partial attitude did not allowed the appellant to cross examine the witnesses and submitted re-inquiry report. It is also pertinent to mention that the appellant submitted different applications expressing his no confidence against the enquiry officer and for marking the inquiry to any other officer, however his requests were turned deaf ear. (Copies of the statements of the witnesses, re-inquiry report and applications are attached as Annexure G & H).
9. That without considering the defense reply of the appellant the competent authority quite illegally awarded the Appellant the major penalty of "**REMOVAL FROM SERVICE**" vide Notification No. SOE.IV (E&AD). 10(237)/2012, dated 29.08.2013. *(Copy of the Notification of Removal from Service dated 29.08.2013 is attached as Annexure I).*
10. That the appellant filed departmental appeal dated 10.09.2013, however it was also rejected vide Order dated 07.11.2013, copy of the rejection order was however communicated to the appellant on 12.11.2013. *(Copies of the Departmental Appeal dated 10.09.2013 and Rejection order dated 07.11.2013 are attached as Annexure J & K).*
11. That the Impugned orders illegal, unlawful without lawful authority and against the law and facts, hence liable to be set aside inter alia on the following grounds.

**GROUND OF APPEAL:-**

- A. That the Appellant has not been treated in accordance with law, hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding the penalty to the appellant, no proper inquiry has been conducted, neither he has been properly associated with the inquiry proceedings nor he has been allowed opportunity to cross examine the witnesses, the inquiry officer gave his findings on surmises and conjunctures,

hence the proceedings so conducted are violative of law and thus not tenable.

- C. That the appellant has not been given meaningful opportunity of personal hearing thus he has been condemned unheard.
- D. That the charges leveled against the appellant were never proved during the enquiry and enquiry officer gave his findings on surmises and conjunctures.
- E. That the appellant has not been allowed fair opportunity to defend himself against the charges leveled, moreover he has not been provided the copies of the inquiry report before the imposition of the penalty, thus the impugned orders are against the principles of natural justices.
- F. That no reason has been given in the rejection order dated 07.11.2013, for rejecting the appeal of the appellant, thus the order is not a speaking order and is against Section 24-A of the General Clauses Act.
- G. That during inquiry proceedings neither the statements of the witnesses were taken in presence of the appellant, nor the appellant was allowed to cross examine those witnesses who may have deposed against the appellant, even when the inquiry report was returned to inquiry officer for re-inquiry, it was directed that the appellant be allowed opportunity of cross examination, however he was denied the same.
- H. That the appellant has time and again objected on the partisan attitude of the inquiry officer, he has also showed his no confidence on the inquiry officer and made several requests for marking the inquiry to any other officer, however his complaint was never considered and was not thus treated fairly and in accordance with law.
- I. That the charges leveled are of such a nature that were never admitted nor proved against the Appellant, therefore proving the charges on the basis of no evidence are illegal, unlawful and not tenable. Similarly the person whose statement was used against him, his statement was not recorded in presence of the appellant, hence his statement has got no evidentiary value.
- J. That the witnesses upon whose statements the appellant was held involved in the incident had later denied the involvement of the appellant in the alleged occurrence in their statement, those were sent to the inquiry officer for verification, however the inquiry officer did not properly

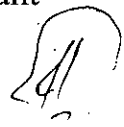


verified the statements, moreover he again recorded / interviewed witnesses in the absence of the appellant which is evident from the re-inquiry report.


- K. That the appellant has never forged any signatures, thus simply relying on the statement that the witnesses are changing their stances is injustice and illegal.
- L. That the appellant never committed any act or omission which could be termed as misconduct, albeit the appellant has been awarded the major punishment. He hardly served at Home and Tribal Affairs Department for seven to eight months and that to in different sections, moreover he was never assigned any specific task nor entrusted a particular job.
- M. That when the competent authority agreed / ordered for cross examination of the witness and parade from the presence but in the inquiry officer ignored the order of the competent authority.
- N. That the appellant is dealt with quite harshly on the basis of unproven charges. The penalty imposed upon the appellant is too harsh and liable to be set aside.
- O. That the appellant is jobless since the illegal ***Removal from Service.***
- P. That the facts and grounds taken in the replies of the ***Charges Sheet, Show Cause Notice and Departmental Appeal*** of the appellant may also be taken as integral part of this appeal.
- Q. That the appellant seeks permission to rely on additional grounds at the time of hearing of the appeal.

It is, therefore, humbly prayed that on acceptance of this Service Appeal the impugned Notification No. SOE.IV (E&AD) 10(237) /2012, dated 29.08.2013, and the rejection order dated 07.11.2013, may please be set aside and the appellant may be reinstated in to service ***with all back benefits of service.***

  
Appellant

Through 

**IJAZ ANWAR**  
Advocate Peshawar

&  
  
**SAJID AMIN**  
Advocate Peshawar

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

Appeal No. \_\_\_\_\_/2013

Bashir Khan, Ex-Superintendent (BPS-16) Home & Tribal Affairs  
Department, R/O House No 44 Sector C-2, Phase-V, Hayatabad,  
Peshawar.

(Appellant)

**VERSUS**

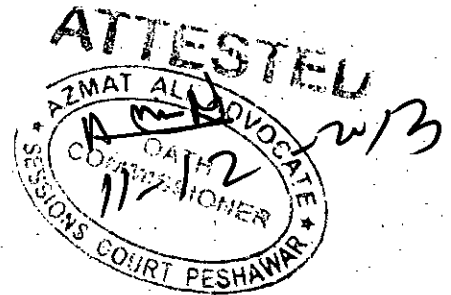
Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber  
Pakhtunkhwa, Peshawar and others:

(Respondents)

**AFFIDAVIT**

I, *Bashir Khan, Ex-Superintendent (BPS-16) Home & Tribal Affairs Department, R/O House No 44 Sector C-2, Phase-V, Hayatabad, Peshawar*, do hereby solemnly affirm and declare that the contents of the *above appeal* are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal

  
Deponent





GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

Dated Peshawar, the 12<sup>th</sup> February, 2011

NOTIFICATION

No. SOE.IV (E&AD) 1-7/2011 - On the recommendations of the Departmental Promotion Committee, the following Assistants (BS-14) of the Civil Secretariat, Khyber Pakhtunkhwa, are hereby appointed as Superintendents (BS-16), on acting charge basis, with immediate effect: -

S. No	Name	Department
1.	Mr. Kishwar Masih	IPC Deptt
2.	Mr. Ghani-ur- Rehman	Civil Secretariat FATA
3.	Mr. Muhammad Sharif S/O Abdul Sattar	Home Department
4.	Mr. Muhammad Sharif S/O Muhammad Yousaf	Agriculture Department
5.	Mr. Bashir Khan	Home Department
6.	Mr. Saeed Ahmad-Siddiqui	Law Department

2. Consequent upon their appointments as Superintendents (BS-16) on acting charge basis, the following posting/transfers are hereby ordered with immediate effect:-

S.No	Name	From	To
1.	Mr. Kishwar Masih	IPC Deptt	Transport Deptt
2.	Mr. Ghani-ur- Rehman	Civil Secretariat FATA	Retained in Civil Sectt FATA
3.	Mr. Muhammad Sharif S/O Abdul Sattar	Home Department	Retained in Home Deptt
4.	Mr. Muhammad Sharif S/O Muhammad Yousaf	Agriculture Department	Environment Deptt
5.	Mr. Bashir Khan	Home Department	Minerals Dev. Deptt
6.	Mr. Saeed Ahmad Siddiqui	Law Department	Retained in Law Deptt

3. In addition to the above, the following posting/transfers amongst the officials of Civil Secretariat, Peshawar are hereby ordered with immediate effect.

*A. Saeed*

S.No	Name/Designation	From	To
1.	Syed .Farooq Shah, Supdt	E&AD (Estate Office)	STI E&A Deptt
2.	Mr. Noor Ali Shah, Supdt	Home Deptt	E&AD ( Estate Office)

CHIEF SECRETARY  
GOVERNMENT OF KHYBER  
PAKHTUNKHWA

Endst. No. & date even

Copy forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. All concerned Section Officers (Admn/General/Estt) Departments in Civil Secretariat Khyber Pakhtunkhwa
3. The Section Officer (Secret) Establishment Department.
4. The PS to Secretary Establishment Department.
5. The PA to Additional Secretary (E), Establishment Department.
6. The PA to Deputy Secretary Establishment Department.
7. The Officers concerned.

*MAQBOOL HUSSAIN*  
12/2/11  
(MAQBOOL HUSSAIN)  
SECTION OFFICER (E.IV)

(8)

ANNEX: B

## CHARGE SHEET

I, Ghulam Dastgir Akhtar, Chief Secretary, Khyber Pakhtunkhwa Peshawar as competent authority, hereby charges you, Mr. Bashir Khan, Superintendent (BPS-16), as follows:

That you, while posted as Superintendent Prisons Section Home Department, Khyber Pakhtunkhwa, committed the following irregularities:

- a) You are direct beneficiary in transfer cases of prisoners from Prisons of Punjab to Prisons of Khyber Pakhtunkhwa on fake NOCs, as well as having links in all inter provincial transfer cases.
- b) You are the manufacturer of forged signatures of the then Section Officer Prison (Mr. Ghulam Marwat) Home Department.
- c) You refused to record statement during the preliminary enquiry proceedings when you were called upon for the same.
- d) You threatened to go to Court if any order is passed against

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

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

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

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

**ATTESTED**  


  
(GHULAM DASTGIR AKHTAR)  
CHIEF SECRETARY,  
KHYBER PAKHTUNKHWA.

9

## DISCIPLINARY ACTION

**I, Ghulam Dastgir Akhtar, Chief Secretary, Khyber Pakhtunkhwa** as competent authority, am of the opinion that Mr. Bashir Khan, Superintendent (BPS-16) while posted in Prison Section, Home Department, Khyber Pakhtunkhwa, has rendered himself liable to be proceeded against, as he committed the following acts / omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government, Servants (Efficiency and Discipline) Rules, 2011.

### STATEMENT OF ALLEGATIONS

- a. He is direct beneficiary in transfer cases of prisoners from Prisons of Punjab to Prisons of Khyber Pakhtunkhwa on fake NOCs, as well as having links in all inter provincial transfer cases.
- b. He is the manufacturer of forged signatures of the then Section Officer Prison (Mr. Ghulam Marwat) Home Department.
- c. He refused to record statement during the preliminary enquiry proceedings when he was called upon for the same.
- d. He threatened to go to Court if any order is passed against him.


2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer / inquiry committee, consisting of the following, is constituted under rule 10(1)(a) of (Efficiency and Discipline) Rules, 2011:

- i. Mr. Adil Safi DS Home Dept.
- ii. Mr. \_\_\_\_\_
- iii. Mr. \_\_\_\_\_

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

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

**ATTESTED**

  
(GHULAM DASTGIR AKHTAR)  
CHIEF SECRETARY,  
KHYBER PAKHTUNKHWA.

IMMEDIATE



GOVERNMENT OF KHYBER PAKHTUNKHWA  
**ESTABLISHMENT DEPARTMENT**  
(Establishment Wing)

10

No. SOE.IV(E&AD) 10(237)2011 (Vol-II)  
Dated Peshawar the 14.02.2013

To

Mr. Adil Safi,  
Deputy Secretary,  
Home & Tribal Affairs Department

Subject: INITIATION OF DISCIPLINARY PROCEEDINGS AGAINST OFFICER/  
OFFICIAL INVOLVED IN TRANSFER OF PRISONER FROM PUNJAB TO  
KHYBER PAKHTUNKHWA

Dear Sir,

I am directed to refer to the captioned subject and to state that Chief Secretary, Khyber Pakhtunkhwa (competent authority) has been pleased to approve initiation of disciplinary proceedings against the following officers/ officials of the Civil Secretariat Khyber Pakhtunkhwa under the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Disciplinary) Rules 2011:-

- i) Mr. Bashir Khan, Superintendent
- ii) Mr. Jehanzeb, Senior Clerk

2. The competent authority has further been pleased to appoint you as Inquiry Officer to investigate the charges/ conduct a formal inquiry under the provision of the said Rules against the aforesaid officers/ officials in light of the attached Charge Sheets/ Statements of Allegations with the request to submit your findings/ recommendations/ report within a period of 30 days positively.

Yours faithfully,

Encl: (As Above)

(NASIR AMAN)  
SECTION OFFICER (E.IV)

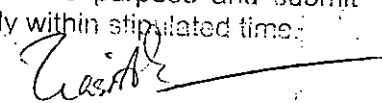
Endst: Even No. & Date.

Copy alongwith Charge Sheet/ Statement of Allegation is forwarded to:-

1. Mr. Bashir Khan, Superintendent, Energy & Power Department
2. Mr. Jehanzeb, Senior Clerk, FATA Secretariat.

Encl: (As Above)

With the direction to appear before the Inquiry Officer on the date, time and venue fixed by the Inquiry Officer for the purpose and submit their reply within stipulated time.

  
SECTION OFFICER (E.IV)

Copy to:-

1. The Section Officer (Com/Enq), Home & Tribal Affairs Department.

SECTION OFFICER (E.IV)



(11)

ANNEX-C

To:

**Mr. Adil Safi,**  
Deputy Secretary,  
Home & Tribal Affairs Deptt:  
**Peshawar.**

Subject: **INITIATION OF DISCIPLINARY PROCEEDINGS AGAINST OFFICER / OFFICIAL INVOLVED IN TRANSFER OF PRISONER FROM PUNJAB TO KHYBER PAKHTUNKHWA.**

Dear Sir,

Kindly refer to Establishment Department's letter No.SOE-IV(E&AD)10(237)2011(Vol-II) dated 14-02-2013 on the subject noted above and to submit para-wise comments on statement of allegation leveled against me in the Charge Sheet and statement of allegation attached with above letter:-

- a. That I remained for 8-9 months in Home Department in various section including:-
- (i) SO (MP) which gives remission to the prisoners.
  - (ii) SO Judicial which makes Inter Provincial Transfer of accused.
  - (iii) SO (CD) and SO (Estt) so kindly check / verify my record in these sections too.

During my stay at Prison section, the then Section Officer Mr. Ghulam Marwat never assigned me a task nor entrusted me a particular job. I never involved in any prisoner transfer from any prison of Punjab on any fake NOC nor did I have any kind of links in Inter Provincial Transfer cases. I was working under SO (Prisons).

- b. I solemnly undertake that I have never made any forged signature of the then Section Officer (Mr. Ghulam Marwat) on any letter issued from the section.
- c. For preliminary enquiry proceeding when I was called for statement, the said letter was received by me after 2 days of the date for which I was called upon. I found the said letter thrown in my present office. Soon after receipt of the letter I went to the office of Mr. Alamgir Shah, Special Secretary, Home Department and informed him through his PA. The PA informed Special Secretary and he intimated the PA that the proceeding of the enquiry has been completed and presently there is no need for recording statement.
- d. Regarding this allegation I submit that I never made such statement to anyone.

**I also submit that I may be heard in person.**

I further request that I belong to a respectable family and appointed as Junior Clerk in Secretariat and with passage of time and satisfactory service promoted to the post of Superintendent. I request that I may please be exonerated from all the charges and allegation leveled against me so that I may continue my service with peace of mind.

Dated: 20-02-2013

**ATTENDED**

Yours Faithfully,

  
(BASHIR KHAN) 20.2.13  
SUPERINTENDENT (DPS 12)



(12)

Annex 3 D

Subject: FORMAL ENQUIRY REPORT REGARDING ILLEGAL TRANSFER OF PRISONERS FROM PRISONS IN PUNJAB TO PRISONS IN KHYBER PAKHTUNKHWA

In pursuance of the Govt: Of Khyber Pakhtunkhwa, Establishment Department letter No. SOE.IV(E&AD) 10(237)2011 (Voll-I) dated 14-02-2013, the undersigned being enquiry officer conducted a formal enquiry, based on the charge sheets/statements of allegations issued by the competent authority ( Chief Secretary) against Mr. Bashir Khan, Superintendent (BS-16) Energy & Power Department and Mr. Jehanzeb Senior Clerk, FATA Secretariat Peshawar. For the purpose of enquiry, the fact finding report as well as the other relevant record was availed and reviewed. Statements of the accused officials were recorded and they were provided with the opportunity of personal hearing.

**BACKGROUND OF THE CASE:**

It was publically highlighted in the media that contrary to ban on inter-provincial transfers of prisoners, imposed by the Home Department Khyber Pakhtunkhwa, 58 prisoners were illegally transferred from prisons in Punjab to Prisons in Khyber Pakhtunkhwa. During the fact finding enquiry, it was confirmed that fake NOCs were issued for inter-provincial transfer of prisoners.

**PROCEEDINGS:**

Upon appointment as an enquiry officer, and receipt of the record of initial enquiry report, charge sheets and statements of allegations of the accused officials, proceedings of the enquiry were formally initiated on 20-02-2013 by inviting Mr. Bashir Khan and Mr. Jehanzeb for recording their statements and personal hearing. (Annexures-A & B)

**1. BASHIR KHAN, SUPERINTENDENT (BS-16) ENERGY & POWER DEPARTMENT**

Allegations	Reply
<p>a) He is Direct beneficiary in Transfer cases of prisoner from Prisons of Punjab to Khyber Pakhtunkhwa on fake NOCs, as well as having links in all inter Provincial Transfer cases.</p>	<p>a) That I remained for 8-9 months in Home Department In various Section including:-</p> <ul style="list-style-type: none"> <li>(i) SO (MP) which gives remission to the prisoners.</li> <li>(ii) SO Judicial which makes Inter Provincial Transfer of accused.</li> <li>(iii) SO (CD) and SO (Esst) so Kindly Check/Verify my record in these Sections too.</li> </ul> <p>During my stay at prison section, the then section officer Mr. Ghulam Marwat never assigned me a task nor entrusted me a particular job. I never Involved in any prisoner transfer from any prison of Punjab on any fake NOC nor did I have any kind of links in inter provincial transfer cases. I was working under SO (Prison).</p>

ATTACHED  
[Signature]

[Signature]

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b) He is the Manufacturer Of Forged Signatures Of The Then Section Officer Prison (Mr. Ghulam Marwat) Home Department	b) I Solemnly Undertake that I have never made any forged Signature of the then Section Officer (Mr. Ghulam Marwat) on any letter issued from the Section.
c) He refused to record statement during the preliminary enquiry proceedings when he was called upon for the same.	c) For Preliminary enquiry proceeding when I was called for statement, the said letter was received by me after 2 days of the date for which I was called upon. I found the said letter I went to the office of Mr. Alamgir Shah, Special Secretary, Home Department and informed him through his PA. The PA informed Special Secretary and he intimated the PA that the proceeding of the enquiry has been completed and presently there is no need for recording statement
d) He threatened to go to Court if any order is passed against him.	d) Regarding this allegation I submit that I never made such statement to anyone

**Facts On Ground**

**Remarks of enquiry officer**

Reference allegation No. (a) Page 2: Though Mr. Bashir Superintendent denied his involvement in the illegal transfers of prisoners but one thing is clear that all transfers proved to be illegal no matter whoever did it.

The list of prisoners is tabled below who gave bribe for transfer to Bashir (Tout) which onward established a connection with the role of accused Mr. Bashir Superintendent & Mr. Jehanzeb.

**Prisoners' Statements**

Prisoner Profile	Source
Farooq S/O Abdul Malook, Age 20, R/O Afghanistan, Present Taj Abad Peshawar, 25 year imprisonment Narcotics.	Via payment of Rs. 15000 as bribe to <b>Bashir (Tout)</b>
M Khalid Khan s/o Fazal-ur-Rehamn r/o Havalian Abbottabad, 25 year imprisonment in kidnaping.	Via payment of Rs. 10,000 as bribe to <b>Bashir (Tout)</b>
Liaqat Ali s/o Abdur Rashid, r/o Jhagra Peshawar, 25 year Narcotics	Via payment of Rs. 10,000 as bribe to <b>Bashir (Tout)</b>
Yar Muhammad Khan s/o Faiz ullah Khan r/o Pir gharai Mardan, 42 years murder case	Free of cost transfer with the help of <b>Bashir (Tout)</b>
Raja Nasir s/o Bostan Khan r/o Gujjar Khan 9 years six months imprisonment.	Via payment of Rs. 1,10,000 as bribe in installments to <b>Bashir (Tout)</b>

a) It was quite confusing to differentiate between the tout Bashir and the superintendent Bashir as both were name sake and had played a similar role in the case. However statements of the shifted prisoners, already recorded by the initial enquiry committee clarified the scenario. The prisoners enlisted at right side table are some of those shifted from prisons of Punjab to prisons of Khyber Pakhtunkhwa for which they paid certain amount as bribe. It is evident that all or most of the transfers were executed with the help of Bashir (Tout) but the story does not end here because being a non-official person he should have some link inside the Department and that link was **Bashir Khan Superintendent & Mr. Jehanzeb.**

Majority of the shifted prisoners, in their statements, did not mention the name of Bashir Khan Superintendent rather they mentioned about Bashir (tout). Despite denial of Bashir Khan Superintendent, the Ex-Section Officer Mr Ghulam Marwat declared in his statement (**Annexure-C**), recorded before the initial enquiry committee that Bashir (Tout) was a close friend of Jehanzeb Junior Clerk and a frequent visitor to Home Department while Bashir Superintendent operated in collaboration with Jehanzeb. He added that Bashir superintendent was involved in bogus activities and refused his instructions. Mr. Jehanzeb the then Junior Clerk of prison section in his statement (**Annexure-D**) recorded to the fact finding

**ATTESTED**  
*[Signature]*

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Muhammad Jan s/o Sher zaman, r/o dalazak road Peshawar 2.5 years in Narcotics.	Via bribe payment to Gulam Mhammad (tout) and a convict but amount not known. The tout further paid it to Jehanzeb and Bashier of Home Deptt.
Gulam Muhammad s/o akbar khan r/o dalazak road 25 years imprisonment	Via bribe payment of Rs. 29,000 jointly with other prisoner wajid to Bashir & Jehanzeb of H.D
Sait ulah s/o Rehmat ullah age 65 r/o Peshawar city, 25 years imprisonment	Via payment of Rs. 15,000 as bribe to Bashir (Tout)
Sheheryar s/o rafi ullah age 31 years, station korrna charsadda, 14 years imprisonment in Narcotics.	Via payment of Rs. 15,000 as bribe to Bashir (Tout)

committee that Mr. Bashir Superintendent had taken all important issues in his own control which goes in support of the statement of Mr. Ghulam Marwat that Bashir superintendent had refused his instructions. Most of all Mr. Bahir (tout) in his statement (Annexure-E) admitted about his links with Bashir Khan Superintendent. He added that initially he tried on Mr. Ghulam Marwat (SO) but upon his refusal he established connections with Mr. Bashir Khan Superintendent who after submission of prisoners' applications used to accord NOCs. He further recorded that due to dispute on distribution of bribed money, he parted his ways with Mr. Bashir Khan Superintendent who started direct dealing with prisoners and I engaged myself with Mr. Jehanzeb JC.

Reference allegation No. (b) Page 2: Mr. Bahir Khan, Superintendent as per his statement denied that he never made any forged Signature of the then Section Officer (Mr. Ghulam Marwat) on any letter issued from the Section but the facts at Page No. 3 mentioned against allegation (a) provide sufficient ground of support to the allegation at S.No (b) page No. 2

Since Mr. Bashir Khan Superintendent denied the allegation of producing forged signatures but mere denial does not make any sense. Sufficient proof is available that all NOCs issued during the ban period had fake signatures of the Ex-Section Officer who himself disowned that. No matter whether Mr. Bashir Khan Superintendent did those signatures himself or not but statements of the prisoners, Mr. Ghulam Marwat, Mr. Jehanzeb and most of all Mr. Bashir (tout) lead to a scene of his involvement.

Reference allegation No. (c) Page 2: Mr. Bashir Khan had already recorded his personal statement on 17-03-2012 (Annexure-G).

b) To me the reply in response to the allegation at S.No. (c) Page No. 2 is convincing, hence the allegation leveled against him carry no weight. Since there was no change in the composition of the enquiry committee, therefore recording the statement again was not required.

Reference allegation No. (d) Page 2: One of the members of the fact finding committee i.e. Deputy Secretary (Admn) Home Department himself confirmed to the enquiry officer that he was threatened by Mr. Bahir Khan Superintendent.

c) No comments.

**Conclusion:** The allegations leveled against Mr. Bashir Khan, Superintendent were examined point to point in light of the report of the fact finding committee, personal statements of the accused, and other relevant record. According to the above mentioned facts, one thing is crystal clear that Mr. Bashir Khan Superintendent had links with Mr. Bashir (tout) who himself confessed his involvement in transfer of prisoners. The same linkage is also endorsed by Mr. Jehanzeb Ex-JC and Mr. Ghulam Marwat Ex-SO in their statements. In my opinion, the available record is sufficient and worthy to be relied on. *The proceedings are concluded with the remarks that the allegation at S.No (a) has sufficient proof of validity hence it would be justified for the Competent Authority to accord punishment whatever deemed fit under E&D Rules 2011.*

**ATTESTED**  


2. JEHANZEB, SENIOR CLERK FATA SECRETARIATE PESHAWAR

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Allegations	Reply
<p>a) He is Direct beneficiary in Transfer cases of prisoner from Prisons of Punjab to Khyber Pakhtunkhwa on fake NOCs, as well as having links in all inter Provincial Transfer cases.</p>	<p>a) I spent one year i.e. 2010-11 as Junior Clerk in the Prison Section and was transferred to IPC Department on 11-02-2011 and during that period none of the prisoners was inter-provincially transferred. It is astonishing that neither the date of signature nor transfer is known. During the period of my service there neither any transfer occurred nor I had anything to do with that. My duty was exclusively dairy and dispatch or at most placement of file before the Assistant.</p>
<p>b) He is the Manufacturer Of Forged Signatures Of The Then Section Officer Prison (Mr. Ghulam Marwat) Home Department</p>	<p>b) I performed my duties as assigned in the Secretariat Manual at paragraph No.15. Besides me, there were two other responsible people in the section i.e. the Section Officer &amp; Assistant then how could I do forged signatures in their presence. In this regard I am ready for any kind of clarification that neither I did such mistake before nor intend to do it in future. I belong to a poor family and have been performing my duties in a best manner.</p>

Facts On Ground	Remarks of enquiry officer						
<p>Reference allegation No. (a) Page 4: Though Mr. Jehanzeb denied his involvement in the illegal transfers of prisoners while the list of prisoners is tabled below who gave bribe for transfer to Bashir (Tout) which onward established a connection with the role of accused Mr. Bashir Superintendent &amp; Mr. Jehanzeb.</p> <p><b>Prisoners' Statements</b></p> <table border="1" data-bbox="135 1326 853 1780"> <thead> <tr> <th>Prisoner Profile</th> <th>Source</th> </tr> </thead> <tbody> <tr> <td>Muhammad Jan s/o Sher zaman, r/o dalazak road Peshawar 2.5 years in Narcotics</td> <td>Via bribe payment to Ghulam Muhammad (tout) and a convict but amount not known. The tout further paid it to Jehanzeb and Bashier of Home Deptt.</td> </tr> <tr> <td>Gulam Muhammad s/o akbar khan r/o dalazak road 25 years imprisonment</td> <td>Via bribe payment of Rs. 29,000 jointly with other prisoner wajid to Bashir &amp; Jehanzeb of H.D</td> </tr> </tbody> </table>	Prisoner Profile	Source	Muhammad Jan s/o Sher zaman, r/o dalazak road Peshawar 2.5 years in Narcotics	Via bribe payment to Ghulam Muhammad (tout) and a convict but amount not known. The tout further paid it to Jehanzeb and Bashier of Home Deptt.	Gulam Muhammad s/o akbar khan r/o dalazak road 25 years imprisonment	Via bribe payment of Rs. 29,000 jointly with other prisoner wajid to Bashir & Jehanzeb of H.D	<p>a) The prisoners enlisted at right side table are those who named Mr. Jehanzeb along with Bashir Khan for facilitation in their transfers on bribe payment.</p> <p>The Ex-Section Officer Mr. Ghulam Marwat declared in his statement (Annexure-C ibid), that Mr. Bashir (tout) was a friend of Jehanzeb and he regularly visited the Home Department while Bashir Superintendent operated in collaboration with Jehanzeb. Mr. Bashir (tout) in his statement (Annexure-E ibid) admitted that due to dispute on distribution of bribed money, he parted his ways with Mr. Bashir khan Superintendent and engaged himself with Mr. Jehanzeb JC for transfer of prisoners.</p> <p>As per statement of Mr. Jehanzeb, he served for one year in the prison section and during his stay none of the transfer orders issued which is correct in my opinion to the extent that during his stay no legal transfers occurred.</p>
Prisoner Profile	Source						
Muhammad Jan s/o Sher zaman, r/o dalazak road Peshawar 2.5 years in Narcotics	Via bribe payment to Ghulam Muhammad (tout) and a convict but amount not known. The tout further paid it to Jehanzeb and Bashier of Home Deptt.						
Gulam Muhammad s/o akbar khan r/o dalazak road 25 years imprisonment	Via bribe payment of Rs. 29,000 jointly with other prisoner wajid to Bashir & Jehanzeb of H.D						

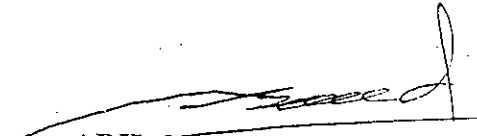
**ATTENDED**

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Reference allegation No. (b) Page 4: Mr. Jehanzeb, as per his statement denied that he never made any forged Signature of the then Section Officer.

b) Since Mr. Jehanzeb denied the allegation of producing forged signatures and there is no such technology which can prove that who did fake signatures rather fakeness can be proved. Here its worth to mention that whether he did forged signatures or not but he seems involved side by side with Bashir Khan Superintendent. The statements of prisoners, the Ex-Section Officers and Mr. Bashir (tout) provide sufficient ground to his involvement.

**Conclusion/Recommendations:** The allegations leveled against Mr. Jehanzeb, Ex-JC Prison Section were examined point to point in the light of the report of the fact finding committee, personal statements of the accused, and other relevant record. In my opinion the available record is sufficient and worthy to be relied on. *The proceedings are concluded with the remarks that the allegation at S.No (a) has sufficient proof of validity hence it would be justified for the Competent Authority to accord punishment whatever deemed fit under E&D Rules 2011.*



**ADH SAEED SAFI**

Deputy Secretary Home Department

Enquiry Officer

**ATTESTED**  


Annex-C D

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(i) Muhammad Ghulam Marwat former Section Officer (Prisons)

He Stated that he had served in the Prisons Section for about 15 years. Conduct of Jehanzeb was suspicious when he was serving as Junior Clerk in the Prisons Section. Once Jehanzeb misplaced ACRs of a Superintendent Jail that too at a time when promotion cases were under process. The ACRs were later on found in pending files. Upon the same issue Jehanzeb was surrendered to Establishment Department. He admitted that Bashir refused to comply to his instructions. He further admitted Bashir kept transfer files, release orders and other important files with himself. Similarly, Bashir took two thousand rupees in a release case. He stated that Bashir (tout) was a friend of Jehanzeb and regularly visited Home Department Khyber Pakhtunkhwa. He disclosed that Jehanzeb and Bashir are operating together and were forwarding / submitted applications regarding transfer of condemned prisoner, remissions and other important issues. These applications were processed in the Prisons Section. The Officer further admitted that all work of Bashir was bogus and it was true that he had filed applications for other prisoners relating to various subjects and the same were processed by him being incharge of Prisons Section.

(ii) Jehanzeb, Senior Clerk Higher Education Department.

He stated that he had served in Home Department for ten years. He admitted that he knows Bashir (tout) who frequently visits Home Department regarding various cases. He further disclosed that Bashir (tout) had terms with Ghulam Marwat (SO) and Bashir (Supdt). He admitted that he had visited the house of Bashir (tout). Bashir sat with Ghulam Marwat as and when he visited Home Department. He revealed that Bashir filed applications for various prisoners on different subjects. Bashir (Supdt) had taken important issues / subjects of the section into his own control and the SO could only watch. He admitted that a person namely Rab Nawaz belonging to Home Department Punjab called him several times regarding various cases. His statement duly signed is placed on record. He was asked to copy the sign of Ghulam Marwat; the same was very similar to that of Ghulam Marwat which are seen on the Bogus NOC's.

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f) Muhammad Jan s/o Sher Zaman r/o Dalazak Road, Peshawar. He has been sentenced to two and a half year in a narcotics case. He disclosed that convict Ghulam Muhammad was the dealer (tout) of persons namely Jehanzeb and Bashir both serving in Home Department, Khyber Pakhtunkhwa. To further disclose that none of the prisoners were shifted on merit / free of cost, each had to pay around 10 to 50 thousand per head. He further disclosed that Jehanzeb, Assistant has seen and visited the house of Bashir and thus he was clearly involved in the entire process of looting money from prisoners.

g) Ghulam Muhammad s/o Akbar Khan r/o Dalazak Road, Samar Bagh Peshawar. He has been sentenced for 25 years RI. He admitted that he alongwith another convict Wajid jointly paid rupees 29 thousand to Bashir and Jehanzeb for their transfer to Haripur. He stated that Jehanzeb worked as Assistant in Home Department Khyber Pakhtunkhwa and he receives money from relatives of convicts for their transfer to Haripur. He further disclosed that Bashir belongs to Gari Akhun Muhammad, Kohat Road, Peshawar. He also stated that a person namely Bashir serving in Home Department, probably as Section Officer in Home Department, Khyber Pakhtunkhwa was also part of the gang. Another person namely Rab Nawaz serving in Home Department Punjab was / is contact of Bashir (tout). When he complained about some issue regarding transfer, Jehanzeb threatened him of dire consequences.

4. Statements of other prisoners transferred to Central Jail Haripur have been annexed with the present report for perusal.

5. For the purpose of verification of all the facts and circumstances narrated by the convicts in their statements, it was imperative to call all the concerned officers / officials who had served in Prisons Section of this department. In this regard following are the summary of statements:-

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(v) PROBLEMS FACED BY THE JAIL ADMINISTRATION

The Superintendent briefed the undersigned that there is a clear threat to the officers of the Haripur Jail from the Taliban and the officers are almost regularly receiving calls from the Taliban. The I.G (Prisons) office even after repeated requests has failed to take action in the case of transfer of Convicts/Condemned Prisoners. The jail is clearly over-crowded and at present there are around 1800 prisoners in C.P Haripur.

3. STATEMENTS OF PRISONERS WHO HAVE BEEN RECENTLY TRANSFERRED

Statements of prisoners transferred from other provinces to Haripur were recorded, summary of their statements is reproduced below:-

- a) Farooq s/o Abdul Malook aged around 20 r/o Afghanistan, currently residing in Taj Abad, Peshawar. He has been sentenced to 25 years in Narcotics case by court in Punjab. He had been transferred to Haripur about 02 months ago. He stated that he had spent 14 months at Adyala jail. He has 03 brothers namely Mansoor, Younis and Masood. He gave his father's cell # i.e. 0321-5992553. He stated that his friend Hamza had helped him in his transfer from Adyala to Haripur. He further stated that he through his friend had paid Rs. 15 thousand as bribe to a person namely Bashir. The Convict gave cell # of Bashir 0321-5001172. He stated that Bashir belongs to Pabbi, District Nowshera. Details of documents of the convict have to be checked in the Dept. in the relevant file i.e. 5/5 SO (Prisons) Vol. 35-40.
- b) M Khalid Khan s/o Fazal-ur-Rehman Khan r/o Havellian, Abbottabad. He had been sentenced to 25 years in a Kidnapping for Ransom case by a court in Punjab. He stated that he had spent 9 ½ years in Adyala jail. He stated that he had submitted application for transfer almost 3-4 times but it was refused. At last he made contact with Bashir and gave Rs. 10 thousand for his transfer. He stated that he will provide recent active cell # of Bashir. Record of the prisons section has to be checked for verification of his transfer documents.

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c) Liaqat Ali s/o Abdul Rasheed r/o Jhaghra, Peshawar. He had been sentenced to 25 years in a Narcotics case by a Court in Punjab, he had been received in the Haripur Jail on 29.01.2012. He stated that he had spent 3 ½ years in Adyala. He said that he had filed applications several times for his transfer to Khyber Pakhtunkhwa Jails but the same were refused or filed. Ultimately he sought the help of the person namely Bashir. He had to pay Rs. 12 thousand to Bashir at the hands of his Brother-in-Law namely Shamshad (Cell # 0301-5961624) who lives in Khazana, Peshawar. He further stated that Bashir had contacts with the Warrant staff of the Adyala jail. He stated that Bashir was the sole responsible person in such cases and he took Rs. 10-25 thousand per head, in each transfer case. Name of the convict may be perused at serial # 62 of the list provided by the Jail Administration. Further record of case of the convict may be verified from the Prison Section.

d) Yar Muhammad Khan s/o Faiz ullah Khan r/o Pir Gharai, Mardan. He had been sentenced to 42 years in a murder case by a court in Punjab. His name may be perused at serial # 60 of the list of prisoners transferred to Haripur. The Convict was transferred on 29.01.2012 from Adyala to Haripur. He stated that for his transfer he did not pay bribe to anyone. Liaqat, another convict had facilitated him in his transfer from Adyala Jail to Haripur. He stated that Bashir had helped in his transfer. He further stated that Bashir had close links with Warrants staff of Adyala Jail and the same was a source of these frequent transfers from Punjab to Khyber Pakhtunkhwa.

e) Raja Nasir s/o Bostan Khan r/o Gujar Khan. He has been sentenced to nine years and six months with five lac rupees fine. He stated that he had paid a person namely Bashir (tout) around one lac and ten thousand rupees in installments for his transfer to Haripur Jail. He disclosed that Bashir had close links in Home Department Khyber Pakhtunkhwa with officers and officials. He admitted that he was responsible for forwarding money to Bashir, paid by other people for their transfer. Bashir's father name is Bacha Gul, he has two brother namely Arif and Fahim. He is uneducated and is in his late 30's.

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1) لیڈر دل بادشاہ گل سکندر لڈی افونڈ الحد  
 لیڈر 37 سال - والد فوت ہو چکے ہیں -  
 میرے 4 بھائی ہیں - ایک ماٹھ رہتے ہیں - میں عمر  
 سیکڑی سترہ یوں - فری تعلیم یافتہ ہوں -  
 قریبی ہیں علاقہ آکبر علی A.A. کیاٹھ ہوئی تھی اور  
 ناصر نامی شخص کے ٹرانسفر کیلئے 15 ہزار روپے دیے  
 تھے - میں نے یہے دفتر میں دیے - اس بات کے دو  
 سال ہوئے ہیں - ناصر میرا دوست ہے اور وہ گوجر خان  
 کا رہنے والا ہے - اڈیالہ میں منتقلی کیونکہ سے آسنے  
 اپنا ٹرانسفر سہرا رہا تھا - میں نے ناصر سے اپنے لیے یہی  
 یہے لیے تھے -

دوسرے میں نے میں یا بنری لگ گئی تھی - فگر بشیر (لمصنف)  
 بنانے بنایا کر لوگ ڈھونڈو تاکہ انکی NOC میں دے  
 سکوں - میں نے فریٹیا ہیر دین بلوسرے دن آیا کرتا تھا -  
 میں (Prison) سیکشن آیا کرتا تھا اور بشیر کیاٹھ  
 بیٹھا کرتا تھا - غلام کو کئی دفعہ کہا فگس آسنے انکار  
 کیا - اڈیالہ جیل میں فیڈیوں کیاٹھ Contact تھا اور  
 انکے رشتہ دار مجھ سے ملنے تھے - اسی طریقے سے  
 میں انکی Application سیکشن میں دیتا تھا - اور پھر  
 وہ (بشر) NOC Direct دے دیتا - اس سے پہلے وہ  
 لاہور سے ریکارڈ طلب کرتا -

ATTACHED  
 AS IS



3) یہ بتانا نہیں کہ NOC یہ دستخط کون کرتا تھا۔  
مگر letter ادھر ہی ٹائپ کر کے دستخط کر دیا  
جا چکا۔ 259

جہانزیب نے بھی وہی طریقہ کار اختیار کیا جو  
بشر کرتا تھا۔ بشر گھر گیا 20-25 دن پہلے گھر  
آیا تھا اور فینٹ کی کہ میرا نام مت لینا۔ اس کے  
ملاوہ جہانزیب اکثر میرے گھر آتا تھا۔ وہ خرچہ  
لینے آتا تھا۔ ایک اور لڑکا سفیر رحمان ولد فرید  
بھی آتا تھا اور خرچہ لینا تھا۔ وہ ڈراتا تھا کہ میں  
یوم میکسٹریا کو سب کچھ بتا دوں گا۔

اڈیالہ جیل میں وارنٹ، محمود اور طاہر سے لینے تھے  
یہ سب وہاں وارنٹی تھے۔

طرفہ یہ تھا کہ جیل سے لہیہ کا مجھے فون کرتے تھے  
میں سپاہی آکر بات کر لیتا، پھر آکر کام ہونے کا  
حوالہ ہوتا تو کہیں کرنے کے عوض سے وصول  
کر دیتا۔ بشر اور جہانزیب اس کام میں ورد کرتے۔  
یہ ملنے کا طریقہ یہ تھا کہ وہ لوگ Easy Paisa  
کے ذریعے پھیواتے۔ ورنہ تو خود ان کے اشتراکوں  
کے ذریعے جاکے سے وصول کر دیتا۔

ATTACHED

(4) 30 ہزار میں کام ہونا تھا تو آدھے گھنٹے میں  
توں سر رہتا اور آدھے میں کام ہونے کے بعد  
رجل کرتا۔

میں سارے Application خلی اور لیٹر کو دیتا تھا۔ میں  
جب بھی دفتر آتا تو 2-3 گھنٹے سیکشن میں  
بٹھا رہتا۔ اڑبالیہ جیل میں تقریباً 3 1/2 سال گزارے  
ہیں۔ اور باقی عمر پشاور جیل میں گزارا۔  
تقریباً پندرہ قیدی ہیں ملک فخر عالم کا حصہ ہونا تھا۔

عثمان، خالد و دیگر نامی قیدیوں سے میں نے سب سے  
زیادہ روپے وصول کیے۔ تقریباً 50-60 ہزار روپے

جھانڈیپ نے اپنا بھر نذر کیا ہے اور نہ ملتا ہے۔ South Africa  
جائتا ہوں۔ کام کیلئے۔

لیٹر کا نمبر ٹیلی فون نمبر 0346-8123061

فاروق نامی قیدی جو کہ افغانستان کا ہے۔ اس سے  
میں نے پندرہ لاکھ روپے لیے۔ اسکا  
آدر ڈر NOC مجھے جھانڈیپ نے دیا۔

لبافت علی ولد عبدالرشید قیدی سے میں نے کارنزار  
روپے لیے ہیں۔ اور اسکا NOC مجھے جھانڈیپ نے  
دیا۔

State  
Abel  
Abel  
Jai

بیاضت کے سبب بھی شہتاد نامی شخص کے پاس

251 (EP)

بار محمد ولد فیض امہ ملک قیدی سے جس میں 12 ہزار  
وصول کیے۔ محمد جان ولد شیر زین سے جس نے  
45 ہزار وصول کیے۔ - 260

غلام محمد ولد اکبر خان سے جس میں 7 ہزار وصول کیے۔  
واحد اسکا دوست تھا۔ وہ بھی آڈیالہ میں قید تھا۔ اس  
نے کہا کہ واجد کو بھی یہی پور ٹرانسفر کروا دیا جائے  
زیادہ دو ٹکا سکیں اور دوسری حالت ضراب ہو گئے۔  
اور واجد کا ٹرانسفر نہیں ہو سکا۔

بٹنی اسٹر جیل ٹیلی فون کرتا تھا۔ اور اپنے آپ  
کو S.O ظاہر کرتا۔ - 5 days.

فیصل شہزاد ضعی کارڈ نمبر 7-4749381-17301 ہے۔  
تاریخ پیدائش 1972 ہے۔ بیٹہ کنڈی والا، لہذا ایس جی  
احمد ڈاکخانہ اسلام آباد کالج لہذا اور ہے۔ - not

فیصل حویائل نمبر 4295276-333 ہے۔ \*

مذکورہ بالا فیصل بیان ہے۔ پڑھ کر سنا گیا  
درست لکھ کر کیا گیا۔ یہی سہارا ہے  
- سیر 06 ?

ATTESTED  
[Signature]

CONFIDENTIAL.

(22)

ANNEX: E



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(Establishment Wing)

No. SOE.IV (E&AD) 10(237)/2012.  
Dated Peshawar, the 15.05.2013.

To

Mr. Bashir Khan,  
Superintendent (BS-16),  
Home & T.As Department.

Subject: SHOW CAUSE NOTICE.

I am directed to refer to the subject noted above and to enclose herewith Show Cause Notice (in original) duly signed by the Competent Authority for your compliance within stipulated period of time and further necessary action.

Encs: as above.

  
( ZAHID USMAN KAKA KHEL )  
SECTION OFFICER (E.IV)

**ATTENDED**  


**SHOW CAUSE NOTICE**

I, **Ghulam Dastger Akhtar, Chief Secretary Khyber Pakhtunkhwa** as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 do hereby serve you, **Mr. Bashir Khan, Superintendent (BS-16)**, as follows.

- (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing.
- (ii) on going through the findings and conclusions of the inquiry officer, the material on record and other connected papers including your defence before the inquiry officer as per his enquiry report.

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

**“MISCONDUCT”**

3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from service under rule 4 of the said rules.

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

5. If no reply to this notice is received within Seven (07) days or not more than Fifteen (15) days of its delivery. It shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

6. A copy of the findings of the inquiry officer is enclosed.

**ATTACHED**



**COMPETENT AUTHORITY**



To:

The Section Officer (E-IV)  
Establishment Department,  
Peshawar.

Subject:

SHOW CAUSE NOTICE.

(24)

ANNEX:- F

M  
28/5/13

Please refer to your letter No.SOE-IV (E&AD) 10(237)/2012 dated 15-05-2013 on the subject noted above and my reply on the subject matter is under:-

I strongly deny the charges leveled against me in the enquiry report on the following grounds:-

1. (i) The written statement given by Bashir (Tout) attached with the enquiry report has not been signed by Bashir (Tout) nor his thumb impression is available on it. His father name has also not been recorded on it. There is also no witness on the said statement. An attempt has been made just to involve me. On the other hand, the said Bashir (Tout) has given his written statement containing his father name, thumb impression and also Cell No.. explicitly refused my involvement in the case or any illicit dealing with him regarding the instant case, in the presence of two witnesses.

(ii) Moreover, in the statement of Bashir (Tout) attached with enquiry report that prisoner, Jalil s/o Khalil had relation with Bashir, Supdt. But the said Jalil has also given his written statement denying any contacts with me (copy attached).

2. In the enquiry report, Mr. Ghulam Muhammad, Ex-SO (Prison) has also been shown as stating about my involvement in the case. Contrary to this, Mr. Ghulam Muhammad, Ex-SO has given his own hand written statement in which he has categorically stated that he Mr. Ghulam Muhmamd, Ex-SO has never seen me (Bashir Khan, Supdt) for taking bribe money for release / Inter Provincial transfer from any body (statement enclosed).

3. In the enquiry report, the statement of Mr. Jehanzeb, Clerk has also been shown as against me but his written statement which he recorded under his own hand writing in the presence of Mr. Jamshed Khan, SO (G) Energy & Power Deptt duly signed by both of them that no important case / file was with me and all the cases were disposed off by Ghulam Muhammad, Ex-SO himself (Statement attached).

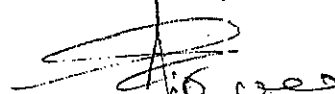
In view of the above, the enquiry conducted against me is baseless having no solid ground / merit.

Furthermore, I also submit as under please:-

- (i) All the witnesses have been questioned in my absence.
- (ii) Cross examination was not made in my presence.
- (iii) All the witnesses are ready to appear in person in support of their evidence given to me in their statement.
- (iv) I also desire to be heard in person.

Dated: 28<sup>th</sup> May, 2013

Yours Faithfully,



(BASHIR KHAN) 28.05-2013

Presently, Superintendent  
Energy & Power Deptt

**ATTESTED**



بشیر خان ولد بادشاہ گل سکندرنہ لڈی اقون احمد ضلع پشاور

(1) میں ایک ان پڑھ اور غیر تعلیم یافتہ 33 سالہ شخص ہوں۔

(2) میں نے ایک دن ڈیپٹی سیکرٹری منتظر کو ایک ٹیڈی کے ٹرانسفر کے لیے درخواست دیا تھا جو

اُس نے سیکشن آفیسر بیزن کو مارا لیا۔ جب میں وہ درخواست لے کر سیکشن آفیسر بیزن کے پاس گیا تو اُس نے انکار کیا جیسی وجہ سے میرا اُس کے ساتھ جھگڑا ہوا اور پھر میں منتظر کے پاس گیا تو اس سے بھی میرا جھگڑا ہوا پھر اُس نے مجھے زبردستی دفتر سے نکالا۔

اُس کے بعد میں نے منتظر کے خلاف بائی کورٹ میں درخواست دائر کیا، ہوم سیکرٹری اور چیف سیکرٹری کو بھی درخواست کیا۔

(3) اس جھگڑے کے بعد منتظر ڈیپٹی سیکرٹری نے ایک مضموبہ کے تحت میرا بیان لکھا جس پر نہ میرا دستخط تھا اور نہ انکوٹھا۔ اُس نے اُس بیان میں بہت سے سرکاری ملازمین کے نام شامل کیے بعد میں اُن سب کو اُس بیان سے نکالا اور میرے علاقے کے ایک شریف اور

مفتزر قانون کے سرکاری ملازم بشیر خان سپرنٹنڈنٹ کو شامل کیا۔ جبکہ اُس بیان میں صرف بشیر نام لکھا گیا تھا اُس نام کے ساتھ ولدیت بھی نہیں لکھا اور اُس میں نہ ہی سپرنٹنڈنٹ لکھا تھا۔ وہ بیان سراسر جھوٹ پر مبنی ہے۔

(4) بدقسمتی سے بشیر خان سپرنٹنڈنٹ میرا نام لکھنے کی وجہ سے مصیبت میں پڑھ گیا ہے۔ اس حقت میں اُس کا کوئی قصور نہیں ہے وہ ایک شریف انسان ہے

اُسے بے جا اس وجہ میں پھنسا یا گیا ہے جبکہ ٹیڈیوں سے پیسے میں لیتا تھا اُن ٹیڈیوں نے بھی میرا نام لکھا ہے اس بشیر خان سپرنٹنڈنٹ کا کوئی قصور نہیں ہے۔

میں ہی ہوم ڈیپارٹمنٹ جاتا تھا اور ٹیڈیوں کے دستکاروں سے پیسے لیتا تھا۔

بشیر خان سپرنٹنڈنٹ بے گناہ ہے اُسے میرے نام پر اس کیس میں نہ پھنسایا جائے۔

میں حلفیہ بیان کرتا ہوں اور اللہ تعالیٰ کو حاضر ناظر جان کر کہتا ہوں کہ

مذکورہ ذیل بیان سچ پر مبنی ہے اس میں کوئی جھوٹا نام نہ تو اللہ تعالیٰ مجھ پر غضب نازل کرے

گواہ نمبر 1 حیات ظن نائب قاصد انرجی اینڈ پاور ڈیپارٹمنٹ

Cell # 0334-8262259

بشیر خان ولد بادشاہ گل ضلع پشاور

Cell # 0345-9223352

NIC # 17301-1493947-7

بشیر خان

گواہ نمبر 2 جمیل خان نائب قاصد انرجی اینڈ پاور ڈیپارٹمنٹ

Cell # 0301-8961321

گواہ نمبر 1 حیات ظن نائب قاصد انرجی اینڈ پاور ڈیپارٹمنٹ

Cell # 0334-8262259

بشیر خان

گواہ نمبر 2 جمیل خان نائب قاصد انرجی اینڈ پاور ڈیپارٹمنٹ

Cell # 0301-8961321

It is submitted that during posting of Mr. Bashir Asst. Insp. with me in prisons Section, I, Muhammad Ghulam Ex-Su Prisons have never seen him for taking bribe money for release orders / inter provincial transfer from any body. Moreover, all the issues were to be made by Jehangzeb / Bashir whenever handed over to them. No important cases were given to him, however, all office records were with them in Almorani lying in their room. It is further added that the instant issue in which proceedings are in progress, has taken place outside prisons Section / Home Deptt. by some unknown persons, about which I don't know anything more.

~~ATTACHED~~

3/11/13  
 12.05.2013  
 Ex-Su Prisons


(27)

بیانِ حلفی

مذکورہ میں چھانیزیب جو نیئر ٹکڑے حلفیہ لیا ہوں  
کہ بشیر خان (سینئر مینٹ) نے پاس کوئی passport  
case میں تھا چھانیزیب کا سارا ضروری کام  
مجھ پر عوام صروت سیکشن آفس پر خود dispose  
کرنا تھا۔ میری ڈپلومی صرف ڈائری اور  
ڈیپٹی سیکرٹری تھا۔

21/5/2013  
چھانیزیب خان  
جو نیئر ٹکڑے

مذکورہ بالا بیان  
میری موجودگی میں  
دیا گیا۔

  
21-5-2013  
Jamshed Khan  
Section officer  
F & P Dept

**ATTACHED**

جلیل ولد خلیل خان سکند سہ بند ضلع پشاور

عمر 50 سال والد زندہ ہے۔ مورثہ: 2013-05-17

یہ کہ بشیر ولد بادشاہ گل نے اپنے بیان میں میرے اوپر جو الزام لگایا ہے۔ 09 بالکل بے بنیاد اور من گھڑٹ ہے۔

میں بشیر خان سپرنٹنڈنٹ کو ذاتی طور پر جانتا ہوں۔

لیکن میں خدا کو حاضر ناظر جانتا ہوں کہ بشیر خان

سپرٹنڈنٹ کے ساتھ کبھی عیہا لین دین نہیں ہوا ہے اور

نہ میں نہ اس سے کسی قسم کا جاہ گبین کیا ہے۔ اور نہ

اس نے کبھی مجھ سے رقم کی ڈیمانڈ کی ہے

میں حلفیاں بیان کرتا ہوں اور اللہ تعالیٰ کو حاضر ناظر

جانتا ہوں کہ مندرجہ ذیل بالا بیان سچ ہے جیسی ہے۔ اگر

اس میں ذرا بھی جھوٹ ہوں تو مجھ پر اللہ تعالیٰ کا غضب

نازل ہو جائے۔ اور اللہ تعالیٰ مجھے عترت کریم اور بہ باد

کریں

جلیل ولد خلیل خان سکند سہ بند ضلع پشاور

Cell No: 0336-9348235



17301-725894-9 سنہ 2013ء کا ڈیڑھ

ATTACHED  
BY: [Signature]

(29)

ANNEX: H



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

No. SOE.IV (E&AD)10 (237)/2012/Vol.II.  
Dated Peshawar the 07.11.2013.


To

Mr. Bashir Khan,  
Ex-Superintendent,  
House No.44, Sector C-2, Phase-V,  
Hayatabad, Peshawar.

Subject: - PROVISION OF RE-INQUIRY REPORT.

I am directed to refer to your application dated 07.10.2013 on the subject noted above and to enclose a copy of re-inquiry report as desired.

Encls: as-above.

  
( AKHTAR NAWAZ )  
SECTION OFFICER (E.IV)



166  
F/A  
29/6

Subject: FORMAL ENQUIRY REPORT REGARDING ILLEGAL TRANSFER OF PRISONERS FROM PRISONS IN PUBJAB TO PRISONS IN KHYBER PAKHTUNKHWA

In pursuance of the Govt: Of Khyber Pakhtunkhwa, Establishment Department letter No. SOE.IV (E&AD) 10(237)2011 (Voll-II) dated; 05-07-2013, the undersigned was tasked to;

- A. Verify either the first statement of Bashir (Tout) now disowned by him or the second statement annexed to the reply of Bashir Suptd.
- B. Allow the witnesses to be crossed examined by the accused superintendent & Junior Clerk to meet the legal requirements.

And submit the report within one week.

**PROCEEDINGS:**

Upon receipt of the relevant record/documents with the above quoted letter, proceedings of the 2<sup>nd</sup> phase of enquiry were initiated on 15-07-2013 at 10:00 A.M. as per the given details;

**A- Verification of the Statements of The Tout Mr. Bashir Khan S/O Badshah Gul R/O Landi Akhun Ahmad District Peshawar.**

The contents of both statements of Bashir (Tout) are compared hereunder with evidence and logical reasoning. The relevant contents of both statements are translated from Urdu.

Contents of the 2 <sup>nd</sup> Statement (Annex-A)	On Ground Facts/Remarks Based On Contents of the 1 <sup>st</sup> Statement (Annex-B)
i. I am illiterate/un-educated and 35 years old.	i. I am 37 years old, un-married, my father is dead, having 4 brothers and I am illiterate. (contents of 1 <sup>st</sup> statement)
ii. I had a scuffle with Mr. Muntazir DS Home upon transfer of a prisoner.	ii. Mr. Muntazir denied it to be the case rather the scuffle took place due to the reason that Mr. Bashir (tout) after his confessional statement before preliminary enquiry committee used to come frequently to his office and insisting upon action against those whom he (Bashir tout) had named to be involved in the scandal. Upon this Bashir tout remained silent. (On ground facts)
iii. Recording of my statement was pre-planned	iii. Not correct. No pressure was exerted on him for the statement. He appeared willingly before the preliminary enquiry committee. Mr. Usman Zaman SO (Courts) recorded his statement in presence of the Deputy Secretary (Admin).  At the time of cross-examination dated 15-07-2013 besides Usman Zaman, Bashir supdt and his son were also present, wherein Bashir (Tout) admitted that he recorded his first statement without any pressure. (On ground facts) (video recording available)
iv. The 1 <sup>st</sup> statement was neither signed by me nor had my thumb impression.	iv. The 1 <sup>st</sup> statement has signatures of Bashir (Tout) at various points; however his thumb impression is not there which after signature is of no importance. (Annex-B ibid). ( on ground facts)

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statement had names of many other Govt. officials who were later on dropped from it and the name of Mr. Bashir Khan suptd who belongs to a respectable family was included. He (Bashir Suptd) got into trouble being my name sake. He may not be indulged into this scandal. I (Bashir tout) was the one who took money from relatives of prisoners for their transfer.

There is no mention about his father identity as well as the word superintendent in the statement.

That statement is false

v. **Not correct.** The statement comprises of many names and none of them is dropped. In the 1<sup>st</sup> statement of Bashir (tout) which is duly signed by him, the name Bashir is reflected 13 times and at three places suptd is mentioned and same is the case with Jehanzeb whose name is mentioned 8 times with reference to his assistance in the game. Their involvement cannot be ruled out at any stage. The 1<sup>st</sup> statement of Bashir (tout) is recorded by a serving section officer of Home Department in presence of the serving Deputy Secretary (Admin) Home Deptt.

The context of enquiry was quite clear and the fact finding committee was not concerned with any other Bashir rather the Tout and the Suptd etc. Furthermore the enquiry was not conducted for preparation of National ID card wherein father name/family tree was required. It is fact that both Bashir and Jehanzeb were Govt; employees and at that time they were working in the prison section of Home Deptt and they were under enquiry.

**Not correct.** The first statement of Bashir (Tout) has proper signatures. It was recorded by Usman Zaman SO (Courts) in the presence of Muntazir Deputy Secretary (Admin) and Bashir (Tout). After recording the statement of Bashir (Tout), it was read before him and he accepted it to be his statement.

In support of the above mentioned substance, the statement of Mr Usman Zaman SO (Courts) is worth considering. (Annex-C).

**B- Allow the witnesses to be crossed examined by the accused superintendent & Junior Clerk.**

The following witnesses were mentioned in the formal enquiry report who before the fact finding committee had pointed out names of Bashir Suptd and Jehanzeb Junior Clerk in their statements. The witness at S.No(i) is released while the second one is at Hanpur Jail.

- i. Muhammad Jan s/o Sher zaman, r/o dalazak road Peshawar (2.5 years in Narcotics)
- ii. Gulam Muhammad s/o akbar khan r/o dalazak road (25 years imprisonment)

In the formal enquiry reference of nine prisoners is mentioned out of which only 2 have named Bashir suptd & Jehanzeb Junior Clerk. Since there was involvement of a middle man (tout) in all transactions of fake NOCs, therefore the claim of accused Bashir Suptd & Jehanzeb JC regarding non-acquaintance with the above two witnesses is justified. As both of them (witnesses) were in jail therefore how could they meet Bashir suptd & Jehanzeb JC. It is quite possible that they might have heard their names from the tout Bashir or Gulam Muhammad (another tout). Based on the said substance, the two accused may be given benefit of the doubt and it may not be considered as a ground for their involvement in the scandal. Although this fact cannot be denied that both the above mentioned witnesses had recorded their statements.

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Handwritten signature and stamp.

لوہا کتبہ 2 جیل 16



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C- Additional Verification

No	Name	Remarks
	Mr. Ghulam Marwat (Ex-SO Home)	<p>In order to check whether the recent statement of MR. Ghulam Marwat (Ex-SO Home) is authentic or otherwise, he was invited to appear before the enquiry officer. He confirmed his fresh statement dated 22-05-2013 to be correct and signed its photo copy (<i>Annex-D</i>). However he did not deny his earlier statement which was submitted to the fact finding committee/enquiry. He added that his 2<sup>nd</sup> statement was in continuation of his earlier statement for clarification of certain points.</p> <p><b>a) Crux of 2<sup>nd</sup> Statement:</b></p> <ul style="list-style-type: none"> <li>i. That Bashir (Supdt) &amp; Jehanzeb JC worked with him (Ghulam Marwat) in the prison section.</li> <li><del>ii. That he (Ghulam Marwat) never saw him/them for taking bribe in release/transfer cases.</del></li> <li>iii. That they (Bashir &amp; Jehanzeb) were the custodians of all record.</li> </ul> <p><b>b) Crux of 1<sup>st</sup> Statement:</b></p> <p>The Ex-Section Officer Mr Ghulam Marwat declared in his 1<sup>st</sup> statement (<i>Annexure-E</i>), which was recorded before the initial enquiry committee;</p> <ul style="list-style-type: none"> <li>i. That Bashir (Touf) was a close friend of Jehanzeb Junior Clerk and a frequent visitor to Home Department. (not denied)</li> <li>ii. That Bashir Superintendent operated in collaboration with Jehanzeb. (not denied)</li> <li>iii. That Bashir superintendent was involved in bogus activities and refused his (Ghulam Marwat) instructions. (not denied)</li> </ul> <p><b>c) Facts:</b> During interview with undersigned on 15-07-2013, Mr. Ghulam Marwat (Ex-SO Home) <i>did not disown</i> his earlier statement submitted before the preliminary/ fact finding enquiry committee (<i>Annex-D ibid/Overleaf</i>). He in his 2<sup>nd</sup> statement has just clarified that he had not seen them (Bashir Suptd &amp; Jehanzeb JC) while taking bribe for release/transfer orders of prisoners. Even he in his 1<sup>st</sup> statement had not mention any thing regarding bribe.</p> <p>He further added that he was afraid of Bashir Suptd who came to his house a number of times and threatened him for the statement he submitted before the preliminary enquiry committee. He was lamenting about the poor secrecy level of the concerned section from where Bahir Suptd had managed to obtain copy of his (Ghulam Marwat) statement. He said that upon my denial he (Bashir Suptd) showed me copy of</p>

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*[Signature]*

my statement which I had recorded before the preliminary committee.

d) Conclusion:


After conducting his interview and going through the contents of both statements of Mr. Ghulam Marwat (Ex-SO Home), I am of the opinion that there is hardly any difference in his first statement and the recent one. In 1<sup>st</sup> statement he had not mentioned about any kind of bribed money taken by Bashir (suptd) and Jehanzeb JC and so is the case with his recent statement. He had alleged him (Bashir suptd) for involvement in bogus activities (in 1<sup>st</sup> statement) and the same statement is owned. According to him he had no control over the record of his section as it was lying in their (Bashir Suptd & Jehanzeb) room. Thus it is concluded that the 1<sup>st</sup> statement of Mr. Ghulam Marwat (Ex-SO Home) is not denied by him and still carries weight.

Note: For the purpose of transparency and convenience, the discussion of undersigned held with Mr. Ghulam Marwat (Ex-SO Home) on 15-07-2013 is recorded in video.

Overall Conclusion:

1. The 1<sup>st</sup> statement of Bashir (Tout) can be relied on the basis of these facts;
  - a) It carries proper signatures of the witness (Bashir tout).
  - b) It was written by Mr. Usman Zaman SO (Courts) Home Department who has given his own statement (*Annex-C ibid*).
  - c) Names of both accused (Bashir suptd & Jehanzeb JC) are mentioned even with reference to their section where they were working.
  - d) Mr. Ghulam Marwat in his 2<sup>nd</sup> statement has stated that he had not seen Bashir for taking bribed money in release/transfer cases while he did not mention it in his 1<sup>st</sup> statement. He owned his 1<sup>st</sup> statement.
  - e) Bashir (Tout) in his 2<sup>nd</sup> statement has again confessed that he had taken money from relatives of the prisoners, while he has not mentioned about any accomplices which seems to be a deliberate attempt to open another Pandora Box and divert attention of the enquiry officer.
2. Due to involvement of a middle man (tout) in thw whole process, the claim of accused Bashir Suptd & Jehanzeb JC regarding non-acquaintance with the above two witnesses is justified. As both of them (witnesses) were in jail therefore how could they meet Bashir suptd & Jehanzeb JC. It is quite possible that they might have heard their names from the tout Bashir or Ghulam Muhammad (another tout). Even if the weight of statements given by the two witnesses (above mentioned) is taken out from the formal enquiry still the 1<sup>st</sup> statement of Bashir (tout) is all inclusive.
3. After verification from different aspects/angles, the 1<sup>st</sup> statement of Bashir (tout) is considered reliable.

The recent proceedings are Video Tapped

  
17.7.13  
ADIL SAEED SAFI  
DS Home Deptt

ATTENDED  


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PS/C.S Khyber Pakhtunkhwa  
Diary No. 7735  
Date. 16-7-13

To,

The Chief Secretary,  
Khyber Pakhtunkhwa.

Subject: - INITIATION OF DISCIPLINARY PROCEEDINGS AGAINST OFFICER / OFFICIAL INVOLVED IN TRANSFER OF PRISONER FROM PUNJAB TO KHYBER PAKHTUNKHWA.

Dear Sir,

I have the honour to refer to your letter No.SOE-IV(E&AD)10(237)2011 (VOL-II) dated 14-02-2013 on the subject noted above and to request that Mr. Adil Safi, Deputy Secretary, Home & Tribal Affairs Department has been appointed as Enquiry Officer to investigate the charges leveled against me in the charge sheet framed in this respect.

Preliminary enquiry was conducted by the said Enquiry Officer and report submitted to the competent authority but returned for re-enquiry.

It is mentioned that the Enquiry Officer Mr. Adil Safi, intimated through his cell No. 0345-9146309 on dated 12-07-2013 at 08:14 PM to request the competent authority for change of Enquiry Officer as he would not be able to do justice. On 15-07-2013 he called me in his office and again told me not to expect justice from him.

I very humbly submit that I have no reliance on anyone from Home & Tribal Affairs Department to be appointed as Enquiry Officer.

I therefore, request your good-self to kindly appoint any Enquiry Officer from any Department for the said purpose.

I shall be thankful.


Yours Faithfully,



(BASHIR KHAN)

SUPERINTENDENT (BPS-16)  
Energy & Power Department.

16-07-13

ATTACHED  


خدمت جناب چیف سیکرٹری صاحب خیبر بختوانخواہ

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3

PS/C.S Khyber Pakhtunkhwa

Diary No. 8/89

Date 30/7/13

عنوان :- درخواست برائے تبدیلی انکوائری آفیسر

جناب عالی :-

مودبانہ گزارش کی جاتی ہے کہ آپ صاحبان نے میری Re-enquiry عادل صافی ڈپٹی سیکرٹری کو مارک کی تھی۔ اُس نے بشیر (توٹ) کو بلا یا اور میرے سامنے Cross examination ہوئی۔ میرا بیٹا بھی میرے ساتھ بیٹھا تھا۔ اُس نے صاف صاف بتایا کہ میں نے بشیر خان سیرٹنڈنٹ کا نام نہیں لیا۔ یہ آپ نے خود ڈالا ہے۔ اور یہ بھی کہا کہ میں نے پہلے وہ صفحے پیار دیا تھا۔ اُس میں میں نے سیرٹنڈنٹ ہری پور جیل اور حامد خان اکبر کا P.A ایڈیشنل سیکرٹری پوسٹ کا نام لیا تھا۔ اُس کو نکال کر بشیر خان سیرٹنڈنٹ کا نام شامل کیا گیا۔

میرے عادل صافی نے بشیر (توٹ) سے کراس سوال کیا۔ کہ بشیر خان سیرٹنڈنٹ کو یہ بیان آپ نے دیا ہے اُس پر دو گواہ انرجی اینڈ یاورڈ پیارٹمنٹ سے ہیں اور اس پر آپ جیل بھی جاسکتے ہیں۔ بشیر (توٹ) نے کہا کہ بالکل یہ سب کچھ میں نے کہا ہے اور کبیر کہنے کے لیے تیار ہوں۔

جناب عالی - مندرجہ بالا بیانات کا عادل صافی نے باقاعدہ ویڈیو بنائی اور کبیر صحیح کہاں کہ آپ کو جیل بھی سزا دے لے کر جاؤنگا۔ لیکن ان سب کے باوجود عادل صافی نے بشیر (توٹ) کو پریسٹرائز کر کے دوبارہ بلا یا۔ اور میری غیر موجودگی میں ویڈیو اور بیان لکھ کر رپورٹ Establishment کو بھیج دیا۔

جناب کی خدمت میں عاجزانہ التماس ہے کہ مندرجہ بالا بیانات کو مدنظر رکھ کر میرے اور میرے بیٹے کے سامنے جو

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ویدو بنائی تھی اس کے لیے حکم صادر فرمائیں کہ وہ ویدو  
صیغے سامنے پیش کریں

30/07/2013  
صیغ

عین نوازش ہوگی

آریکا تالعدار شیر ٹنڈنٹ  
شیرخان انرجی اینڈ یادر  
ڈیپارٹمنٹ  
20/07/2013

خدمت جناب چیف سیکرٹری ماہ جنتی خٹو خوان

36

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4058  
30/07/13

تبدیلی انکوائری آفیسر

Re-inquiry

Post Secy (E) E & I  
Diary No. 8306  
Dated: 29/7/13

گزارش ہے کہ ڈپٹی سیکرٹری ہوم جناب عادل صافی کو ہم خلاف انکوائری کرنے کے لئے  
انکوائری آفیسر مقرر کیا گیا ہے۔ جسے بیلڈ ریورٹ پیش کیا گیا ہے جس کے جواب (Show Cause) میں  
آپ صعبان کے دوبارہ انکوائری کا حکم دیا گیا۔ مگر مذکورہ انکوائری آفیسر نے دوبارہ انکوائری نہیں  
کی اور وہی ریورٹ پھر پیش کیا ہے۔

اس انکوائری آفیسر پر جمعے کوئی اعتماد نہیں۔ اس سلسلے میں پہلے ہی ایک درخواست دیا ہے  
مگر ایک ہیٹ فیروں بات آئی تو اس میں ترمیم چاہی جا چکی ہے اور عدالت میں اس کا  
examination ہو گیا ہے اور اس میں

یہ کہ صوم ڈیپارٹمنٹ میں ایک ڈپٹی سیکرٹری ہے جو ہینسٹری طور پر مقرر ہے۔ جس کا  
نام مستطریح ہے۔ مگر کسی ایک اس کے پاس آفیسر کے پاس آئے اور کہا کہ انکوائری کا جواب جو تو ہے  
ہے۔ سب محفوظ ہے۔ اور ترمیم بھلا گیا۔ اور میں تم اور ان کے درمیان "ٹوٹو میں سے" صوم  
صوم آئیٹ سے نوٹس لے لیں۔ بلکہ اور مجھے دھماکا دی کہ میں تجھے خراب کرنے آگے دوں گا

اب موجود انکوائری آفیسر عادل صافی اس کا چچا کا بیٹا (Cousin) ہے۔ اور اس میں  
کے اشاروں پر چل رہا ہے۔ عادل صافی نے کہا بار مجھے کیا کہ مجھ سے انصاف کو تو وضع نہ رکھو  
کیونکہ میں مجبور ہوں۔ عادل صافی، مستطریحان کے بغیر کچھ نہیں کر سکتا۔

اس لئے آپ صعبان کی خدمت میں درخواست کی جاتی ہے کہ میرے سربراہان ان لوگوں پر  
مجھے اعتماد نہیں اور انکوائری کو کسی دوسرے اعانتدار اور غیر جانبدار آفیسر کے حوالہ کیا  
جائے تاکہ انصاف کر سکے۔

Secy: ESTB

العامر

آپ کا کمدار  
مستطریحان میرمنڈنٹ انرجی اینڈ پاور ڈیپارٹمنٹ

29/7

29.07-2013

ATTENDED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

39

Approved: - I

Dated Peshawar, the 29.08.2013

**NOTIFICATION.**

**No. SOE.IV(E&AD) 10(237)/2012:**

WHEREAS Mr. Bashir Khan, the then Superintendent (BS-16), Home & T.As Department, now posted in Energy & Power Department was proceeded against under Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 for the charges contained in charge sheet dated 14.02.2013.

AND WHEREAS, Mr. Adil Saeed Safi, Deputy Secretary, Home & T.As Department was appointed as inquiry officer to conduct inquiry against the said officer for the charges leveled against him, in accordance with the rules.

AND WHEREAS, the inquiry officer, after having examined the charges, evidence on record and explanation of the accused officer, submitted report.

AND WHEREAS, a show cause notice was served upon the accused officer to which he replied.

AND WHEREAS, opportunity of personal hearing was also afforded to the accused officer.

NOW, THEREFORE, I, Muhammad Shahzad Arbab, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, after having considered the charges, evidence on record, explanation of the accused officer during enquiry, findings of the inquiry officer, reply of the accused officer to the show cause notice, defense offered by the accused officer during personal hearing and in exercise of the powers conferred upon me under Rule 14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 do hereby impose the major penalty of "Removal from Service" on Mr. Bashir Khan, the then Superintendent (BPS-16), Home & T.As Department, now posted in Energy & Power Department with immediate effect.


CHIEF SECRETARY,  
KHYBER PAKHTUNKHWA

**Endst. No. & Date Even.**

Copy forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (General)), Home & T.As Department.
3. Section Officer (General), Energy & Power Department.
4. Section Officer (Secret), Establishment Department.
5. PS to Chief Secretary, Khyber Pakhtunkhwa.
6. PS to Secretary Establishment.
7. PS to Spl: Secretary (E), Establishment Department.
8. P.A to Addl: Secretary (E), Establishment Department.
9. Officer concerned.
10. Personal file of the officer concerned.

E & P

  
(AKHTAR NAWAZ)  
SECTION OFFICER (E.IV)

ATTESTED  


(38)

Annex-1

Date: 25/9/13



CHIEF MINISTER'S SECRETARIAT  
KHYBER PAKHTUNKHWA PESHAWAR

NO. SOIV/CMS/KPK/E&P/2013 / 5348  
Dated Peshawar 20-09-2013

To: ✓  
The Secretary to Govt of Khyber Pakhtunkhwa,  
Energy & Power Department.

Subject: DEPARTMENT APPEAL UNDER SECTION 22 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANT ACT 1974 READ WITH RULE 17 OF KHYBER PAKHTUNKHWA \*E&AD) RULES, 2011 AGAINST NOTIFICATION NO. SO E-IV(E&AD)10(237)/2012, 29-08-2013 WHEREBY THE UNDERSIGNED IS AWARDED THE MAJOR PENALTY OF "REMOVAL FROM SERVICE"

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a self explanatory appeal of Mr. Bashir Khan, Ex-Superintendent Energy & Power Department for necessary action/comments.

Yours faithfully,

Enclosures: As Above

*[Signature]*  
(SAID BADSHAH)  
Section Officer-IV

Endst. No. & date Even.

The PS to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.

Section Officer-IV

*Am Secy: ESTE  
25/09/13 For 27/9*

*[Signature]*  
24/09/13

ATTESTED  
*[Signature]*

5045  
23-9-13  
9



To

✓ The Chief Minister,  
Khyber Pakhtunkhwa,  
Peshawar.

(39)

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Through: - Proper Channel.

Subject: - Department Appeal under section 22 of the Khyber Pakhtunkhwa Civil Servant Act, 1974, read with rule 17 of Khyber Pakhtunkhwa (E&AD) Rules, 2011 against the Notification No. SOE-IV (E&AD) 10(237)/2012, dated 29-08-2013, whereby the undersigned is awarded the major penalty of "Removal from Service".

16/9/13

Prayer in Departmental Appeal:

On acceptance of this Departmental Appeal the Notification No. SOE-IV (E&AD) 10(237)/2012, dated 29-08-2013, may please be set aside and the appellant may be reinstated in to service with all back benefits.

Respected Sir,

I respectfully submit my Departmental Appeal against the order dated 29-08-2013 as follows: -

1. That I was initially appointed as Junior Clerk in the Secretariat, with the passage of time and satisfactory service, I was promoted to the post of Superintendent (BPS-15), I remained posted at different posts. Ever since my appointment, I have performed my duties as assigned to me with zeal and devotion and there was no complaint whatsoever regarding my performance.

2. That while serving in the said capacity, I was served with charge sheet and statement of allegations dated 14-02-2013, containing the false and baseless allegations that I while posted as Superintendent prisons, Section Home Department, Khyber Pakhtunkhwa, committed the following irregularities:

- a. "You are direct beneficiary in the transfer cases of prisoners from Punjab to Prisons of Khyber Pakhtunkhwa on fake NOCs, as well having links in all inter provincial transfer cases.
- b. You are the manufacturer of forged signatures of the then Section Officer Prison (Mr. Ghulam Marwat Home Department).
- c. You refused to record the statement during enquiry proceedings when you were called upon for the same.
- d. you threatened to go to court if any order is passed against you."

3. That I duly replied the charge sheet vide reply dated 20-02-2013 and refuted the false and baseless allegations leveled against me.

4. That the officer without associating me with the inquiry proceedings conducted a partial inquiry and recommended me for punishment.

5. That I was served with Show Cause notice dated 15-05-2013. I duly replied the Show Cause Notice vide reply dated 28-05-2013, wherein besides refuting the allegations leveled against me as false and baseless, I also pointed out the partial attitude of the inquiry officer adopted by him during the inquiry proceedings against me by not giving me fair opportunity to defend myself.

*Secy  
Principal Secy  
for Law & P&S  
11/7/2013*

*m 13/9  
Principal Secy  
to Chief Minister  
Khyber Pakhtunkhwa  
A/S*

**ATTACHED**

Contd: P-2

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D/S-III  
Put up  
on 16/9  
16.09*

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That without considering my defense reply, the competent authority quite illegally awarded me the major penalty of "REMOVAL FROM SERVICE" vide Notification No. SOE-IV (E&AD) 10(237)/2012, dated 29-08-2013.


7. That the penalty so imposed upon me is illegal, unlawful, without lawful authority and against the law and facts, hence liable to be set aside inter alia on the following grounds.

GROUND OF APPEAL: -

- a. That I have not been treated in accordance with law, hence my rights secured and guaranteed under the law are badly violated.
- b. That no proper proceedings were conducted against me, neither any proper inquiry as required under the law has been conducted, nor I have been given proper opportunity to defend myself against the charges leveled. Hence the proceedings so conducted are violation of law and thus not tenable.
- c. That the appellant has time and again objected on the partisan attitude of the enquiry officer. However my complaint was never considered and was not thus treated fairly and in accordance with law.
- d. That the charges leveled are of such a nature never admitted nor proved against the undersigned, therefore proving the charges on the basis of no evidence is illegal, unlawful and not tenable. Similarly the person whose statement was used against me, his statement was not recorded in my presence, hence his statement has got no evidentiary value.
- e. That the appellant has never forged any signatures, thus simply relying on the statement that to when he is changing stances is injustice and illegal.
- f. That the appellant is dealt with quite harshly on the basis of unproven charges.
- g. *That when I was provided the opportunity of personal hearing by the competent authority. The authority agreed/ordered for cross examination of the witnesses and to introduction parade from the prisoners but the inquiry officer ignore the order of the competent authority.*
- h. The inquiry officer gave its findings on surmises and conjunctures.


It is therefore, humbly prayed that on acceptance of this Departmental Appeal the Notification dated 29-08-2013 may please be set aside and I may be reinstated to my original post with all back benefits.

Yours Obediently

  
(Bashir Khan) 10-09-2013

Ex-Superintendent  
Energy & Power Department.

Copy to Chief Secretary Khyber Pakhtunkhwa it is further to being to your kind notice that on my reply to the charge sheet, you have very kindly passed the remarks to the enquiry officer for "re-inquiry". But the said remarks/orders have been ignored/concealed.

**ATTACHED**  


(Bashir Khan)  
Ex-Superintendent  
Energy & Power Department

41

ANNEX-K



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)


No. SOE.IV (E&AD)10 (237)/2012/Vol.II.  
Dated Peshawar the 07.11.2013.

To

Mr. Bashir Khan,  
Ex-Superintendent,  
House No.44, Sector C-2, Phase-V,  
Hayatabad, Peshawar.

Subject: - DEPARTMENTAL APPEAL AGAINST THE REMOVAL ORDER  
DATED 29.08.2013 WHEREBY THE APPELLANT HAS BEEN  
REMOVED FROM SERVICE.

I am directed to refer to your appeal dated 10.09.2013 on the subject noted above and to inform you that your appeal has been processed and rejected by the appellate authority i.e Chief Minister, Khyber Pakhtunkhwa.

  
( AKHTAR NAWAZ )  
SECTION OFFICER (E.IV)

ATTACHED  
BY  


POWER OF ATTORNEY

In the Court of KPK Service Tribunal Peshawar  
Baqeer Khan

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

VERSUS

Govt of KPK and others.  
} Defendant  
} Respondent  
} Accused  
}

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/W, the undersigned, do hereby nominate and appoint

**IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN**

and Sajid Amir Advocate my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Companies or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc. and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at Peshawar  
the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_  
Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

*Sajid Amir  
Advocate, High Court  
Peshawar.*

**Ijaz Anwar**

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
PK-1, Fourth Floor, Dilom Plaza, Saddar Road, Peshawar Cantt  
Ph: 091-5272154 Mobile-0333-9107225

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

**Appeal No. 1597/2013**

Bashir Khan, Ex-Superintendent (BS-16), Home ..... **Appellant**  
& TAs Department, R/O House No.44, Sector  
C-2, Phase-V, Hayatabad, Peshawar

**VERSUS**

1. Chief Secretary Khyber Pakhtunkhwa
2. Secretary to Govt. of Khyber Pakhtunkhwa  
Establishment Department
3. Secretary to Govt. of Khyber Pakhtunkhwa  
Home & Tribal Affairs ..... **Respondents**

**Joint parawise comments / reply on behalf respondents No. 1, 2 & 3**

**PRELIMINARY OBJECTIONS.**

1. That the appellant has got no cause of action to file the instant appeal.
2. The appellant is estopped by his own conduct to file the present petition in the Court.
3. That the appeal of the appellant is time barred.
4. The appellant has not come to this Honourable Tribunal with clean hands.
5. That the instant appeal is barred by law.

**On Facts**

- 1 Correct to the extent that he had been originally inducted as Junior Clerk and later on promoted on next higher tiers in the cadre up-to Superintendent (BS-16).
- 2 Pertains to record
- 3 In correct. That at the time when the issue regarding Inter-Provincial transfer of prisoners was aired on Media, a fact finding enquiry was conducted promptly. According to enquiry report it came to light that appellant was proved guilty beyond any shadow or doubt, and fully associated with all misdeeds. Relevant portion of the enquiry report i.e. recommendation No. VII is reproduced below:-

"Officers/officials namely Ghulam Marwat, Jehanzeb and Bashir may be proceeded departmentally for their misconduct under the E&D Rules 1973. Jehanzeb and Bashir being the direct beneficiaries and the connecting links in all the Inter-Provincial transfer cases besides, the manufacturers of the forged signatures of the then Section Officer (Prisons) Ghulam Marwat being the supervising officer was all along witness to the misdeeds of both Jehanzeb and Bashir (Superintendent) and was more than aware of the mala-fide activities of Bashir (tout), who was brokering around everything in the Inter-Provincial transfer under the eyes of Ghulam Marwat.

Moreover the statements given by a numbers of prisoners, who were transferred to Khyber Pakhtunkhwa Jails from Punjab, also connected the appellant with grave misconduct and being a solid character of crime”.

- 4 Incorrect: Statement of Allegation/ charge sheet was framed against the appellant in the light of the fact finding enquiry got carried out by Respondent No.3.
- 5 Correct to the extent that reply to the charge sheet notice was submitted by the appellant, however the same was not found convincing.
- 6 Incorrect: The inquiry was impartial and fair. Moreover, the appellant was associated in the inquiry proceeding and was also heard in person.
- 7 Incorrect: The appellant had been afforded sufficient opportunity to defend and clarify himself.
- 8 Incorrect: The witnesses have actually confirmed the involvement of the appellant in the alleged crime during the formal enquiry. The statements of witnesses produced by the appellant during his reply to Show Cause Notice where the witnesses have denied the involvement of the appellant in the alleged incident, suggest they having been pressurized by the appellant to change their statement which is evident from the fact that the witnesses have stuck to their initial statements during the re-enquiry. As far as, cross-examination of the witnesses (Prisoners) is concerned, there was hardly any possibility of their meeting with the appellant with the prisoner as they were in jail. All the business was done through a middle man (Bashir Tout). Therefore, in such a situation cross examination of these witnesses by the appellant was not required. The appellant had requested for change of Enquiry Officer. However, his request came at a belated stage when all the codal formalities had been completed.
- 9 Incorrect: The appellant was given full opportunity by the competent authority to defend himself during personal hearing, which he failed to do. Hence imposition of major penalty of "removal from service" by the competent authority in exercise of his legitimate powers vested in him by virtue of Khyber Pakhtunkhwa (E&D) Rules, 2011.
10. Pertains to record.
11. Incorrect: The appellant was treated in accordance with the relevant provision of the Khyber Pakhtunkhwa (E&D) Rules, 2011. The orders passed by the worthy competent authority in exercise of his legitimate powers under the Rules ibid based on the facts, findings and recommendations of the impartial and fair inquiry conducted as per the said rules.

**Grounds:**

- A. Incorrect: The appellant was treated in accordance with (E&D) Rules, 2011.
- B. Incorrect: Before his removal from service, all codal formalities as required under the rules had been fulfilled and the appellant had been given full opportunity to defend himself.
- C. Incorrect: The appellant has been given opportunity of personal hearing not only by the Enquiry Officer but also by the competent authority.
- D. Incorrect: The charges against the appellant were proved in the inquiry report.
- E. Incorrect: The appellant had been provided copy of inquiry report as evident from his appeal and had been provided full opportunity to defend himself.
- F. Incorrect: The Appellant Authority after having considered the charges, explanation of the appellant during inquiry and reply to the show cause etc, had rejected his appeal.
- G. Incorrect: All the witnesses (Prisoners) were in jail and there were no possibility of meeting of the appellant with the witnesses and all the business was done through a tout.
- H. Incorrect: The request of the appellant regarding change of inquiry officer and the reservation upon him had come at a stage, when all the codal formalities had been fulfilled.
- I. Incorrect: The circumstances and statements of witnesses have proved his direct involvement in issuance of fake NOC for inter provincial transfer of prisoners under the forged signature of Section Officer (Prisons).
- J. Incorrect: The witnesses have owned their previous statements given to the Enquiry Officer during the course of re-inquiry.
- K. Incorrect: The forged NOC were issued from the section, where the appellant was posted during the period of ban on inter-provincial transfer of prisoners.
- L. Incorrect: The charges of issuance of fake NOC has been proved against him which is tantamount to misconduct. Moreover, every official has his own job description in the Section and is responsible for it.
- M. Incorrect: All the business was done through a middle man/tout (Bashir) as the witnesses were prisoners and there seemed no possibility of their meeting with the appellant in such circumstances.
- N. Incorrect: The appellant was treated in accordance with the Khyber Pakhtunkhwa (E&D) Rules, 2011.
- O. Irrelevant.
- P. There was nothing substantial to put forth in his defence and to prove himself

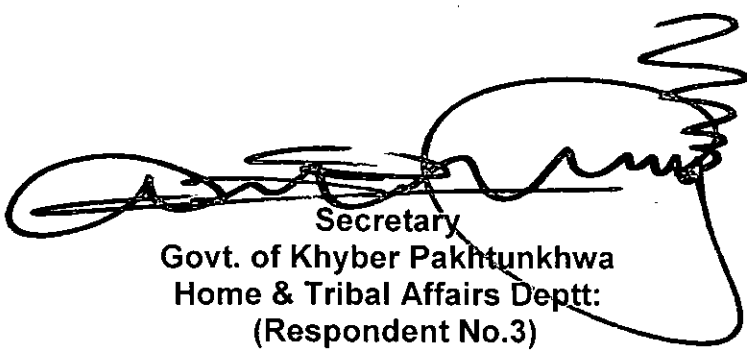
innocent in his replies to charge sheet, show cause notice and departmental appeal which have already been negated.

Q. That the respondents may also be allowed to raise additional grounds at the time of arguments.

**Prayer**

It is therefore, humbly prayed that the instant appeal being devoid of merit may very graciously be dismissed with cost.

  
(Respondents No.1 & 2)

  
Secretary  
Govt. of Khyber Pakhtunkhwa  
Home & Tribal Affairs Deptt:  
(Respondent No.3)



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

In the matter of  
Appeal No. 1597/2013

Bashir Khan Ex- Superintendent (BPS-16) Home & Tribal  
Affairs Department, R/O House No. 44 Sector C-2, Phase-V,  
Hayatabad, Peshawar. *(Appellant)*

**VERSUS**

Government of Khyber Pakhtukhwa through Chief Secretary  
Khyber Pakhtukhwa Peshawar & others. *(Respondents)*

**REJOINDER TO THE PARA WISE REPLY ON**  
**BEHALF OF THE APPELLANT**

Respectfully submitted:

The appellant submits his rejoinder as under:

**ON PRELIMINARY OBJECTIONS:**

1. Contents incorrect and misleading, the appellant has illegally been awarded the penalty of Removal from service hence he has got the necessary cause action to file the instant appeal.
2. Contents incorrect and misleading, no rules of estoppel is applicable to the instant case.
3. Contents incorrect and misleading, the instant appeal is filed well within the prescribed period of limitation.
4. Contents incorrect and misleading, the appellant has come to the tribunal with clean hands.
5. Contents incorrect and misleading, the appeal is filed well in accordance with the prescribed law/ rules and procedure hence maintainable under the law.

ON FACTS

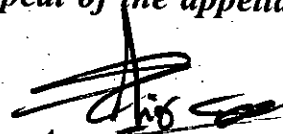
1. Contents need no reply, however contents of Para-1 of the appeal are true and correct.
2. Contents need no reply, however contents of Para-1 of the appeal are true and correct.
3. Contents of Para-3 of the appeal are correct, the reply submitted to the Para is incorrect, misleading and based on surmises and conjunctures.
4. Contents of Para-4 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
5. Contents of Para-5 of the appeal to the extent of submission of reply to charge sheet being admitted hence need no reply while rest of the reply to the instant Para is incorrect hence denied.
6. Contents of Para-6 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
7. Contents of Para-7 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
8. Contents of Para-8 of the appeal are correct, the reply submitted to the Para is incorrect and misleading. The contention of the respondents that the appellant has pressurized the witnesses is baseless for changing statement. The alleged tout Mr. Bashir has also given his statement on affidavit that he has not recorded any statement at any forum against the appellant. Moreover the respondents have admitted the fact that the appellant has not been allowed opportunity to cross examination and that his requests for changing the inquiry officer have not been accepted. *(Copy of statement on affidavit is attached)*
9. Contents of Para-9 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
10. Contents need no reply, however contents of Para-1 of the appeal are true and correct.
11. Contents of Para-4 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.

14.01.15  
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**GROUNDS**

The Grounds (A to ) taken in the memo of appeal are legal and will be substantiated at the time of arguments.


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

  
Appellant

Through

  
IJAZ ANWAR  
Advocate, Peshawar.

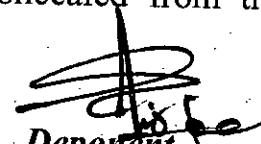
&

  
SAJID AMIN  
Advocate, Peshawar.

0-7  
14.01.15

**AFFIDAVIT**

I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honourable Tribunal.

  
Deponent



14/1/15



بعد التسمو من مرمول مهن مهنو او

Appeal No: 1597/2013

اسلام

2 مخانب  
بنام

بشير خان بنم  
ورثت

مورخه  
مقدمه  
دعوى  
جرم

باعث تحریر آنکه

مقدمه مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و گلہ کاروائی متعلقہ  
آن مقام لیٹور کیلئے نور احمد لیٹور  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برائگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

All rights  
reserved  
Accepted.  
Q. eod/As.

المرقوم 8  
ماہ اکتوبر 2015

بمقام  
سندھ  
کے لئے منظور ہے۔