

● **BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR**
AT CAMP COURT D.I.KHAN

Service Appeal No. 1406/2017

Date of Institution ... 13.11.2017

Date of Decision ... 23.11.2021

Hashmatullah Querashi S/O Amanullah Querashi Ex-Assistant
Accountant, District Accounts Officer, Lakki Marwat.

... (Appellant)

VERSUS

Secretary, Government of Khyber Pakhtunkhwa Finance
Department, Peshawar and four others.

... (Respondents)

MR. MUHAMMAD TARIQ QURESHI,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For respondents.

MR. AHMAD SULTAN TAREEN
MR. SALAH-UD-DIN

--- CHAIRMAN
--- MEMBER (JUDICIAL)

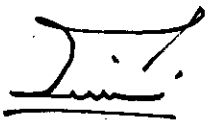
JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts forming the background of the instant service appeal are that the appellant, who was serving as Assistant Accountant (BPS-16) in District Accounts Office Lakki Marwat was dismissed from service vide order dated 25.05.2005 on account of his conviction in case of embezzlement. The conviction of the appellant was set-aside by august Peshawar High Court vide judgment dated 04.07.2006 and the case was remanded back to the learned Trial Court. The appellant was thus reinstated in service by the competent Authority vide order dated 05.11.2007, however on 21.11.2013, the reinstatement order, of the



appellant was withdrawn, therefore, he filed Service Appeal bearing No. 157/2014 before this Tribunal. The service appeal filed by the appellant was disposed of vide judgment dated 27.03.2017, whereby the order dated 21.11.2013 was set-aside and it was directed that the concerned Authority shall pass any order deemed appropriate after giving an opportunity of hearing to the appellant for explaining and defending his position; the appellant was reinstated in service and it was directed that the entitlement of appellant to back benefits etc shall be subject to outcome of notice and subsequent order of the competent Authority. In consequence to the directions so issued by this Tribunal vide aforementioned judgment dated 27.03.2017, appellant was issued show-cause notice and was dismissed from service vide impugned order dated 16.06.2017. The same was challenged by the appellant through filing of departmental appeal, however the same was not responded, hence the instant service appeal.



2. Notices were issued to the respondents, who submitted their comments, wherein they denied the assertions made by the appellant in his appeal.

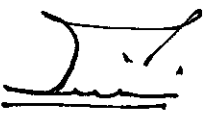
3. Learned counsel for the appellant has contended that no proper inquiry was conducted in the matter and the appellant was not provided proper opportunity to defend himself; that the appellant was falsely implicated in cases of corruption with mala-fide intention; that the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 has already been repealed in the year 2011, therefore, the appellant could not have been awarded penalty under the said ordinance; that during the period of his reinstatement in service, the appellant was paid subsistence grant/pay and allowances, therefore, the competent Authority was not justified to pass order for recovery of the same; that the disciplinary proceedings against the appellant were conducted in sheer violation of relevant rules, therefore, the impugned order is liable to be set-aside.

4. On the other hand, learned Deputy District Attorney for the respondents has argued that the appellant was convicted

in case of embezzlement, therefore, he has rightly been dismissed from service; that the appellant was issued show-cause notice and after affording him proper opportunity of personal hearing, competent Authority passed the impugned order, which is in accordance with law and needs no interference.

5. Arguments heard and record perused.

6. A perusal of the record would show that it is an admitted fact that the appellant was convicted by Additional Special Judge Anti-Corruption Southern Region at Bannu vide judgment dated 19.12.2006 on the basis of his plea of guilt. The appellant was departmentally proceeded against under Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000, which was in vogue at the relevant time. The appellant was convicted on charges of corruption, therefore, in view of Section 3-A sub-section 2 clause (a) of the *ibid* ordinance, the competent Authority has rightly awarded him major penalty of dismissal from service.



7. The appellant was convicted vide judgment dated 19.12.2006, however he remained reinstated in service till passing of the order dated 21.11.2013 by the competent Authority, whereby reinstatement orders dated 05.11.2007 and 19.12.2007 were withdrawn but the aforementioned order dated 21.11.2013 was set at naught by this Tribunal vide judgment dated 27.03.2017 and the appellant was again reinstated in service. It was vide the impugned order dated 16.06.2017 that the appellant was awarded major penalty of dismissal from service as well as recovery of embezzled amount and the amount paid to the appellant as subsistence grant/pay and allowances etc with effect from 19.12.2006 to 21.11.2013 by treating the said period as extraordinary leave without pay. The appellant was convicted on 19.12.2006, however the Authority itself kept the appellant reinstated in service even after conviction by the court and even a notification regarding reinstatement of the appellant was passed on 19.12.2007. The authority was thus not justified in ordering the recovery of subsistence grant/pay and allowances

etc for the period from 19.02.2006 till 21.11.2013 and treating the said period as extraordinary leave without pay.

8. Consequently, the appeal in hand is partially allowed by setting-aside the impugned order dated 16.06.2017 only to the extent of recovery of an amount of Rs. 2405534/- paid to the appellant as subsistence grant/pay and allowances etc with effect from 19.12.2006 to 21.11.2013 and treating the said period as extraordinary leave without pay. Rest of the impugned order dated 16.06.2017 is kept intact. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
23.11.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN



(AHMAD SULTAN TAREEN)
CHAIRMAN
CAMP COURT D.I.KHAN

Service Appeal No. 1406/2017

23.11.2021

Appellant alongwith his counsel Mr. Muhammad Tariq Qureshi, Advocate, present. Mr. Shahid Hassan, Assistant alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

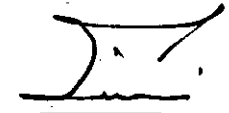
Vide our detailed judgment of today, separately placed on file, the appeal in hand is partially allowed by setting-aside the impugned order dated 16.06.2017 only to the extent of recovery of an amount of Rs. 2405534/- paid to the appellant as subsistence grant/pay and allowances etc with effect from 19.12.2006 to 21.11.2013 and treating the said period as extraordinary leave without pay. Rest of the impugned order dated 16.06.2017 is kept intact. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

23.11.2021



(Ahmad Sultan Tareen)
Chairman
Camp Court D.I.Khan



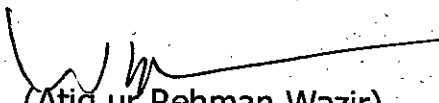
(Salah-Ud-Din)
Member (J)
Camp Court D.I.Khan


24.02.2021

Nemo for appellant.

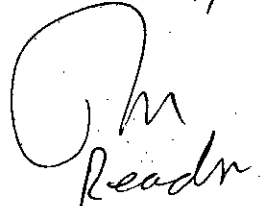
Riaz Khan Paindakheil learned A.A.G alongwith Naseeb Khan S.O and Shahid Hassan Assistant for respondents present.

Preceding date was adjourned on a Reader's note, therefore, notice be issued to appellant/counsel for 26.05.2021 for arguments, before D.B at Camp Court D.I. Khan


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, D.I.Khan


(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan


*Due to covid, 19 therefore
to come up for the same on 29/9/21*


Reader

29.09.2021

Appellant in person present. Mr. Usman Ghani, District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments before the D.B on 23.11.2021 at Camp Court D.I.Khan.

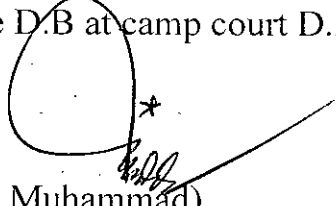

(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT D.I.KHAN

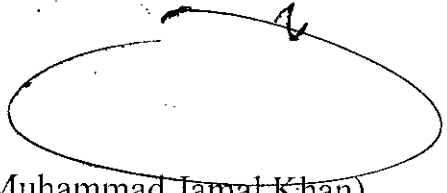

(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN

27.10.2020

Appellant is present in person. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Naseeb Khan, SO for respondents is present.

Since the Members of the High Court as well as of the District Bar Association D.I.Khan are observing strike today, therefore, the case is adjourned to 23.11.2020 for arguments before D.B at camp court D.I.Khan.


(Mian Muhammad)
Member(E)



(Muhammad Jamal Khan)
Member(J)
Camp Court D.I Khan


23.11.2020

Appellant with counsel present.

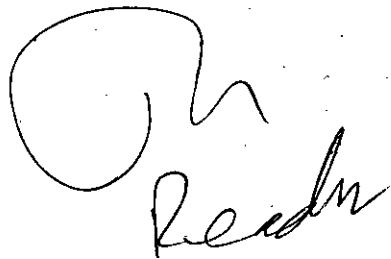
Muhammad Jan learned Deputy District Attorney alongwith Sajid Superintendent and Shahid Hassan Assistant for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 21.12.2020 before D.B at Camp Court DI.Khan.


(Atiq-ur-Rehman Wazir)
Member (E)
Camp Court, D.I Khan


(Rozina Rehman)
Member (J)
Camp Court, D.I Khan

*Due to covid, 19 case
is adjourned 24-02-2021*



26/3 .2020

Due to COVID19, the case is adjourned to

22/4 /2020 for the same as before.

Reader 

22.9.2020

Due to COVID 19, the case is adjourned to

22/9/2020 for same.




22.09.2020

Nemo for parties.

Mr. Usman Ghani, learned District Attorney for respondents present.

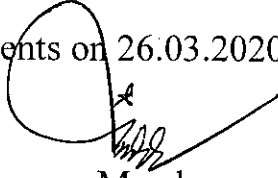
Notice be issued to both the parties for arguments on 27.10.2020 before D.B at Camp Court D.I Khan.


(Attiq-ur-Rehman Wazir)
Member
Camp Court, D.I Khan


(Rozina Rehman)
Member
Camp Court, D.I Khan

25.02.2020

Appellant in person present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Fazal Muhammad, Supdt for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourned. To come up for arguments on 26.03.2020 before D.B at camp court D.I.Khan.


Member



Member
Camp Court D.I.Khan

22/10/2019 Since tour to D.I.Khan has been cancelled .To come for the same on 26/11/2019.




Reader

26.11.2019 Appellant in person and Mr. Ziaullah, Deputy District Attorney alongwith M/S Kaleem Ullah, Assistant Director and Sajid, Superintendent for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 28.01.2020 for rejoinder and arguments before D.B at Camp Court D.I.Khan.




(Hussain Shah)
Member
Camp Court D.I.Khan




(M. Amin Khan Kundi)
Member
Camp Court D.I.Khan

28.01.2020 Due to strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Usman Ghani, District Attorney alongwith M/S Kaleem Ullah, AD and Sohail, Assistant for the respondents present. Adjourned to 25.02.2020 for rejoinder and arguments before D.B at Camp Court D.I.Khan.



(Hussain Shah)
Member
Camp Court D.I.Khan




(M. Amin Khan Kundi)
Member
Camp Court D.I.Khan

Service Appeal No. 1406/2017

25.06.2019

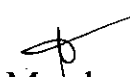
Appellant in person present. Mr. Farhaj Sikandar learned Deputy District Attorney alongwith M/S Sajid Superintendnet, Sher Wahab District Account Officer, Kaleem Ullah Assistant Director for the respondents present and submitted written reply/comments. Adjourned. To come up for rejoinder/arguments on 23.09.2019 before D.B. at Camp Court, D.I Khan.


(M. Amin Khan Kundi)
Member

At Camp Court, D.I. Khan

23.09.2019

Appellant in person present. Mr. Farhaj Sikandar, DDA for respondents present. Appellant seeks adjournment as his counsel is not available today due to general strike of the bar. Adjourn. To come up for arguments on ~~24.09.2019~~ ~~on~~ before D.B at camp court D.I.Khan.


Member


Member
Camp Court D.I.Khan

23.01.2019

Appellant requests for adjournment due to non-availability of his learned counsel.

Adjourned to 27.03.2019 before S.B at camp court, D.I.Khan on which date the matter shall positively be argued at preliminary hearing stage.

Chairman
Camp Court, D.I.Khan

27.03.2019

Counsel for the appellant present.

The question, whether after repeal of Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance, 2000 in the year, 2011 its erstwhile provisions can be invoked in the year 2017 and penalty be awarded to the appellant under the said provisions on 16.06.2017, shall have to be resolved, inter-alia, through the appeal in hand.

The appeal is, therefore, admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 25.06.2019 before S.B at camp court, D.I.Khan.

Appellant
Security & Process Fee

Chairman
Camp Court, D.I.Khan

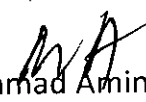
30-9-18

NO ONE present on behalf of the appellant. There is
nothing considered, therefore the case is adjourned for
the same on 13-09-18, at Camp Court D.I. Khan.



13.09.2018

Counsel for the appellant present and requested for
adjournment. Adjourned. To come up for preliminary
hearing on 25.10.2018 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

25-10-2018


Order is hereby cancelled.

Therefore the case is adjourned
To come up on 29.11.2018 at Camp
Court D.I. Khan.




29.11.2018

Counsel for the appellant Mr. Saminullah Marwat,
Advocate present and submitted fresh Vakalat Nama on
behalf of the appellant. Vakalat Nama is placed on record.
Newly engaged learned counsel for the appellant requested
for adjournment. Adjourned. To come up for preliminary
hearing on 23.01.2019 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan


22.02.2018

Appellant in person present and requested for adjournment. Adjourned. To come up for preliminary hearing on 15.03.2018 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan


15.03.2018

None for the appellant present. Notices be issued to the appellant and his counsel for preliminary hearing. To come up for preliminary hearing on 26-04-18 before S.B at camp court D.I.Khan.


(Ahmad Hassan)
Member
Camp Court D.I.Khan


25.05.2018

Due to retirement of the Worth Chairman, the Tribunal become non-functional. To come up for the same 22.06.2018. Notice be issued to the parties accordingly.


Member

22.06.2018




Appellant Hashmatullah Qureshi alongwith Mr. Muhammad Tariq, Advocate present. Counsel for the appellant made a request for adjournment as the appellant wishes to submit additional documents. Granted. To come up for preliminary hearing on 30.08.2018 before S.B at camp court, D.I.Khan.


Chairman
Camp Court, D.I.Khan

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 1406/2017


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	22/12/2017	<p>The appeal of Mr. Hashmatullah Qureshi resubmitted today by Mr. Muhammad Tariq Qureshi Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 22/12/17</p>
2		<p>This case is entrusted to Touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>25-1-18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
25.01.2018		<p>Appellant in person present and requested for adjournment. Adjourned. To come up for preliminary hearing on 22.02.2018 before S.B at Camp Court D.I.Khan.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court D.I. Khan</p>

The appeal of Mr. Hashmatullah Qureshi son of Amanullah Qureshi ex-Assistant Accountant DAO Office Lakki received today i.e. on 13.11.2017 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of mercy petition dated 7.2.2013 is incomplete which may be completed.
- 2- Copy of stoppage of pay letter mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 4- Annexures of the appeal may be attested.
- 5- Annexures of the appeal may be flagged.
- 6- Page nos. 8, 9 and 20 of the appeal are illegible which may be replaced by legible/better one.
- 7- Seven more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 2460 /S.T.

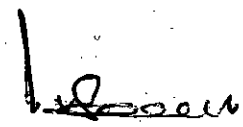
Dt. 14/11 /2017


REGISTRAR 14/11/17
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Tariq Qureshi Adv.
High Court lakki Marwat.

Sir,
Above objections have been Removed but objection No 1 & No 2 are not removed, for which applied for attested copies. Moreover, Appellant have not furnished No. inform me about these copies. So request for Extension of time for re-submission. Pl.


Adv
(10) Days time extended.


14/12/17

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.
(Service Appeal No. 1406 /2017.

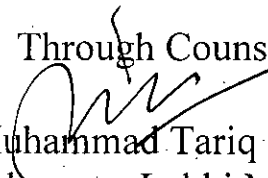
Hashmatullah Querashi.....vs..... Secretary, Govt: of KPK, finance

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Dated: 04.11.2017.

Appellant
Hashmatullah Querashi

Through Counsel

Muhammad Tariq Qureshi
Advocate, Lakki Marwat.

D

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

(Service Appeal No. 1406 12017.

Hashmatullah Querashi son of Amanullah Querashi ex-assistant
Accountant, District Accounts Officer, Lakki Marwat.
.....*Appellant*

**Khyber Pakhtunkhwa
Service Tribunal**

Vs

Diary No. 1293

Dated 13-11-2017

1. Secretary, Govt: of KPK, finance Department, Peshawar.
2. Chief Secretary, Govt: of KPK, Peshawar.
3. Director Treasuries And Accounts Khyber Pakhtunkhwa
Peshawar
4. District Accounts Officer, Lakki Marwat.
5. District Accounts Officer, Bannu.

.....*Respondents*

**SERVICE APPEAL U/S 4 KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 AGAINST THE OFFICE
ORDER DATED 16.06.2017 OF DIRECTOR TREASURIES
AND ACCOUNTS KHYBER PAKHTUNKHWA
PESHAWAR, WHEREBY ORDERS OF REINSTATEMENT
DATED 16-5-2012 WAS WITHDRAWN FOR NO LEGAL
REASONS AND APPELLANT WAS DISMISSED FROM
SERVICE.**

Filed to-day PRAYER:

Registrar

**ON THE ACCEPTANCE OF INSTANT SERVICE APPEAL,
IMPUGNED ORDER OF DIRECTOR TREASURIES AND
ACCOUNTS KHYBER PAKHTUNKHWA PESHAWAR
DATED: 16.06.2017 MAY KINDLY BE SET ASIDE AND
APPELLANT MAY VERY GRACIOUSLY BE EXONERATED
FROM ALL THE CHARGES LEVELLED AGAINST HIM
AND RESTORE THE APPELLANT ON HIS OLD**

Re-submitted to -day
and filed.

Registrar 13/11/17

(2)

**POSITION/ASSISTANT ACCOUNTANT WITH ANY OTHER
APPROPRIATE REMEDY WHICH THIS COURT DEEM FIT
FOR THE SACK OF JUSTICE.**

Respectfully Sheweth.

1. That, appellant was set with allegations detailed mentioned in the impugned order.
2. That, appellant was serving Assistant Accountant (BPS-16) was dismissed from service vide order 25.05.2005 which order has been set aside by Service Tribunal Khyber Pakhtunkhwa on dated 27.03.2017 with directions to the authority that give opportunity of hearing to the appellant and after hearing fresh order shall be passed within two months.
3. That, in sequence to the directions of Service Tribunal, the Director Treasuries and Accounts issued show cause notice to the appellant and after that the appellant has been to be dismissal from service.
4. That, being unhappy form the dismissal order dated 16.06.2017, the appellant sought remedy qua departmental appeal preferred to Accountant General/Finance Secretary on dated 16.07.2017 and *Chief Secretary* Chief Minister, on which no response was given to the appellant.
5. That, still unhappy from the impugned order, the appellant approaches this Hon'ble Court, inter alia, on the following grounds:-
6. That, in order to get the directions issued, appellant places following documents on record:
 - a. Copy of Dismissal order dated 25.05.2005, Convection order dated 15.12.2006, Representation for reinstatement, Reinstatement order dated 05.11.2007, Modification order dated 19.12.2007, Representation dated 15.03.2011, Mercy petition

(3)

dated 07.02.2013 are annexed herewith as Annexure "A,B,C,D,E,F,G".

- b. Copies of Letter for stopping of Pay etc dated 16.05.2013, Withdrawal of reinstatement dated 21.03.2013, Representation dated 07.12.2013, Rejection of representation dated 02.01.2014, Judgment dated 27.03.2017 of KPK Service Tribunal Peshawar, Grounds of previous service appeal No. 157/2014 are annexed herewith as Annexure "H,I,J,K,L,M".
- c. Copies of Reinstatement order dated 16.05.2017, Dismissal order No.1-76/DT&A/17/Hashmat/703 dated 16.06.2017, Representation dated 16.07.2017 and receipts No. 1539, and 1540 etc are annexed herewith as Annexure "N,O,P, Q".

GROUND:-

- A. That, impugned order dated 16.06.2017 passed by Department/Authority is against law, contrary to the facts and available record.
- B. That, appellant was reinstated in service by the competent authority with condition of suspension. As pr law, suspension only rests for 3 months.
- C. That, the appellant was trying his best for release of his suspension order but instead orders of reinstatements was withdrawn and appellant was dismissed from service.
- D. That, since the date of reinstatement in service, appellant served the department and in a consequence of his service, he was paid subsistence grant/salaries, etc.
- E. That, as far as the allegation of embezzlement/corruption are concerned, these allegations have no solid footing and are baseless until and unless these are proved contrary. Without any fair probe, the allegations are of no value in eye of law and the

(4)

inquiry previously conducted has been declared null and void. Hence, in the light of that inquiry, the appellant cannot be penalized. Moreover, the FIRs as already mentioned have not been finalized to be true. Hence the allegations of embezzlement/corruption stand refuted and of no value.

F. That, no codal formalities are being adopted for penalty which has shows malafide intentions and the impugned order is based on malafide.

G. That, before issuing of the impugned order, appellant was neither served with any notice what to speak of holding of full-fledged inquiry and to given him opportunity of self defence and personal hearing, being mandatory, so the impugned order is not only illegal but is also ab-initio void.

It is, therefore, humbly prayed that, the appellant may kindly be restored on his position i.e Assistant accountant with all service benefits and exonerated for all the charges and the penalty imposed in shape of dismissal from service may kindly be withdrawn/cancelled with any other appropriate remedy which this court deem fit for the sack of justice.

Dated: 04.11.2017.


Appellant

Hashmatullah Querashi

Through Counsel


Muhammad Tariq Qureshi
Advocate, Lakki Marwat.

Annex A

5

25-5-05

GOVERNMENT OF N.W.F.P.
FINANCE DEPARTMENT

OFFICE ORDER.

NO:SO(ESTT)FD/1-76/2005/ Whereas Hashmatullah, Assistant Accountant District Treasury Bannu was found involved in a case of fraud, defalcation and loss to the government property and a criminal case under sections 409/420/468/471 PPC/5(2) PC ACT, was registered against him at Police Station A.C.E. Bannu vide FIR No.12 dated 28-8-1996.

2. Whereas he was tried in the court of Special Judge Anti-Corruption Northern Region Camp at Bannu for the alleged offences committed by him and was found guilty and sentenced accordingly by the trial court.

3. Whereas in consequence of his conviction, the authority has come to the conclusion that the charges of corruption/moral turpitude stand established against the said official and hence he has made himself liable to the imposition of major penalty of dismissal from service as laid down in Section-3 of NWFP Removal from Service (Special Power) Ordinance, 2000.

4. Now, therefore, the undersigned being competent authority in the case and in exercise of the powers conferred under Section-3 of NWFP Removal From Service (Special Powers) Ordinance, 2000 hereby impose major penalty of dismissal from service on Hashmatullah, Assistant Accountant, District Treasury Bannu with effect from 26-11-2004 i.e. the date of his conviction.

Attested

SECRETARY TO GOVT. OF NWFP
FINANCE DEPARTMENT

No:SO(ESTT)FD/1-76/2005/

Dated Pesh: the 25-5-2005.

Copy forwarded for information and necessary action to:-

1. The Secretary to Govt. of NWFP, Establishment Department, Peshawar.
2. The Accountant General, NWFP, Peshawar.
3. The Director Anti-corruption, Estt: Peshawar.
4. All Sr. District Accounts Officer in NWFP.
5. All District/Agency Accounts Officers, NWFP.
6. Mr. Hashmatullah, Ex-Assistant: Accountant
C/O District Accounts Office, Lakki Marwat.

Attested
by

2/6
(55)

[Handwritten signature]

Annex B

6

IN THE COURT OF IKRAMULLAH SHAH ADDL: SPECIAL JUDGE
ANTI-CORRUPTION SOUTHERN REGION AT BANNU.
Case No. 25 of 2006

Date of Institution after Challan:- 17-07-2006

Date of decision:- 15-12-2006

State Vs: 1- Hashmatullah S/O Amanullah
Ex-Assstt; Accountant treasury
Bannu resident of Bannu City.
2- Farooq Shah S/O Daraz Khan,
resident of Bazid Tughal khel
District Bannu.

CASE F.I.R NO. 20, DATED 02-10-1996, U/S 409/468/471 PPC
READ WITH SECTION 5 (2) P.C. ACT OF PS, A.C.E. BANNU.

Judgment

The present case was submitted in this court by the Anticorruption police, Bannu arrest the accused mentioned above vide case F.I.R No.20, Dated 02-10-1996 U/S 409/468/471 PPC Read with Section 5 (2) P.C. ACT of PS, A.C.E. Bannu.

Brief facts of the instant case are the Distt: Accounts Officer, Bannu made a report regarding fraudulent drawl of the lapse deposit amount of Rs. 8,00,000/- through different payment orders. According to report, the following lapsed deposit were passed vide P.O. Nos; and date as under:-

S.No	P.O.No.	Dated	Name of person to whom paid	Amount
1.	91	27/2/1995	Farooq Shah S/O Daraz Khan R/O Bazid Tughal khel.	Rs. 3,00,000/-
2.	92	27/2/1995	-do-	Rs. 2,50,000/-
3.	93	27/2/1995	-do-	Rs. 1,00,000/-
4.	94	27/2/1995	-do-	Rs. 1,50,000/-
			Total	Rs. 8,00,000/-

Attested
[Signature]

The prosecution fully proved its case against the accused beyond any shadow of doubt. So keeping in view, the facts and circumstances of the case and the statement of the accused Hashmatullah recorded today in this court in which he pleaded guilty to the charge and placed himself at the mercy of this court.

The accused Hashmatullah is convicted and sentenced u/s 409 PPC for period of Two years R.I. with a fine of Rs. 2000/- in default of payment of fine he will further suffer one month S.I. He is also convicted under section 420 PPC for six months R.I. with the fine of Rs. 1,000/- in default of payment of fine he will further suffer one month S.I. The accused is further convicted and sentenced u/s 5 (2) PC Act for Two years S.I. with a fine of Rs. 8,75,000/- in default of payment of fine, he will further suffer one year S.I. All the regular imprisonments shall run concurrently and the simple imprisonment in default of payment of fines also shall run concurrently after the expiry of regular imprisonments. Further, accused has been convicted in seven connected cases and all the imprisonment shall run concurrently by the meaning of R.I. and after the expiry of that S.I. respectively. The benefit of section 382-1 CR. PC. is also extended to the accused.

So for the case of accused Farooq Shah is concerned, he is the only helping hand to the accused Hashmatullah Khan. He is convicted and sentenced already under gone by him.

Copy of Judgment be given to the convict free of cost. The case property, if any, shall be kept intact till the expiry of period prescribed for appeal / revision and their be returned to its actual owners. File be consigned to record room after necessary completion.

Attested
M

Announced
19-12-2006

Sd/-
(Ikramullah Khan)
Additional Special Judge Anticorruption
Southern Region at Bannu

Certificate.

Certified that the judgment is consists of (11) Eleven pages. Each page have a _____ read over, _____ where-ever necessary and signed by me.

19-12-2006

Sd/-
Additional Special Judge Anticorruption
Southern Region at Bannu

Attested
by

Double

(8)

FIR - 20

19-12-2006

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IN THE COURT OF IKRAMULLAH KHAN ADDL. SPECIAL JUDGE
ANTI CORRUPTION SOUTHERN DISTRICTS AT BANNU.

Case No.25 of 2006

Date of Institution after remand:- 17-7-2006.

Date of decision:- 19-12-2006.

State VS: 1- Hashmatullah S/O Amanullah
Ex-Asstt; Accountant treasury
Bannu resident of Bannu City.
2- Farooq shah S/O Daraz Khan
resident of Bazid Tughal kbel
district Bannu.

CASE F.I.R.NO.20 DATED 02-10-1996 U/S 409/468/471 PPC
READ WITH SECTION 5(2) P.C. ACT OF PS, A.C.E. BANNU.

JUDGEMENT

The present case was submitted in this court by the anticorruption police Bannu against the accused mentioned above vide Case F.I.R. No.20 dated 02-10-1996 U/S 409/468/471 PPC read with section 5(2) PC act of PS, ACE Bannu.

Breif facts of the instant case are the Distt; Accounts officer Bannu made a report regarding fraudulent dml of the lapse deposit amount of Rs.8,00,000/- through different payment orders. According to report the following lapsed deposite were passed vide P.O.Nos; and date as under:-

Additional Special Judge
Anti Corruption Southern
Region at Bannu

Attested
[Signature]

S.No.	P.O.No.	Dated	Name of person to whom paid	Amount.
1.	91	27/2/1995	Farooq shah S/O Daraz Khan R/O Bazida Tughal kbel.	Rs.3,00,000/-
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3.	93	27/2/1995	-do-	Rs.1,00,000/-
4.	94	27/2/1995	-do-	Rs.1,50,000/-
TOTAL:-				Rs.8,00,000/-

EXAMINER
Court of Additional
Special Judge Anti Corruption
Southern Region at Bannu
[Signature]

The prosecution fully proved its case against the accused beyond any shadow of doubt. So keeping in view, the facts and circumstances of the case and the statement of the accused Hashmatullah recorded to day in this court in which he pleaded guilty to the charge and placed himself at the mercy of this court.

The accused Hashmatullah is convicted and sentenced u/s 409 PPC for period of Two years R.I. with a fine of Rs.2000/- in default of payment of fine he will further suffer one month S.I. He is also convicted under Section 420 PPC for six months R.I. with the fine of Rs.1,000/- in default of payment of fine he will further suffer one month S.I. The accused is further convicted and sentenced u/s 5(2) PC Act for Two years R.I. with a fine of Rs.8,75,000/- in default of payment of fine he will further suffer one year S.I. All the regular imprisonments shall run concurrently and the simple imprisonment in default of payment of fines also shall run concurrently after the expiry of regular imprisonments. Further, accused has been convicted in seven connected cases and all the imprisonments shall run concurrently by the meaning of R.I. and after the expiry of that S.I. respectively. The benefit of section 382-B CR.PC. is also extended to the accused.

So for the case of accused Farooq shah is concerned he is the only helping hand to the accused Hashmatullah Khan. He is convicted and sentenced already under gone by him.

Copy of judgement be given to the convict free of cost. The case property if any shall be kept in tact till the expiry of period prescribed for appeal/revision and then be returned to its actual owners. File be consigned to record room after necessary completion.

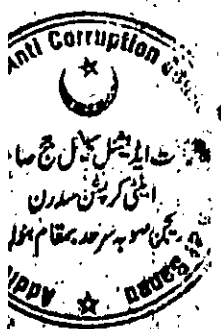
ANNOUNCED
19-12-2006
Certificate.

(Ikramullah Khan)
Additional Special Judge Anticorruption
Southern Region at Bannu.

Certified that this judgement is consists of (11) Eleven pages. Each page have been read over, corrected where necessary and signed by me.

Additional Special Judge Anticorruption
Southern Region at Bannu

Attested
[Signature]



EXAMINER
19-12-2006.
Special Judge Anti Corruption
Southern Region at Bannu

Annex

(15)

8

بخدمت جناب سیکرٹری ٹو گورنمنٹ آف این۔ ڈبلیو۔ ایف۔ پی فنانس ڈیپارٹمنٹ پشاور۔
عنوان :- درخواست برائے بحالی سروس و ادائیگی بقایا جات۔

جناب عالی!

گذارش بحضور انوریہ کہ من سائل کے محکمہ کے چند اہل کاروں کے خلاف سات ایف۔ آئی آر 1996 میں زیر دفعہ

F.I.R.NO.12/96 dated 28/08/1996 1

F.I.R NO. 16/96 dated 02/10/1996 2

F.I.R NO. 17/96 dated 02/10/1996 3

F.I.R NO. 18/96 dated 02/10/1996 4

F.I.R. NO. 19/96 dated 02/10/1996 5

F.I.R NO. 20/96 dated 02/10/1996 6

F.I.R NO. 21/96 dated 02/10/1996 4

U/S 409/420/468/471/201/P.P.C 5/ (2) P.C Act.

درج کی گئیں۔ ان تمام ایف ای آر میں من سائل کو بے گناہ ملوث کیا گیا۔ من سائل کو جج صاحب انٹی کرپشن نے مورخہ 26/11/2004 کو تمام ایف ای آر کا فیصلہ صادر کرتے ہوئے مختلف قسم کے جرمائے اور بہت لمبی چوڑی قید کی سزا سنائی۔ من سائل نے اس فیصلہ کے خلاف پشاور ہائی کورٹ پشاور بیچ D.I Kkhan میں مورخہ 13/12/2005 کو اپیل دائر کی۔ ہائی کورٹ پشاور بیچ D.I.Khan نے مورخہ 12/02/2005 کو میرے کیس کو ختم کرنے کے بجائے دوبارہ انٹی کرپشن جج صاحب بنوں کو واپس کر دیا۔ اور لکھا کہ اپنے فیصلہ پر نظر ثانی کرو۔ انٹی کرپشن جج صاحب بنوں نے مجھے پھر مورخہ 12/05/2005 کو دوبارہ بھاری جرمانوں اور لمبی چوڑی قید کی سزا سنادی۔ من سائل نے ایک دفعہ پھر ہائی کورٹ پشاور بیچ D.I Khan مورخہ 01/06/2005 کو اس فیصلہ کے خلاف اپیل دائر کی۔ ہائی کورٹ پشاور بیچ D.I.Khan نے مورخہ 04/07/2006 کو پہلے کی طرح اس دفعہ بھی میرے کیس کو ختم کرنے کی بجائے انٹی کرپشن جج صاحب بنوں کو نظر ثانی کے لئے لکھا۔

نوٹ: ان تمام درج بالا ایف آر (مقدمات) میں ہائی کورٹ کے فیصلوں کے مطابق من سائل حوالاتی رہا ہے۔ نہ کہ قیدی۔ مگر محکمہ نے 26/11/2004 کو ٹرائیل کورٹ کے فیصلہ پر ہی مجھے نوکری سے برخاست کر دیا تھا۔ اب جب آخری دفعہ جج صاحب انٹی کرپشن کے پاس واپس کیس آیا تو اس نے مجھے کہا کہ اقبال جرم کرو ورنہ سہ بارہ آپ کو قید کرتا ہوں میرے پاس اس کے

Attested



علاوہ اور کوئی چارہ نہ تھا کہ اقبال جرم کروں کیونکہ اقبال جرم نہ کرنے کی وجہ سے مجھے پھر سے جیل ہو جاتی۔ میرے پاس تو ایک بس زندگی کے لئے رقم نہیں ہے وکیل اور عدالتوں/کچہریوں کے لئے اتنی رقم کہاں سے لاتا۔ عدالتوں کا تو یہ حال ہے کہ ایک ایک کی طرف پھینکتا ہے اور دوسرا دوسرے کی طرف۔ اور میرے پیچھے تو کوئی کیس کی پیروی کرنے والا بھی نہیں تھا۔ اس کے علاوہ صاحب نے خود مجھے کہا ہے کہ میں نے آپ سے بہت زیادتی کی ہے انٹی کرپشن رولز میں دو سزائیں یکجا نہیں دی جاسکتیں یا تو جرمانہ ادا کرنا پڑتا ہے اور یا پھر سزا یعنی جیل کاٹنی پڑتی ہے اور میں نے آپ کو دونوں سزائیں سنائیں ہیں۔ مورخہ

19/12/2006 کو یہ فیصلہ سنایا کہ من سائل نے جتنی بھی حوالات گزاری ہے وہ حوالات اس حج نے قید میں تبدیل کر دی۔ اور یوں مجھے 26/12/2006 کو جیل سے رہائی مل گئی۔ اس کے علاوہ حقیقت کچھ اور ہے۔ اور وہ یہ ہے کہ

۱۔ عمر باز خان جو اس وقت ڈسٹرکٹ اکاؤنٹس آفیسر بنوں تھا اس نے خود عدالت میں اپنے دستخط تسلیم کئے ہیں کہ یہ رقم اس کے دستخط سے برآمد ہوئی ہیں۔

۲۔ یہ ٹھیک ہے کہ کسی کے دستخط کوئی دوسرا بھی کسی طرح کر لے گا۔ لیکن جو بلوں پر اسپیشل سیل لگتی ہے وہ تو ڈسٹرکٹ اکاؤنٹس آفیسر صاحب کی پرسنل کسٹی میں ہوتی ہے تو ان بلوں پر کیسے لگ گئی

۳۔ Payment Order List پر جو دستخط ہوتے ہیں وہ بھی عمر باز نے تسلیم کئے ہیں۔ کہ یہ دستخط اسی نے کئے تھے۔

۴۔ نور محمد خان جو اس وقت اسٹنٹ اکاؤنٹس آفیسر تھا اس نے خود عدالت میں بیان دیا ہے کہ ہم یہ نہیں کہتے کہ یہ رقم

حشمت اللہ کے دستخطوں پر لگی ہے بلکہ ہم مفروضہ قائم کرتے ہیں کہ شاید یہ کام حشمت نے کیا ہو۔

۵۔ ہاں ان دونوں نے مل کر پوری طرح میرے ساتھ دشمنی نبھائی بلکہ یہ نہیں پورے آڈٹ ڈیپارٹمنٹ کو اپنے ساتھ

ملایا اور میرے برخلاف کیا۔ اور اس پر بھی اکتفا نہیں کیا بلکہ میری بیوی بچوں اور دوسرے رشتہ داروں کو خوب دھمکایا۔ کہ اگر اس نے عدالت میں ہمارے خلاف کوئی زبان کھولی تو تمہارے ساتھ ایسا کر لیں گے۔ ویسا کر لیں گے۔ بلکہ ایک ٹیچر تھا جس کا میں نام بھول گیا ہوں وہ میرے گھر جب میں جیل میں تھا بندوق اٹھا کر میرے گھر پہنچ گیا۔ وہاں پر محلہ داروں نے پھر اسے بھگا دیا۔ اور وہ دوبارہ پھر نہ آیا۔

۶۔ Audit-Report میں جو اسرار الحق آڈیٹر A.C.E نے کی تھی اس نے بھی لکھا ہے کہ یہ کسی فرد واحد کا کام نہیں ہے بلکہ اس میں سارا دفتر شامل ہے۔ اور ساتھ یہ بھی لکھا ہے کہ کسی ایک نے بھی پوری طرح اپنی ڈیوٹی نہیں نبھائی ہے۔ کیا سب دفتر والوں سے مراد صرف میں ہوں۔

۷۔ نیشنل بینک بنوں والوں نے بھی یہ لکھا ہے کہ عمر باز اکاؤنٹس آفیسر بنوں کے دستخط ہم اچھی طرح جانتے ہیں۔

Attested

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جوبل / دو چرز ہمیں آئے تھے اور جن پر ہم نے ہیمنٹ کی ہے ان پر عمر باز کے دستخط ٹھیک ٹھیک موجود تھے۔ اور ساتھ ہی اسٹیشنر بھی لگی ہوئی تھی۔ اور ان پر پی او نمبر بھی لگا ہوا تھا۔ جو کہ بالکل صحیح تھا۔

۸۔ نیشنل بینک والوں نے یہ بھی اپنی statement میں لکھا ہے کہ ہم روزانہ بھی اور ماہوار بھی Expenditure Statement ڈسٹرکٹ اکاؤنٹس آفیس بنوں سے Reconcile کرتے ہیں۔ تو جناب اس وقت تک تو ہر چیز ٹھیک تھی بعد میں جب مجھے جیل بھیج دیا گیا تو ان لوگوں نے جو کچھ بھی کیا تھا وہ سب کچھ مجھ پر ڈال دیا۔ کہ یہ بھی اسی نے کیا تھا۔

۹۔ FSL رپورٹ نہیں ہے۔ یعنی Writing Expert Report نہیں ہے۔

۱۰۔ ریاض حسین جو اس وقت انٹی کرپشن دفتر میں CO تھا۔ یہ سارا ڈرامہ اسی نے بنایا تھا۔ پہلے عدالت کو یہ لکھا کہ حشمت اللہ نے اقبال جرم عدالت میں یعنی مجسٹریٹ کے سامنے کیا ہے لیکن جب اس پر عدالت میں جرح ہوئی تو اس نے انکار کر دیا کہ میں نہ تو کبھی حشمت کو عدالت لے کر گیا ہوں اور نہ کبھی اس نے عدالت میں اقبال جرم قبول کیا ہے اس طرح یہ بھی ثابت ہو گیا کہ یہ بھی جھوٹ تھا۔

جناب عالی: جن جن لوگوں کے نام رقم نکلی تھی۔ یہ سب Directly یا Indirectly طریقے سے ایک دوسرے کے اور اسی طرح عمر باز کے رشتے دار ہیں۔ یہ ایک گروپ تھا۔ جنہوں نے اپنے آپ کو اور خاص طور پر عمر باز، نور محمد اور کوہ نور کو بچانے کے لئے سب ایک ہو گئے۔

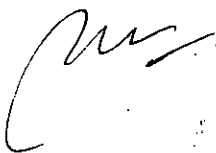
۱۱۔ جناب خورشید احمد قصور یہ صاحب جو اس وقت AC/SDM بنوں تھا اور Raiding Magistrate تھا۔ اس نے خود اپنی Statement میں کہا ہے۔ کہ جب میں نے دفتر پر Raid کی تو عمر باز نے پہلے سے تیار شدہ کاغذات میرے حوالے کر دیئے۔ اس کے علاوہ مجھے کسی چیز کا پتہ نہیں ہے۔ اور ساتھ یہ بھی کہا کہ اس دوران حشمت اللہ اکاؤنٹس آفس لگی مروت میں اپنی ڈیوٹی سرانجام دے رہا تھا۔ جب خورشید احمد قصور یہ صاحب سے یہ سوال کیا گیا کہ کیا آپ Accounts کے متعلق جانتے ہیں۔ تو انہوں نے کہا کہ میں Accounts کے متعلق اس کی ABC سے بھی واقف نہیں ہوں۔ اور اس نے یہ بھی کہا کہ اس لئے Raid کے دوران جو پہلے سے تیار شدہ کاغذات تھے ان ہی پر میں نے اکتفا کیا اور اصل حقائق معلوم نہ کر سکا اور نہ ہی معلوم کرنے کی کوشش کی۔

۱۲۔ یہ بھی ایک حقیقت ہے کہ میں اس دفتر میں 07/1/81 کو سب اکاؤنٹس کی حیثیت سے بھرتی ہوا۔ جب تک دوسرے اکاؤنٹس آفسر تھے تو میری کارکردگی سے متاثر ہو کر مجھے انعامات دیتے اور جب عمر باز آیا تو اس نے مجھ پر الٹا کیس بنا دئے۔ یہ بھی ایک قابل ذکر بات ہے کہ یہ تمام کرپشن 1994-95 جو کہ عمر باز کا پیریڈ ہے اسی میں ہوئی ہے۔

۱۳۔ ایک قابل ذکر بات یہ ہے کہ 20/10/96 Raid کو ہوئی۔

The raid was conducted by the raiding party on 20/10/96. the copies

Attested



were attested on 02/10/96 in green ink. It is worth mentioning that the word "attested" mentioned on the voucher was written by someone else.

- ۱۴۔ عمر باز نے خود یہ تسلیم کیا ہے۔ کہ یہ فراڈ اسی کے پیریڈ میں 96-1993 میں ہوا ہے جب وہ۔ DAO بنوں تھا۔
- ۱۵۔ جناب عالی اس دفتر میں 50/60 لوگ کام کر رہے تھے۔ دفتر میں کام ایمانداری سے کیا جاتا ہے نہ کہ بے ایمانی سے۔ کیا 50/60 لوگوں سے مراد صرف میں فرد واحد بندہ ہوں۔
- ۱۶۔ میرے ساتھ کوہ نور اسٹنٹ اکاؤنٹ پر بھی دعویٰ تھی۔ اس کو اس لئے چھوڑ دیا گیا کہ وہ پٹھان تھا۔ اور مجھے اس لئے قربانی کا بکرہ بنا دیا گیا کہ میں پنجابی تھا۔
- ۱۷۔ جناب حبیب گل خان Dy. Acctt: Genral NWFP نے کہا ہے کہ یہ رپورٹ میری دستخط شدہ نہیں ہے۔ میں نے کسی اور کے متعلق چھان بین اس لئے نہیں کی۔ کہ مجھے صرف حشمت اللہ کے بارے میں کہا گیا تھا۔ کہ اس کو پکڑو اس کا مطلب یہ ہوا کہ صرف مجھے ہی ٹارگیٹ کیا گیا تھا۔ ورنہ دوسرے نکلتے۔
- جناب عالی! میں ایک ایماندار شخص ہوں صرف اور صرف اس لئے مجھے قربانی کا بکرہ بنایا گیا۔ کہ میرے کوئی آگے پیچھے نہ تھا۔ اور دوسری بات یہ کہ میں پنجابی تھا اور باقی لوگ پٹھان تھے۔ اور اس کے علاوہ میرا کوئی پوچھنے والا نہ تھا۔
- میں 07/11/1981 سے نوکری کرتا چلا آ رہا تھا۔ اور تاحال کرایہ مکان میں زندگی بسر کر رہا ہوں۔ اگر میں بے ایمانی سے نوکری کرتا تو فراڈ کے سارے طریقوں کو جانتا۔ ان کو بھی کھلاتا اور خود بھی کھاتا۔ اور نہ کہ جیلیں کا شکار اور یہ بھی کہ آج میں انکی طرح جائیدادوں کا مالک ہوتا۔ میرا اللہ گواہ ہے کہ میری کسی قسم کی جائیداد نہیں ہے۔
- میں آپ صاحبان سے نہایت ہی ادب کے ساتھ رحم کی اپیل کرتا ہوں اور آپ صاحبان کو اللہ اور اس کے رسول کا واسطہ دیتا ہوں کہ براہ مہربانی میری سروس بحال کر دی جائے اور اس کے ساتھ ہی ساتھ میرے تمام بقایا جات بھی ادا کر دئے جائیں تاکہ میں نئے سرے سے عزت کی زندگی شروع کر سکوں۔
- مزید برآں یہ کہ میں 24 سال حکومت کی نوکری کر چکا۔ آٹھ اپریشن کروا چکا ہوں۔ مجھ میں اب مزدوری کرنے کی طاقت نہیں رہی ہے۔ ملازمت ہی میری جائیداد تھی۔ چھوٹے چھوٹے بچے ہیں جو سکول اور کالج جاتے ہیں۔ اسکے علاوہ میری کوئی اور جائیداد نہیں ہے۔

اللہ تعالیٰ آپ کو جلد از جلد مزید ترقیاں نصیب فرمائیں۔

العارض

حشمت اللہ قریشی ولد امان اللہ قریشی سابقہ اسٹنٹ اکاؤنٹ ڈسٹرکٹ اکاؤنٹس آفس لکی مروت (حال رہائش: بالا خانہ بالمقابل سوکڑی گیٹ بنوں۔)

Attested



Attested



Annex D.

14

5-11-07

GOVERNMENT OF N.W.F.P.
FINANCE DEPARTMENT

Dated Peshawar, the 5th November, 2007.

OFFICE ORDER

NO:SO(EST)FD/1-76/05/ In pursuance of the judgment of Peshawar High Court Cc. A.No.66 of 2005 dated 4-7-2006, Mr. Hashmatullah, Assistant Accountant o/o DAO Lakki Marwat is hereby re-instated in service, with immediate effect.

2. However after his re-instatement in service, the official viz Hashmatullah, A.A. will remain suspended till the decision of trial court is arrived at.

3. Presently vacant post of Assistant Accountant at DAO Lakki Marwat does not exist, so the officer will draw his pay from District Comptroller of Accounts Swat against the post of Assistant Accountant till further orders.

SPECIAL SECRETARY FINANCE
GOVT. OF NWFP
FINANCE DEPARTMENT.

No.SO(Est)FD/1-76/05/

Dated Peshawar the 5th November, 2007.

Copy forwarded-

1. The District Comptroller of Accounts Swat.
2. The District Accounts Officer, Lakki Marwat.
3. The official concerned.

(HABIB-UR-REHMAN)
SECTION OFFICER (ESTT-I)

E. Naib, Office Order

Attested

Attested
CWS

Annex E

15

19-12-07

GOVERNMENT OF N.W.F.P.
FINANCE DEPARTMENT

Dated Peshawar, the 19th December, 2007.

OFFICE ORDER

NO:SO(ESTT)FD/1-76/05/. Consequent upon award of punishment by the Anti-corruption court Mr.Hashmatullah, Assistant Accountant, District Treasury Bannu (while posted in District Treasury Lakki Marwat) was dismissed from service with effect from 26-11-2004 vide order No.SO(Estt)FD/1-76/05 Dated the 25th May, 2005.

2. The Peshawar High Court vide judgement dated 4-7-2006, set-aside the orders of punishment of the lower court and remanded the case to the trial court.

3. Now, therefore, in light of judgment of the Peshawar High Court Mr.Hashmatullah, Assistant Accountant, District Treasury Lakki Marwat re-instated with effect from the date of dismissal i.e. 26-11-2004.

4. However on re-instatement, he stands suspended from the said date till further orders. During suspension, he will be entitled to the subsistence grant as admissible under the rules.

5. The order No.SO(Estt)FD/1-76/05 Dated the 5th November, 2007 (regarding re-instatement of Mr. Hashmatullah) may be deemed to have been modified/substituted to the above extent. }

SECRETARY FINANCE

Dated Pesh: the 19th December, 2007.

No.SO(Estt)FD/1-76/05/

Copy forwarded-

1. The Director, Treasuries & Accounts, NWFP, Peshawar.
2. The District Comptroller of Accounts, Swat.
3. The District Comptroller of Accounts, Bannu.
4. The District Accounts Officer, Lakki Marwat.
5. The Budget Officer-IV, Finance Department, Peshawar.
6. The official concerned.

Attested

[Signature]

Attested
[Signature]

(HABIB-UR-REHMAN)
SECTION OFFICER(ESTT-I)

Form. Order (P-214)

2/6
(55)

[Signature]

Annex-F

16

15.3.11

The Director,
Treasury & Accounts,
Govt. of Khyber Pakhtoonkhwa,
Peshawar.

Through:- The District Accounts Officer, Lakki Marwat.

Subject:

REQUEST FOR SETTING ASIDE THE SUSPENSION ORDERS BEARING NO; SO (ESTT:) FD/ 1-76/05, dated 19th DECEMBER 2007 ISSUED BY THE SECRETARY FINANCE WHEREBY I WAS KEPT UNDER SUSPENSION FROM 19th DECEMBER 2007 TILL FURTHER ORDERS THOUGH I WAS RE-INSTATED IN SERVICE WITH EFFECT FROM 26-11-2004.

Sir,

With humble submissions it is stated that I was re-instated in service w-e-f 26/11/2004 but quite contrary to it, I was kept under suspension from the same date i-e: 26/11/2004 and this anomaly has thus caused grievance to me.

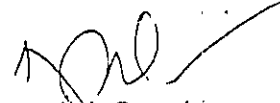
That order of my suspension w-e-f 19/12/2007 till further orders in excess of jurisdiction vested in appointing authority as per laid down in rules and regulations mentioned in the Esta Code. Copy of the relevant page of the Esta Code is enclosed herewith for ready reference. There are no formal orders for extension of the period of suspension beyond the prescribed period of suspension. That neither any de novo enquiry was ordered against me nor had any fresh show cause notice been served upon me after November, 2007.

I ~~submit~~ an application to the Honourable Chief Secretary Khyber Pakhtoonkhwa for my re-instatement in service on dated 17/12/2008. In reply to my letter, the Section Officer (Estt: I) Finance Department vide his letter No.SO (Estt:) F.D/ 1-76/05 dated 29/1/2009, the District Accounts Officer, Lakki Marwat was asked to write his comments/views in the matter in the light of the prevailing rules/laws so as to proceed in the case.

The District Accounts Officer, Lakki Marwat sent a brief letter alongwith photo copy of the rule to re-instate me vide letter No.DAO/LMT/ Admn./2010-11/145, dated 22/01/2011.

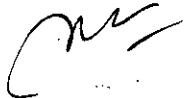
As I am not in a position to seek other source of livelihood, I therefore prayed your kind honour that I may very kindly be re-instated in service. I will pray for your dignity and honour.


Thanks.
Yours Faithfully



Hashmatullah Qureshi
s/o

Amanullah Qureshi
Assistant Accountant
District Accounts Office,
Lakki marwat.

Attested


Attested


(17)

#8

15-3-11

No: DAO/LMT/ADMN:/2010-11/307

Dated: 15/3/2011

To,
The Director,
Treasuries & Accounts,
Khyber Pakhtoonkhwa, Peshawar.

Subject:- Request for re-instatement of Mr: Hashmatullah Qureshi (Assistant Accountant)

Memo:-

Kindly enclosed find herewith an application in respect of Mr. Hashmatullah Qureshi (Assistant Accountant) regarding his re-instatement is sent herewith for necessary action at your end please.

Attested
[Signature]

Attested
[Signature]

15/3
District Accounts Officer,
Lakki Marwat.
[Signature]

After long wait for my re-instatement I received no reply from my superiors, therefore, I submit an application to the Honorable Chief Secretary Khyber Pakhtoon khwa for my re-instatement on Dated 17-12-2008.

In reply to my application, the Finance Department Khyber Pakhtoon Khwa through their letter NO: SO(ESTT)FD/1-76/05, Dated: 29-01-2009, asked the District Accounts Officer Lakki Marwat to send his comments/views in the matter, in light of the prevailing rules/Laws so as to proceed further in the case.

The District Accounts Officer Lakki Marwat sent a brief letter along with photo copy of the rule to re-instate me vide his Letter No: DAO-LMT/Admn /2010-11/145, Dated: 22-01-2011, followed by two reminders but in vain.

My honesty speaks as I live in rented building having no personal house/any other property

I am a very poor man. My children are school/college going students. I am the only shelter for my family.

My pay is the only source by which I support my minor children and bear the home expenditures.

Being 52 years of age, I am not in a position to seek any other source of livelihood. I, therefore, once again pray your kind honor to kindly re-instate me in service.

I will pray for your long life, prosperity, dignity and honor for ever.

Attested
[Signature]

Dated: -07/02/2013.

Thanks.
Yours obediently

[Signature]
Hashmat Ullah Qureshi
S/O
Aman Ullah Qureshi
Assistant Accountant
District Accounts Office
Lakki Marwat.

Attested
[Signature]

(19)

G

To

The Secretary Finance,
Government of Khyber Pakhtoon Khwa,
Peshawar.

[Handwritten signature]

SIRAJ-UL-HAQ
Senior Minister for Finance
Govt. of Khyber Pakhtunkhwa

24/6/13

Through: Proper Channel.

SUBJECT: MERCY PETITION FOR RE-INSTATEMENT IN SERVICE

Respected Sir,

With humble submissions, it is stated that when I was posted in the office of the District Accounts Officer Lakki Marwat, due to some conspiracy, I was involved in seven different anti-corruption cases during the year 1996 with the remarks that it was yours period at Bannu.

These cases were decided on 26-11-2004, where I was convicted and I was sent to jail by anticorruption judge. During my trial I was under suspension and after conviction all my salaries were stopped without passing any order of my termination.

Afterwards I submitted an appeal against those judgments in the High Court Bench at D.I.Khan where my cases were remanded back to the same judge twice.

At last the anticorruption judge decision was sentence of punishment to a period I remained in jail (3 years and 3 months) so I was released from jail on 26-12-2006, but at that time I had no money even to bear the burden of my Advocates as well as my family. I found no means to help me out that I could submit an appeal in the High Court against those judgments.

I was extremely grieved with those orders, therefore, in the year 2007 (I do not remember exact day and date) I met the most Honorable Secretary Finance at his office. I put up a mercy petition before him for my re-instatement in service w-e-f 26-11-2004 as well as in connection with my cases. He listened me and checked all my documents/ the judgments' orders as well as witnesses of the case.

He agreed and thus re-instated me in service w-e-f 26-11-2004 but quite contrary to it, I was kept under suspension from the same date till further order by the Honorable Secretary Finance vide his orders bearing NO: SO(ESTT)FD/1-76/05, Dated: 19-12-2007.

The order of my suspension w-e-f 19-12-2007 till further orders was in excess of jurisdiction vested in appointing authority as laid down in E & D Rules. No orders for extension of the period of my suspension beyond the prescribed period were issued neither any enquiry was conducted/ ordered against me, nor any show cause notice was served upon me after 19-12-2007.

Attested

[Handwritten signature]

7918
24-6-2013

(19A)

After long wait for my re-instatement I received no reply from my superiors, therefore, I submit an application to the Honorable Chief Secretary Khyber Pakhtoon khwa for my re-instatement on Dated 17-12-2008.

In reply to my application, the Finance Department Khyber Pakhtoon Khwa through their letter NO: SO(ESTT)FD/1-76/05, Dated: 29-01-2009, asked the District Accounts Officer Lakki Marwat to send his comments/views in the matter, in light of the prevailing rules/Laws so as to proceed further in the case.

The District Accounts Officer Lakki Marwat sent a brief letter along with photo copy of the rule to re-instate me vide his Letter No: DAO-LMT/Admn /2010-11/145, Dated: 22-01-2011, followed by two reminders but in vain.

My honesty speaks as I live in rented building having no personal house/any other property


I am a very poor man. My children are school/college going students. I am the only shelter for my family.

My pay is the only source by which I support my minor children and bear the home expenditures.


Being 52 years of age, I am not in a position to seek any other source of livelihood. I, therefore, once again pray your kind honor to kindly re-instate me in service.

I will pray for your long life, prosperity, dignity and honor for ever.

Thanks.
Yours obediently


Hashmat Ullah Qureshi
S/O
Aman Ullah Qureshi
Assistant Accountant
District Accounts Office
Lakki Marwat.

Dated: -07/10/2013.

Attested


21

Annex I

21-11-13



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Dated Pesh: the 21-11-2013.

OFFICE ORDER.

NO.SO(ESTT)FD/1-76/05/. Consequent upon retrial of the case by the Anti Corruption Court and award of punishment of imprisonment / fine to the accused official Mr. Hashmatullah, Assistant Accountant, Office of the District Accounts Officer, Bannu (now posted in District Accounts Office Lakki Marwat), this Department office order No.SO(Estt)FD/1-76/2005 dated 05-11-2007, and even No. dated 19-12-2007, are hereby withdrawn from its date of issuance.

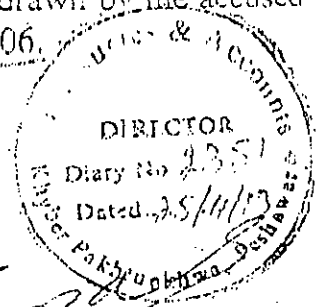
All, payment on account of subsistence grant/ pay and allowances etc drawn by the above named official from the period with effect from 19-12-2006 onward may be recovered from him and deposited in the Government Treasury.

SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: No: As above.

Copy forwarded for information and necessary action to:-

1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa, with reference to his letter No.1-76/DT&A/10/Embezzlement case/BU dated 21-06-2013, he is requested to recover the amount of subsistence grant etc, drawn by the accused official after the Judgment of the trial court dated 19-12-2006.
2. The District Comptroller of Accounts Bannu.
3. The District Accounts Officer Lakki Marwat.
4. PS to Finance Secretary, Finance Department.
5. Official concerned.
6. Officer order file.



(MEHAMMAD AMAN)

Attested

Attested
[Signature]

[Signature]

Annex - J

22

To,

D. No. 593
dt. 9.12.13

The Chief Secretary,
Government of KPK, Peshawar

Subject:- APPEAL AGAINST OFFICE ORDER NO. SO(ESTT)FD/1-76/05, DATED 21.11.2013 OF SECRETARY, FINANCE DEPARTMENT WHEREBY ORDERS OF REINSTATEMENT DATED 05.11.2007 AND 19.12.2007 WERE WITHDRAWN RETROSPECTIVELY FOR NO LEGAL REASON.

Respected Sir,

1. That appellant was initially appointed as Sub Accountant B-10 on 07.01.1981 and on satisfactory performances, he was promoted to the post of Assistant Accountant, B-13 in April 1993 and then in year 2007, the post of Assistant Accountant was upgraded to B-16.
2. That in the year 1995, appellant was transferred from the office of District Accounts Office, Bannu to the office of District Accounts Office, Lakki Marwat when at his back F.I.R No. 12, dated 28.08.1996, F.I.R No. 16-21, dated 02.10.1996 were registered in P.S Anti Corruption, Bannu which were tried by the said court and finally he was convicted and sentenced for 3 years and 3 months by the said court.
3. That as a consequence of the aforesaid conviction, appellant was dismissed from service on 25.05.2005 by the said authority.
4. That against the said conviction, appellant filed appeals time and again before the Hon'ble court

Attested


(23)

Peshawar High Court, Peshawar, Circuit Bench D.I.Khan and finally on 15.12.2006, he was again awarded with the aforesaid punishment and as appellant has undergone the said conviction, so he was released on 26.12.2006.

5. That appellant submitted representation before the said authority for reinstatement in service.
6. That on 05.11.2007, appellant was reinstated in service by the authority with immediate effect.
7. That on 19.12.2007, order dated 05.11.2007 was modified and appellant was reinstated with effect from 26.11.2004 i.e. the date of his dismissal from service, however, he stood suspended from the said date till further orders.
8. That on 15.03.2011, appellant submitted application to Director Treasury and Accounts, Govt: of KPK, to set aside order of suspension, followed by subsequent request dated 18.04.2011.
9. That on 07.02.2013, appellant submitted mercy petition before the authority to kindly set aside order of suspension.
10. That on 16.05.2013, Director Treasury and Accounts, KPK, Peshawar wrote letter to District Accounts Officer, Lakki Marwat to stop the subsistence grant of appellant and his pay was then withheld with effect from 01.05.2013.
11. That on 21.11.2013, the authority did withdraw order of reinstatement dated 05.11.2007 and 19.12.2007 of appellant with further direction to make recovery from him with effect from 19.12.2006 and onward and to deposit the same in Govt: Treasury Office.

Attested



- (24)
12. That on 07.12.2013, appellant submitted representation before Appellate authority which made dead response till date.

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

GROUND S:

- a. That the F.I.Rs were registered at the back of appellant as by then he was transferred to District Accounts Office, Lakki Marwat in the year, 1995.
- b. That appellant was put to agonies for indefinite period. He was convicted for 3 times but on appeal, the said judgment was set aside by the Hon'ble High Court, by remanding the same for reprobe.
- c. That appellant was reinstated in service by the competent authority with condition of suspension. As per law, suspension only rests for 3 months and could be extended for further 3 months and thereafter the same ceases automatically.
- d. That appellant was trying his best for release of his suspension order but instead, orders of reinstatements were withdrawn for no legal reason.
- e. That the impugned order dated 21.11.2013 is of no legal effect as orders of reinstatements were withdrawn retrospectively and as per law and verdicts of the apex Supreme Court of Pakistan, no administrative order could be made with retrospective effect.
- f. That since the date of reinstatement in service i.e. 05.11.2007, appellant served the department and in a

Attested
[Signature]

consequence of his services, he was paid subsistence grant / salaries etc.

- g. That during suspension period, every civil servant is liable under the law to draw all the emoluments of service, so the order of recovery is of no legal effect and is against the judgments of the apex Supreme Court of Pakistan.
- h. That before issuing of the impugned order, appellant was neither served with any notice what to speak of holding of full-fledged inquiry and to give him opportunity of self defence and personal hearing, being mandatory, so the impugned order is not only illegal but is also ab-initio void.
- i. That by not completing the codal formalities, the impugned order is based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, the impugned order dated 21.11.2013 of the Secretary Finance Department, be set aside and appellant be reinstated in service by restoring order dated 19.12.2007 with all service benefits, with such other relief as may be deemed proper and just in circumstances of the case .

Dated: 07.12.2013

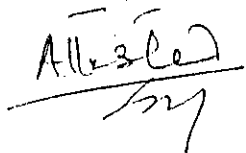
Appellant

scb / -

Hashmat Ullah
Ex - Assistant Accountant
District Accounts Office,
Lakki Marwat.

Attested



Attested


Annex-K

26

2-1-14



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

No:SO(ESTT)FD/1-76/05/Hashmatullah/
Dated Pesh: the 02-01-2014.

To

Mr. Hashmatullah,
Ex-Assistant Accountant,
C/O District Accounts Officer
Lakki Marwat.

Subject:- APPEAL AGAINST OFFICE ORDER NO.SO(ESTT)FD/1-76/05 DATED 21-11-2013 OF SECRETARY, FINANCE DEPARTMENT WHEREBY ORDERS OF REINSTATEMENT DATED 05-11-2007 AND 19-12-2007 WERE WITHDRAWN RETROSPECTIVELY FOR NO LEGAL REASONS.

I am directed to refer to your appeal dated 07-12-2013 on the above noted subject and to say that the competent authority has been pleased to withhold the subject appeal due to the reasons that it does not comply with the requirements of rule 4 of the Khyber Pakhtunkhwa Civil Servants Appeal Rules, 1986.

(MUSAMMAD AMAN)
SECTION OFFICER(ESTT:)

Endst: No: As above.

Copy forwarded for information to PSO to Chief Secretary Khyber Pakhtunkhwa with reference to his diary No.13412 dated 10-12-2013.

SECTION OFFICER(ESTT:)

ENCL 1/1/14/1

Attested

[Signature]

Received from the
Office on 24.1.2014

Attested
[Signature]

Amna
29/1/14



Sr. No.

Date of order/ proceedings

Order or other proceedings with signature of Judge or Magistrate

2

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 157/2014

Hashmat Ullah Qureshi Versus Secretary Government of Khyber Pakhtunkhwa Finance Department, Peshawar and others.

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

27.03.2017

Counsel for the appellant and Mr. Muhammad Jan. Government Pleader for respondents present.

2. Hashmat Ullah Qureshi son of Aman Ullah Qureshi hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 21.11.2013 vide which orders in respect of reinstatement of appellant in service dated 08.11.2007 and 19.12.2007 were withdrawn with retrospective effect.

3. Brief facts of the case of the appellant are that the appellant was serving as Assistant Accountant BPS-16 when dismissed from service vide order dated 25.05.2005. Against the said order appellant availed departmental remedy and vide office order dated 05.11.2007 he was reinstated in service. It was on 21.11.2013 when the said order of reinstatement of appellant in service was withdrawn constraining him to prefer the instant service appeal.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

4. Learned counsel for the appellant has argued that the impugned order was passed at the back of the appellant as he was neither given any opportunity of hearing nor any notice etc. That the appellant was therefore condemned unheard and as such the impugned order is void and liable to be set aside.

5. Learned Government Pleader has argued that the impugned order was based on the judgment of the competent court of law. That the appellant was involved in fraud, defalcation and loss to the government property and was therefore convicted by the learned Addl Special Judge Anti-Corruption and as such there was no need to adhere to the provisions of detailed enquiry. In support of his arguments he placed reliance on Section-3-A according to which a civil servant convicted by a court of law can be proceeded against without formal enquiry.

6. According to Section 3-A where a civil servant is sentenced to imprisonment or fine was based on established charges of corruption or moral turpitude, it shall pass order of dismissal from service of the delinquent person effective from the date of his conviction by a court of law. The competent authority may in the light of the facts and circumstances of the case decide as to whether it is a fit case for taking departmental action and if it so decide it may subject to provision of sub-section 2 of Section 3 imposed any penalty provided by this Ordinance as it may think fit.

7. A careful perusal of sub-section 2 of Section 3 of the said Ordinance would suggest that the competent authority is to inform in writing the accused of the action proposed to be taken

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

with regard to him and the grounds of the action and give him a reasonable opportunity of showing cause against that action within 7 days or with such extended period as the competent authority may determine except when the competent authority is satisfied that in the interest of security of Pakistan or any part thereof it is not expedient to give such opportunity or when the accused is dismissed under clause(a) of sub-section (2) of Section-3-A where the competent authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to give the accused an opportunity of showing cause.

8. We have heard arguments of learned counsel for the parties and examined the afore-stated provisions of law as well as facts of the case. The impugned order dated 21.11.2013 is not an elaborate order as the competent authority has not referred to any provision of law or rules nor has given reason for proceedings against the appellant without affording him an opportunity of hearing. Apart from dismissal of appellant from service he is also burdened with ~~the duty~~^{the duty} of all payment on account of subsistence grant/pay and allowances etc. for the period w.e.f. 19.12.2006. We are of the humble view that such an order should have been passed after affording atleast an opportunity of hearing to the appellant.

9. Since the respondents have failed to afford an opportunity of hearing to the appellant and such an opportunity was required as the appellant was available to the competent authority and, moreover, the competent authority was obliged to hear the appellant regarding the repayment of subsistence grant/pay and

ATTESTED

EXAMINER
 Khber Pakhtunkhwa
 Service Tribunal,
 Peshawar

allowances etc. spreading over a period of almost 7 years, ^{b:} As such we are constrained to accept the present appeal and set aside the impugned order dated 21.11.2013 and, as a consequence thereof direct that the concerned authority shall pass any order deemed appropriate after giving an opportunity of hearing to the appellant for explaining and defending his position. The appellant is therefore reinstated in service. His entitlement to back benefits etc. shall be ~~subject to outcome~~ of the notice and subsequent orders of the competent authority which shall be passed within a period of 2 months from the date of communication of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

Ed. M. Azim Khan Afridi
Chairman
Ed. M. Amir Khan Kundh
Member

Certified to be true copy
 E. AZIM KHAN
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

Date of Presentation of Application 08-06-17
 Number of Pages 1600
 Copying Fee 10/-
 Urgent 2/-
 Total 17/-
 Name of Copyist [Signature]
 Date of Completion of Copy 08-06-17
 Date of Delivery of Copy 08-06-17

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 157 / 2014



Hashmat Ullah Qureshi S/o Aman Ullah
Qureshi, Ex - Assistant Accountant,
District Accounts Officer, Lakki Marwat Appellant

Versus

1. Secretary, Govt. of KP, Finance Department, Peshawar.
2. Chief Secretary, Govt: of KP, Peshawar.
3. District Accounts Officer, Lakki Marwat Respondents

A.W.P. Province
114
29-7-2014

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT
1974, AGAINST OFFICE ORDER NO.
SO(ESTT)FD/1-76/05, DATED 21.11.2013 OF
RESPONDENT NO. 1 WHEREBY ORDERS OF
REINSTATEMENT DATED 05.11.2007 &
19.12.2007 WERE WITHDRAWN
RETROSPECTIVELY FOR NO LEGAL REASON.

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That appellant was initially appointed as Sub Accountant B-10 on 07.01.1981 and on satisfactory performances, he was promoted to the post of Assistant Accountant, B-13 in April, 1993 and then in year 2007, the post of Assistant Accountant was upgraded to B-16.

Submitted to
29/11/14

2. That in the year 1995, appellant was transferred from the office of District Accounts Office, Bannu to the office of District Accounts Office, Lakki Marwat when at his back F.I.R No. 12, dated 28.08.1996, F.I.R No. 16-21, dated

re-submitted to
ad filed,
7/2/14

32

02.10.1996 were registered in P.S, Anti Corruption, Bannu which were tried by the said court and finally, he was convicted and sentenced to 3 years and 3 months by the said court.

3. That as a consequence of the aforesaid conviction, appellant was dismissed from service on 25.05.2005 by the said authority. (Copy as annex "A")
4. That against the said conviction, appellant filed appeals time and again before the Hon'ble Peshawar High Court, Peshawar, Circuit Bench D.I.Khan and finally on 15.12.2006, he was again awarded with the aforesaid punishment and as appellant has under gone the said conviction, so he was released on 26.12.2006. (Copy as annex "B")
5. That appellant submitted representation before the said authority for reinstatement in service. (Copy as annex "C")
6. That on 05.11.2007, appellant was reinstated in service by the authority with immediate effect. (Copy as annex "D")
7. That on 19.12.2007, order dated 05.11.2007 was modified and appellant was reinstated with effect from 26.11.2004 i.e. the date of his dismissal from service, however, he stood suspended from the said date till further orders. (Copy as annex "E")
8. That on 15.03.2011, appellant submitted application to Director Treasury and Accounts, Govt: of KPK to set aside order of suspension, followed by subsequent request dated 18.04.2011 but in vain. (Copy as annex "F")

ATTESTED

That on 07.02.2013, appellant submitted mercy petition before the authority to kindly set aside order of suspension. (Copy as annex "G")

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

That on 16.05.2013, Director Treasury and Accounts, KPK, Peshawar wrote letter to District Accounts Officer, Lakki

Marwat to stop the subsistence grant of appellant and then his pay was withheld with effect from 01.05.2013. (Copy as annex "H")


- 11. That on 21.11.2013, the authority did withdraw order of reinstatement dated 05.11.2007 and 19.12.2007 of appellant with further direction to make recovery from him with effect from 19.12.2006 and onward and to deposit the same in Govt: Treasury Office. (Copy as annex "I")
- 12. That on 07.12.2013, appellant submitted representation before Appellate authority which was rejected on 02.01.2014. (Copies as annex "J" & "K")

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

GROUND S:

- a. That the F.I.Rs were registered at the back of appellant as by then he was transferred to District Accounts Office, Lakki Marwat in the year, 1995.
- b. That appellant was put to agonies for indefinite period. He was convicted for 3 times but on appeal, the said judgment was set aside by the Hon'ble High Court, remanding the same for reprobe.
- c. That appellant was reinstated in service by the competent authority with condition of suspension. As per law, suspension only rests for 3 months and could be extended for further 3 months and thereafter the same ceases automatically.

ATTESTED


EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

d. That appellant was trying his best for release of his suspension order but instead, orders of reinstatements were withdrawn for no legal reason.

e. That the impugned order dated 21.11.2013 is of no legal effect as orders of reinstatements were withdrawn

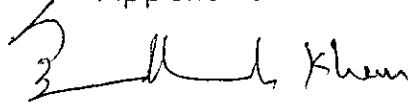

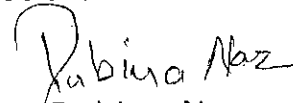
retrospectively and as per law and verdicts of the apex Supreme Court of Pakistan, no administrative order could be made with retrospective effect.

- f. That since the date of reinstatement in service i.e. 05.11.2007, appellant served the department and in a consequence of his services, he was paid subsistence grant / salaries, etc.
- g. That during suspension period, every civil servant is liable, under the law, to draw all the emoluments of service, so the order of recovery is of no legal effect and is against the judgments of the apex Supreme Court of Pakistan.
- h. That before issuing of the impugned order, appellant was neither served with any notice what to speak of holding of full-fledged inquiry and to give him opportunity of self defence and personal hearing, being mandatory, so the impugned order is not only illegal but is also ab-initio void.
- i. That by not completing the codal formalities, the impugned order is based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, the impugned order dated 21.11.2013 of R. No. 1 be set aside and appellant be reinstated in service by restoring order dated 19.12.2007 with all service benefits, with such other relief as may be deemed proper and just in circumstances of the case .

Certified to be true copy
 EX-100-2013-100
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

Dated: 29.01.2014

Through 
 Saadullah Khan Marwat

 Arbab Saif-ul-Kamal
 & 
 Miss Rubina Naz
 Advocates

OFFICE ORDER

Dated Peshawar the 16-05-2017

No.1-68/DT&A/17/Hashmatullah/58^a

In compliance with the Khyber Pakhtunkhwa Service

Tribunal, Peshawar judgment/order dated 27.03.2017 in Service Appeal No.157/2014, Mr.

Hashmatullah, Assistant Accountant is hereby re-instated in service with immediate effect.

2. On re-instatement, he is hereby placed under suspension till final decision of his case by the competent authority.

3. His entitlement about payments on account of subsistence grant/pay and allowances etc. already drawn will be subject to the final outcome of the case.

Director
Treasuries & Accounts
Khyber Pakhtunkhwa

Endst. No. & Date Even:

Copy for information & necessary action is forwarded to the:

1. District Comptroller of Accounts, Bannu.
2. District Accounts Officer, Lakki Marwat with reference to his letter No.DAO/LK/ADMN/16-17/504-505 dated 08-05-2017.
3. Section Officer (Estt), Govt. of Khyber Pakhtunkhwa, Finance Department with reference to his letter No.SO(ESTT)/FD/1-76/05/Hashmatullah/ dated 12-05-2017.
4. Mr. Hashmatullah Qureshi, Assistant Accountant R/o H.No.470/D, Mohalla Ghung, Opposite Bannu Medical College near Old Kachairy Gate, Bannu along with show cause notice with the direction to furnish his written defense/reply, if any, within fifteen (15) days of the receipt of this order.
5. P.A. to Director Treasuries & Accounts, Khyber Pakhtunkhwa.

Attested
[Signature]

~~Deputy Director~~
Treasuries & Accounts

Directorate of Treasuries & Accounts

Khyber Pakhtunkhwa

Treasury Block, District Courts Compound, Behind Jamia Masjid,
Khyber Road, Peshawar.
Phone & Fax: 091-9211856

Dated Peshawar the 16-06-2017

OFFICE ORDER

No.1-76/DT&A/17/Hashmat/703 Whereas Mr. Hashmatullah, Assistant Accountant (Under suspension) was involved/charged in the embezzlement cases as detailed below:-

<u>S.No</u>	<u>FIR No. & Date</u>	<u>Amount</u>
1.	11 26.08.1996	Rs.1470000/-
2.	12 28.08.1996	Rs.624150/-
3.	16 02.10.1996	Rs.913000/-
4.	17 02.10.1996	Rs.264196/-
5.	18 02.10.1996	Rs.500000/-
6.	19 02.10.1996	Rs.500000/-
7.	20 02.10.1996	Rs.800000/-
8.	21 02.10.1996	Rs.875000/-
9.	22 02.10.1996	Rs.51500/-

Whereas the above cases were tried in the Court of Special Judge Anti-corruption Southern Districts Bannu and the accused official found guilty of charges, was sentenced to R.I. with fine or in default of payment of fine, further imprisonment in each case except FIR No.11 & FIR No.22.

Whereas in one case FIR No.12 dated 12-08-1996, he was proceeded against under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 and the major penalty of dismissal from service was imposed upon him.

Whereas the accused official approached Peshawar High Court, D.I. Khan bench against decision of the Special Judge Anti Corruption, where such orders were set aside and case remanded for retrial in the same court.

Whereas in pursuance to the judgement of Peshawar High Court D.I. Khan bench dated 04-07-2006, the accused official was re-instated in service and placed under suspension.

Whereas on retrial of case in the court of Special Judge Anti corruption, the accused official was again held responsible for embezzlement & sentenced to two years R.I. under Section 409 PPC and Six months R.I under Section 420 PPC with fine or in default of payment, further imprisonment of 3 months S.I. in each case except FIR No.11 and FIR No.22.

Attested

[Signature]

Whereas in pursuance of judgement of Special Judge Anti Corruption Bannu dated 19-12-2006, the official was again dismissed from service with the order of recovery of all payment on account of subsistence grant/pay & allowances etc. drawn by the accused official from the period w.e.f: 19-12-2006 onward vide Finance Department office order No.SO(ESTT)FD/1-76/05 dated 21-11-2013.

Whereas against the order of dismissal issued by the Finance department vide order dated 21-11-2013, the accused official filed appeal No.157/2014 in Khyber Pakhtunkhwa Service Tribunal which was decided on 27-03-2017 where the impugned order dated 21-11-2013 was set aside by re-instating the accused in service with the direction of giving opportunity of personal hearing and deciding the case about salaries etc. in accordance with outcome of result of such proceedings.

Whereas in light of Judgement of the Khyber Pakhtunkhwa Service Tribunal, the accused official was re-instated in service and placed under suspension and was issued a show cause notice containing the allegations vide No.1-68/DT&A/17/Hashmatullah/580 dated 16-05-2017 which was replied with denial of charges vide his written defence/reply dated 31-05-2017.

Whereas the accused official was afforded opportunity of personal hearing along with relevant record on 15-06-2017.

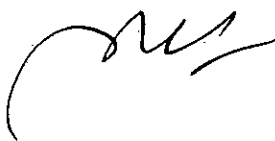
Whereas during personal hearing, departmental representatives/witnesses of Finance Department and Treasury Establishment also appeared on the day of hearing and presented record relevant to the occurrence of embezzlement, judgement of Special Judge Anti Corruption Bannu and other record/appeals etc. relevant to the case and supported/endorsed the charges against the accused official.

Whereas during personal hearing, the accused official was provided opportunity of hearing in free and fair atmosphere, with opportunity of cross examination of the departmental representatives/witnesses which he could not avail.

And whereas the accused official could not present any plausible record/evidence to prove his innocence.

On going through the record, judgement of the Special Judge Anti Corruption Bannu and statement of the departmental representative/witnesses, reply of the accused toward show cause notice and proceeding of the personal hearing, I, Nasrullah Khan, Director Treasuries & Accounts, Khyber Pakhtunkhwa, as a competent authority and am satisfied that the accused official was fully involved in the embezzlement cases in which he was charged/sentenced except those of FIR No.11 dated 26-08-1996 for Rs.1470000/- & FIR No.22 dated 02-10-1996 for Rs.51500/-; therefore in light of Section 3 of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000, I, being competent authority, impose major penalty of dismissal from service along with following recoveries:-

Attested



- (I) Recovery of Rs.2405534/- on account of payment of subsistence grant/pay & allowances etc. drawn by the accused official w.e.f. 19-12-2006 to 21-11-2013 already ordered by the Finance Department vide No.SO(ESTT)FD/1-76/05 dated 21-11-2013.
- (II) Recovery of embezzled money amounting to Rs.4476346/-.

All the period served under suspension w.e.f. 19-12-2006 till date is hereby treated as Extra Ordinary Leave without pay.



Director
Treasuries & Accounts
Khyber Pakhtunkhwa
(Competent Authority)

Endst. No. & Date Even:

Copy forwarded to:

1. The Accountant General, Khyber-Pakhtunkhwa.
2. The District Comptroller of Accounts, Peshawar.
3. The District Comptroller of Accounts, Bannu with the direction to initiate immediate steps for recovery of embezzled money amounting to Rs.4476346/- from Ex-Assistant Accountant on urgent basis.
4. The District Accounts Officer, Lakki Marwat with the direction to initiate steps for recovery of Rs.2405534/- on account of payment of subsistence grant/pay & allowances etc. from the Ex-Assistant Accountant on urgent basis.
5. The Section Officer (Estt), Govt. of Khyber Pakhtunkhwa, Finance Department with reference to his letter No.SO(ESTT)FD/1-76/05/Hashmatullah dated 12-05-2017.
- ✓ 6. Mr.Hashmatullah, Ex-Assistant Accountant, H.No. 470/D, Mohallah Jhang Opposite Bannu Medical College, Bannu. He is directed to immediately deposit the above stated amounts of Rs.4476346/- & Rs.2405534/- in the Government Treasury.
7. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.

Attested




Director
Treasuries & Accounts
Khyber Pakhtunkhwa

Annex - P

39

To,

The Secretary Finance,
KPK, Peshawar.

DEPARTMENTAL APPEAL/REPRESENTATION AGAINST
THE ORDER DATED: 16.06.2017 OF DIRECTOR
TREASURIES AND ACCOUNTS KHYBER
PAKHTUNKHAWA PESHAWAR WHICH ORDER HAS BEEN
RECEIVED TO APPELLANT ON DATED 19.06.2017.

Respectfully sheweth:

1. That, the appellant was set with allegation detailed mentioned in the impugned order.
2. That the appellant was serving Assistant accountant (BPS-16) was dismissed from service vide order dated 25.05.2005 which order has been set aside by Service Tribunal Khyber Pakhtuhwa on dated 27.03.2017 with directions to the Authority that the give opportunity of hearing to the appellant and after hearing h fresh order shall be passed within two months.
3. That, in sequence to the directions of Service Tribunal, the Director Treasuries and Accounts issued show cause notice to the appellant and after that the appellant has been to be dismissal from service.
4. That, being aggrieved from the dismissal order dated 16.06.2017, the appellant seeks instant and quick remedy through instant department appeal on the following grounds.

Attested

One

GROUNDS:-

- A. ✓ That, impugned order dated 16-06-2017 passed by department/authority is against law, contrary to the facts and available record.
- B. ✓ That, the allegations of so called FIRs, the appellant refute these allegations with stance/plea that the said FIRs have not called their fate up till now and said FIRs are still to be adjusted upon by the Apex Courts. The verdict of Anti Corruption Courts on the FIRs is not full and final. The appeal is consider the continuation of proceedings and according to when appeal is file against any impugned order, the proceedings are presumed to be continued. Hence, accordingly, no one can be penalized when the matter is in the cognizance in any court. So, any penalty with regards to these FIRs would be sheer in justice with appellant.
- C. ✓ That, as for as the allegations of embezzlement/corruption are concerned, these allegations have no solid footing and are baseless until and unless these are proved contrary. Without any fair probe, the allegations are of no value in eye of law and the inquiry previously conducted has been declared null and void by KPK Service Tribunal. Hence in the light of that inquiry, the appellant cannot be penalized. Apart from the said inquiry which has been declared null and void by Khyber Pakhtunkhwa Service Tribunal, the FIRs as already mentioned have not been finalized to be true. Hence the allegations of embezzlement/corruption stand refuted and of no value.
- D. ✓ That, no codal formalities are being adopted for penalty which haste shows malafide intentions. No explanation notice prior to the this show cause notice has been given to appellant.

Attested

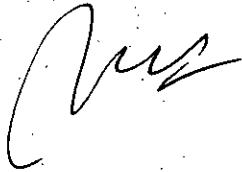
[Signature]

It is therefore humbly prayed that, the appellant may kindly be restored on his position and be exonerated from all the charges and the penalty imposed in shape of dismissal from service may kindly be withdrawn/cancelled.

Dated: 16-07-2017

Appellant

Attested



Hashmat Ullah
Assistant Accountant
At District Account Office Bannu.

To,

42
The Chief Secretary,
KPK, Peshawar.

DEPARTMENTAL APPEAL/REPRESENTATION AGAINST
THE ORDER DATED: 16.06.2017 OF DIRECTOR
TREASURIES AND ACCOUNTS KHYBER
PAKHTUNKHAWA PESHAWAR WHICH ORDER HAS BEEN
RECEIVED TO APPELLANT ON DATED 19.06.2017.

Respectfully sheweth:

1. That, the appellant was set with allegation detailed mentioned in the impugned order.
2. That the appellant was serving Assistant accountant (BPS-16) was dismissed from service vide order dated 25.05.2005 which order has been set aside by Service Tribunal Khyber Pakhtuhwa on dated 27.03.2017 with directions to the Authority that the give opportunity of hearing to the appellant and after hearing h fresh order shall be passed within two months.
3. That, in sequence to the directions of Service Tribunal, the Director Treasuries and Accounts issued show cause notice to the appellant and after that the appellant has been to be dismissal from service.
4. That, being aggrieved from the dismissal order dated 16.06.2017, the appellant seeks instant and quick remedy through instant department appeal on the following grounds.

Attested



GROUNDS:-

A. That, impugned order dated 16-06-2017 passed by department/authority is against law, contrary to the facts and available record.

B. That, the allegations of so called FIRs, the appellant refute these allegations with stance/plea that the said FIRs have not called their fate up till now and said FIRs are still to be adjusted upon by the Apex Courts. The verdict of Anti Corruption Courts on the FIRs is not full and final. The appeal is consider the continuation of proceedings and according to when appeal is file against any impugned order, the proceedings are presumed to be continued. Hence, accordingly, no one can be penalized when the matter is in the cognizance in any court. So, any penalty with regards to these FIRs would be sheer in justice with appellant.

C. That, as for as the allegations of embezzlement/corruption are concerned, these allegations have no solid footing and are baseless until and unless these are proved contrary. Without any fair probe, the allegations are of no value in eye of law and the inquiry previously conducted has been declared null and void by KPK Service Tribunal. Hence in the light of that inquiry, the appellant cannot be penalized. Apart from the said inquiry which has been declared null and void by Khyber Pakhtunkhwa Service Tribunal, the FIRs as already mentioned have not been finalized to be true. Hence the allegations of embezzlement/corruption stand refuted and of no value.

Attested

D. That, no codal formalities are being adopted for penalty which haste shows malafide intentions. No explanation notice prior to the this show cause notice has been given to appellant.

It is therefore humbly prayed that, the appellant may kindly be restored on his position and be exonerated from all the charges and the penalty imposed in shape of dismissal from service may kindly be withdrawn/cancelled.

Dated: 16-07-2017

Appellant

Attested
[Signature]

[Signature]
Hashmat Ullah
Assistant Accountant
At District Account Office Bannu.

To,

(45) 200

**The Accountant General,
KPK, Peshawar.**

**DEPARTMENTAL APPEAL/REPRESENTATION AGAINST
THE ORDER DATED: 16.06.2017 OF DIRECTOR
TREASURIES AND ACCOUNTS KHYBER
PAKHTUNKHAWA PESHAWAR WHICH ORDER HAS BEEN
RECEIVED TO APPELLANT ON DATED 19.06.2017.**

Respectfully sheweth:

1. That, the appellant was set with allegation detailed mentioned in the impugned order.
2. That the appellant was serving Assistant accountant (BPS-16) was dismissed from service vide order dated 25.05.2005 which order has been set aside by Service Tribunal Khyber Pakhtuhwa on dated 27.03.2017 with directions to the Authority that the give opportunity of hearing to the appellant and after hearing h fresh order shall be passed within two months.
3. That, in sequence to the directions of Service Tribunal, the Director Treasuries and Accounts issued show cause notice to the appellant and after that the appellant has been to be dismissal from service.
4. That, being aggrieved from the dismissal order dated 16.06.2017, the appellant seeks instant and quick remedy through instant department appeal on the following grounds.

Attested

[Handwritten signature]

(46)

109

GROUNDS:-

- A. That, impugned order dated 16-06-2017 passed by department/authority is against law, contrary to the facts and available record.
- B. That, the allegations of so called FIRs, the appellant refute these allegations with stance/plea that the said FIRs have not called their fate up till now and said FIRs are still to be adjusted upon by the Apex Courts. The verdict of Anti Corruption Courts on the FIRs is not full and final. The appeal is consider the continuation of proceedings and according to when appeal is file against any impugned order, the proceedings are presumed to be continued. Hence, accordingly, no one can be penalized when the matter is in the cognizance in any court. So, any penalty with regards to these FIRs would be sheer in justice with appellant.
- C. That, as for as the allegations of embezzlement/corruption are concerned, these allegations have no solid footing and are baseless until and unless these are proved contrary. Without any fair probe, the allegations are of no value in eye of law and the inquiry previously conducted has been declared null and void by KPK Service Tribunal. Hence in the light of that inquiry, the appellant cannot be penalized. Apart from the said inquiry which has been declared null and void by Khyber Pakhtunkhwa Service Tribunal, the FIRs as already mentioned have not been finalized to be true. Hence the allegations of embezzlement/corruption stand refuted and of no value.
- D. That, no codal formalities are being adopted for penalty which shows malafide intentions. No explanation notice prior to the this show cause notice has been given to appellant.

Attested



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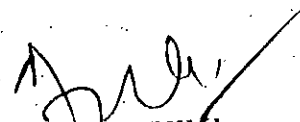
It is therefore humbly prayed that, the appellant may kindly be restored on his position and be exonerated from all the charges and the penalty imposed in shape of dismissal from service may kindly be withdrawn/cancelled.

Dated: 16-07-2017

Attested



Appellant



Hashmat Ullah
Assistant Accountant
At District Account Office Bannu.

48

✓

To

The Chief Minister
Khyber Pakhtunkhwa,
Peshawar.

Subject: Departmental Appeal/Representation Against Order Dated 16-06-2017 Of Director Treasuries And Accounts Khyber Pakhtunkhwa Peshawar, Which Order Has Been Received To Appellant On Dated 19.16.2017


Respectfully Sheweth;

1. That, appellant was set with allegations detailed mentioned in the impugned order.
2. That, appellant was serving Assistant Accountant (BPS-16), was dismissed from service vide order 25-05-2005. Which order has been set aside by Service Tribunal Khyber Pakhtunkhwa on dated 27-03-2017 with directions to the authority that give opportunity of hearing to the appellant and after hearing fresh order shall be passed within two months.
3. That, in sequence to the directions of Service Tribunal, the Director Treasuries and Accounts issued show cause notice to the appellant and after that the appellant has been to be dismissal from service.
4. That, being aggrieved from the dismissal order dated 16-06-2017, the appellant seeks instant and quick remedy through instant departmental appeal on the following grounds:-

Attested
✓

GROUNDS:-

- A. That, impugned order dated 16-06-2017 passed by department/authority is against law, contrary to the facts and available record.
- B. That, the allegations of so called FIRs, the appellant refute these allegations with stance/plea that the said FIRs have not called their fate up till now and said FIRs are still to be adjusted upon by the Apex Courts. The verdict of Anti Corruption Courts on the FIRs is not full and final. The appeal is consider the continuation of proceedings and according to when appeal is file against any impugned order, the proceedings are presumed to be continued. Hence, accordingly, no one can be penalized when the matter is in the cognizance in any court. So, any penalty with regards to these FIRs would be sheer in justice with appellant.
- C. That, as for as the allegations of embezzlement/corruption are concerned, these allegations have no solid footing and are baseless until and unless these are proved contrary. Without any fair probe, the allegations are of no value in eye of law and the inquiry previously conducted has been declared null and void by KPK Service Tribunal. Hence in the light of that inquiry, the appellant cannot be penalized. Apart from the said inquiry which has been declared null and void by Khyber Pakhtunkhwa Service Tribunal, the FIRs as already mentioned have not been finalized to be true. Hence the allegations of embezzlement/corruption stand refuted, and of no value.
- D. That, no codal formalities are being adopted for penalty which haste shows malafide intentions. No explanation notice prior to the this show cause notice has been given to appellant.

Attested


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It is therefore humbly prayed that, the appellant may kindly be restored on his position and be exonerated from all the charges and the penalty imposed in shape of dismissal from service may kindly be withdrawn/cancelled.

Dated: 16-07-2017

Appellant



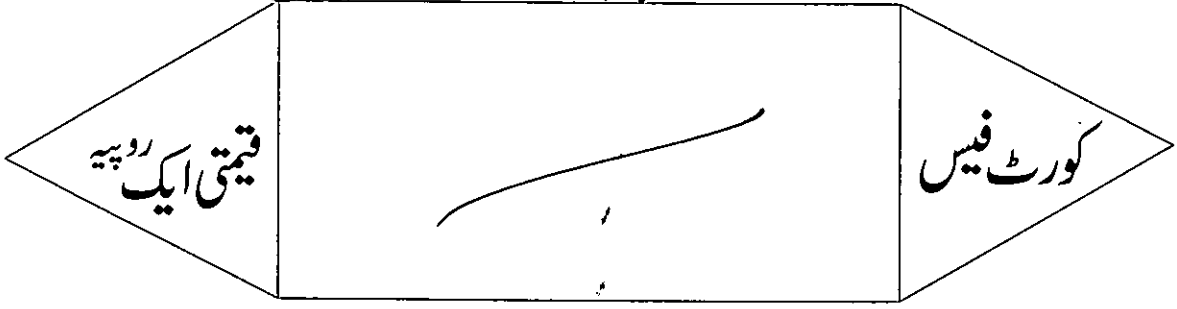
Hashmat Ullah
Assistant Accountant
At District Account Office Bannu.

Attested



وکالت نامہ

بعدالت جلال خیر محترم الخذاه سروس ٹریبونل پشاور



مورخہ
مقدمہ
دعویٰ
جرم

4 نومبر

ہجرت 1438

سروس اپیل
باعث محریر آنکہ

2017ء منجانب اپیلینٹ

بنام سکریٹری گورنمنٹ KPK وغیرہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب وہی وکل کاروائی متعلقہ آن
مقام پشاور / DiK کے لئے محمد طارق قریشی ایڈووکیٹ لکھ کر
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 و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت
ڈگری کرانے اجراء اور وصولی چک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زر
اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یا ایک طرف یا اپیل کی برآمدگی او منسوخ
داہر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی
کاروائی کے واسطے اور وکیل یا مختیار قانونی گو ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہونگے۔ اور اس کا ساختہ پر ساختہ منظور قبول
ہوگا اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل صاحب
موصوف ہونگے۔ نیز بقایا و خرچہ کی وصولی کر نیکا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو
یا جگہ سے باہر ہو تو وکیل صاحب پابند ہونگے کے پیروی مقدمہ مذکور کریں لہذا وکالت
لکھد یا تاکہ سندر ہے

Accepted

المرقوم 4 ماہ نومبر 2017ء

العبد گواہ شہد العبد

بمقام پشاور / DiK کے لئے منظور ہے



محمد طارق قریشی ایڈووکیٹ

سپریم کورٹ آف پاکستان

موبائل: 0300-5768804

یا سرمروت پرنٹنگ پریس پشاور موبائل: 0333-9123075

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

(Service Appeal No. 1406/2017.)

Hashmatullah Qureshi.....**Appellant**
VS

1. Secretary, Government of KPK, Finance Department, Peshawar.
2. Chief Secretary, Govt. of KPK, Peshawar.
3. Director Treasuries & Accounts KPK, Peshawar.
4. District Accounts Officer, Lakki Marwat.
5. District Accounts Officer, Bannu.

..Respondents

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.....Respondents

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL JUDICIAL COMPLEX (OLD) KHYBER ROAD PESHAWAR**

APPEAL NO. 1406/2017

Mr. Hashmat Ullah Querashi S/o Amanullah Querashi Ex-Assistant Accountant,
District Accounts Officer, Lakki Marwat.

.....**APPELLANT**

VERSUS

1. Secretary, Government of Khyber Pakhtunkhwa, Finance Department,
Peshawar.
3. Director Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. District Accounts Officer, Lakki Marwat.
5. District Accounts Officer, Bannu.

.....**RESPONDENTS**

**SERVICE APPEAL UNDER SECTION 4 KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE OFFICE ORDER DATED 16.06.2017
OF DIRECTOR TREASURIES AND ACCOUNTS KHYBER PAKHTUNKHWA
PESHAWAR, WHEREBY ORDERS OF REINSTATMENT DATED 16-05-2017
WAS WITHDRAWN FOR NO LEGAL REASONS AND APPELLANT WAS
DISMISSED FROM SERVICE.**

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1,
3, 4, & 5**

PRELIMINARY OBJECTIONS

- (i) That without prejudice to the forgoing, the appeal is bad, in form as well in substance.
- (ii) That the appellant neither has any locus standi nor a course of action to approach this Honorable Tribunal.



- (iii) That the appeal is not maintainable in its present form as it is against the facts and rules.
- (iv) That the appellant has tried to twist and bend the facts to his own advantage/benefits.
- (v) That the appellant has willfully withheld to disclose the true attending circumstances and correct picture of the matter in hand and has thus approached this Honorable Tribunal with sullied hands, therefore, disentitle to seek any remedy.
- (vi) That the appellant with malafide intention has concealed the material fact from this honorable Tribunal.
- (vii) The appeal is badly time barred and not entertainable in its present form.

FACTS

1. Correct. Pertains to record only.
2. Correct. Pertains to record only.
3. Correct. Pertains to record only.
4. Incorrect. Appeal made to Chief Secretary and others have been turned down on the basis of facts and duly communicated to the appellant.
5. Pertains to record only.
6. Pertains to record only.

GROUNDS

- (A). Incorrect. The appellant had been dismissed from service in the case of embezzlement, duly proved against him, after proper proceedings. Later on, the appellant was re-instated with suspension and given a chance of personal hearing. However, the appellant was once again found guilty and accordingly, dismissed from service.
- B. Incorrect. The appellant, after his dismissal, filed appeal and was re-instated as suspended, but the appellant visited the office of District Comptroller Accounts, Bannu, without any official order and



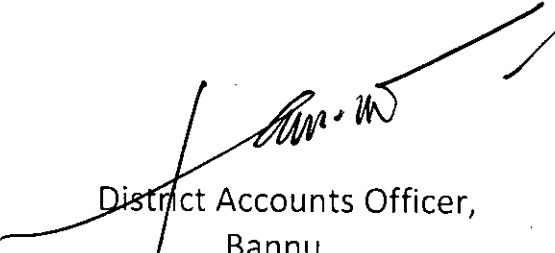
concealed the material facts of drawing subsistence grant from the said office. Later on, when revealed, Law Department, Khyber Pakhtunkhwa was consulted in the said case and the Law Department replied that subsistence grant may be recovered from the Ex-Assistant Accountant, henceforth. The said amount was recovered from him and again allowed a chance of hearing but once again dismissed from service


- C. Incorrect. As per para-B of Grounds.
- D. Incorrect. The appellant, while suspended from service, visited office of the District Comptroller of Accounts, Bannu without any orders from higher ups and drawn subsistence grant, which is material fact that is concealed by the appellant. When revealed, the matter was referred to Law Department, Khyber Pakhtunkhwa for opinion, wherein, Law Department clearly advised to recover the said amount from the appellant.
- E. Incorrect. The case of embezzlement is crystal clear against the appellant as cemented by the enquiry held against him. After his dismissal from service, he lodged appeals with different forums, resultantly, his penalty was reduced and he was re-instated with suspension. Later on, the appellant was given a chance of personal hearing. However, his order of re-instatement was set aside and he stood dismissed from service.
- F. Incorrect. Proper proceeding under the rules has been initiated against him with any predispositions, prejudice and discrimination.
- G. Incorrect. The appellant has been given chance of personal hearing but failed to convince the higher authority.

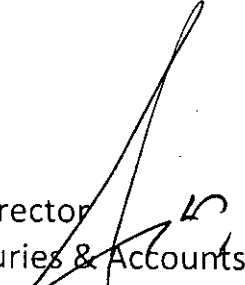


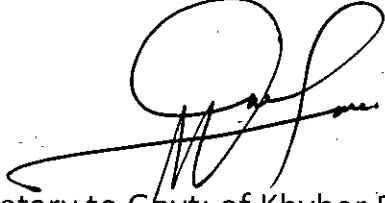
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In view of the above, it is very graciously prayed that the instant appeal, based on concealment of facts, is not maintainable in the eyes of law. The appellant, has been afforded proper chance of personal hearing to prove his innocence but time and again declared guilty of embezzlement of Government funds, hence, the said appeal may please be turned down in lemoni.


District Accounts Officer,
Bannu
(RESPONDENT NO.5)
District Comptroller of Accounts
Bannu


District Accounts Officer
Lakki Marwat
(RESPONDENT NO.4)
District Accounts Officer
Lakki Marwat


Director
Treasuries & Accounts
Khyber Pakhtunkhwa
(Respondent No.3)
Director
Treasuries & Accounts
Khyber Pakhtunkhwa Peshawar


Secretary to Govt: of Khyber Pakhtunkhwa
Finance Department
(Respondent No.1)
SECRETARY
Govt: of Khyber Pakhtunkhwa
Finance Deptt:

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL JUDICIAL COMPLEX (OLD) KHYBER ROAD PESHAWAR**

APPEAL NO. 1406/2017

Mr. Hashmat Ullah Querashi S/o Amanullah Querashi Ex-Assistant
Accountant, District Accounts Officer, Lakki Marwat.

.....**APPELLANT**

VERSUS

1. Secretary, Government of Khyber Pakhtunkhwa, Finance
Department, Peshawar.
3. Director Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. District Accounts Officer, Lakki Marwat.
5. District Accounts Officer, Bannu.

.....**RESPONDENTS**

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1,
3, 4, & 5**

**JOINT PARA WISE REPLY IN APPEAL NO. 1406/2017 ON BEHALF OF
RESPONDENT NO. 02.04 & 05**

AFFIDAVIT

I, Ihsanullah Superintendent, Directorate of Treasuries and
Accounts, Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on
Oath that the contents of reply to APPEAL NO. 1406/2017 on behalf of
respondent No. 01 i.e. Secretary, Government of Khyber Pakhtunkhwa,
Finance Department, Peshawar, No. 03 i.e. Director Treasuries and
Accounts, Khyber Pakhtunkhwa, Peshawar, No. 04 i.e. District Accounts
Officer, Lakki Marwat and No. 05 i.e. District Accounts Officer, Bannu, are
true and correct to the best of my knowledge and belief and that nothing
has been concealed from this Honorable Tribunal.



DEPONENT

Identified by

BEFORE THE HONORABLE SERVICE TRIBUNAL (CAMP) AT DERA ISMAIL KHAN.

Appeal No. 506/2016.

Manzoor Ahmad A.T GHS Hathala Tehsil Kulachi, District Dera Ismail Khan.

(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education Department, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department, Peshawar.
3. Director, Khyber Pakhtunkhwa, Elementary & Secondary Education Department, Peshawar.
4. District Education Officer (Male), D.I.Khan.
5. Deputy Commissioner, Dera Ismail Khan.
6. District Account Officer, Dera Ismail Khan.

(Respondents)

Para Wise Replies/Comments on behalf of Respondent No. 6.

Preliminary Objections:-

1. That the Appellant has got no cause of action against Respondent No.6.
2. That the Appellant has got no Locus Standi.

RESPECTFULLY SHEWETH:

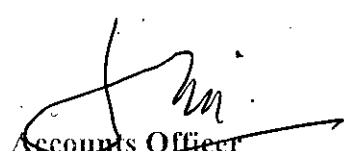
Objections on Facts.

1. Needs no Comments.
2. In Correct not admitted. Due to promulgation of Khyber Pakhtunkhwa cessation of Payment of Arrears on Advance Increments on higher educational Qualification Ordinance 2012, dated 27.03.2012, the Claim as Sanctioned bearing No. 2524-28/DCO/HRDO/Adv (12), dated 09.05.2012 could not admitted.
3. The said Source-II form does not contain TCA No. & Date along with Audit Observations of this Office in token of proof of its submission well before 27.03.2012. The sanction by it Self reflect granted on 09.05.2012 after promulgation of impugned Ordinance-2012.
4. As per clarification of Government of Khyber Pakhtunkhwa, Finance Department bearing No. FD (SOSR-I) 2-123/2012, dated 07.09.2012 no any sanction of Advance increments issued after 27.03.2012 will be admitted.
5. Same remarks as contain against Para-3&4 above.
6. He moved Applications after promulgation of Ordinance, hence not attended by anybody.
7. Self explanatory and needs no Comments.
8. Same remarks as contains against Para-6 above.
9. He failed to get sanction well before 27.03.2012 from his Competent Authority. He is himself at fault and guilty as not applied for well in time after declaration of result. Hence his Appeal needs to be dismissed.

Objections on Grounds:

1. Incorrect and not admitted in the light of replies/Comments as above.
2. Incorrect. He failed to submit Claim with sanction well before 27.03.2012 and hence could not admitted. The delay was on the part of "Appellant" and not on Respondent No.6.
3. As Para-2 of Finance Department letter No. FD (SOSR-1)2-123/2012, dated 07.9.2012, Which reads as under:-
"It may be added that in case, any arrear or increments allowed by any Office after the Commencements of the Act ibid, they are liable to be recovered having no sanction of the Government." Hence the Appellants needs no worried about discrimination.
4. The Claim of Appellant was not valid as the same was sanctioned after promulgation of
5. Impugned Ordinance/Act-2012 hence was not maintainable.

In view of foregoing Replies/Comments the Appeal of the Appellant is not based on facts and grounds realities and should, therefore, be dismissed.


District Accounts Officer
Dera Ismail Khan
Respondent No.6.

BEFORE THE HONOURABLE SERVICE TRIBUNAL (CAMP) AT
DERA ISMAIL KHAN

Appeal No: 506/2016

Manzoor Ahmad S.A.T GHS Hathala Tehsil Kulachi, Dera Ismail Khan.

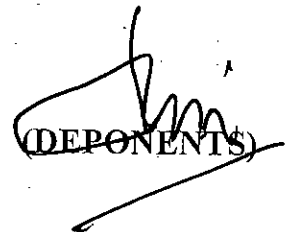
(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhawa through Secretary, Elementary & Secondary Education Department, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhawa Elementary & Secondary Education Department, Peshawar.
3. Director, Khyber Pakhtunkhawa Elementary & Secondary Education Department, Peshawar.
4. District Education Officer (Male), D.I.Khan.
5. Deputy Commissioner, D.I.Khan.
6. District Account Officer, D.I.Khan.

AFFIDAVIT

I Mr. Saeed-Ur-Rehamn District Comptroller of Accounts Dera Ismail Khan do hereby solemnly affirms and declare that All the contents of para wise reply submitted by the respondent No.(5) are true and correct to the best of my knowledge and belief. That nothing has been Concealed the Honorable Court.


(DEPONENTS)

AUTHORITY LETTER

Mr. Shahid Hassan, Assistant, of this Directorate is hereby nominated & authorized to attend the Honorable Khyber Pakhtunkhwa, Service Tribunal, Peshawar at Camp Court, D.I.Khan on 23.11.2020 in service appeal No. 1406/2017 titled **Hashmat Ullah Qureshi** on behalf of Respondent No. 03 i.e. Director Treasuries & Accounts Khyber Pakhtunkhwa Peshawar.

He is also authorized to submit all sorts of documents, statements and replies etc. in the said Court on behalf of above mentioned respondent.


Director
Treasuries & Accounts
Khyber Pakhtunkhwa

Director
Treasuries & Accounts
Khyber Pakhtunkhwa Peshawar



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 426 /ST

Dated: 14/02 /2022

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

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


To

The Director Treasuries & Accounts,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 1406/2017 MR. HASMAT ULLAH QURAISHI.

I am directed to forward herewith a certified copy of Judgement dated 23.11.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR,
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR