

04.09.2019

Appellant present in person and requests for adjournment as his learned counsel is not available due to indisposition. Adjourned to 22.10.2019 for preliminary hearing before S.B.

Chairman 

22.10.2019

Counsel for appellant present.

In the instant case it is claimed by learned counsel that departmental appeal against the order dated 01.02.2019 was submitted on 05.02.2019 which was not responded to.

Instant service appeal was submitted on 24.07.2019, apparently beyond the period of limitation provided for the purpose. Learned counsel when confronted with the proposition, requested for time to further prepare the brief.

Adjourned to 04.12.2019 before S.B.

Chairman 

04.12.2019

Nemo for appellant.

It is already past 02.30 P.M and despite repeated calls no one is in attendance to represent the appellant.

Dismissed for non-prosecution. File be consigned to record.

Chairman 


ANNOUNCED  
04.12.2019

Form - A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. - 956/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/07/2019	<p>The appeal of Mr. Nisar Ahmed presented today by Mr. Israr Ahmad Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;">REGISTRAR <u>24/7/19</u></p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>2-8-2019</u></p> <p style="text-align: right;">CHAIRMAN</p>
	02.08.2019	<p>Learned counsel for the appellant present. Appellant is not in attendance to apprise this court about certain facts of his case. Adjourn. Appellant be put to notice for the next date. To come up for preliminary hearing on <u>07.09.2019</u> before S.B.</p> <p style="text-align: right;">                       Member                 </p>

**BOFORE THE SERVICE TRIBUNAL PESHAWAR**

SERVICE APPEAL No. 956 2019.

Nisar Ahmad (Assistant BPS-16) S/O Diyar Shah R/O Village Bajkata, Tehsil Gagra \_\_\_\_\_ (Appellant)

**VERSUS**

1. Director Elementary & Secondary Education, Peshawar.
2. District Education Officer (Male), Buner.
3. Drawing and Disbursement officers District Education Officer (Male) Buner.
4. The Govt. of KPK, through Secretary Education E&SE at Peshawar Secretariat.

(Respondents)

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11	Wakalat Nama		

Appellant

Through Counsel

  
Israr Ahmad Advocate

Cell No.0333-9697462

①

**BOFORE THE SERVICE TRIBUNAL PESHAWAR**

SERVICE APPEAL No. 956 2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1036

Dated 24/7/19

Nisar Ahmad (Assistant BPS-16) S/O Diyar Shah R/O Village  
Bajkata, Tehsil Gagra \_\_\_\_\_ (Appellant)

VERSUS

1. Director Elementary & Secondary Education, Peshawar.
2. District Education Officer (Male), Buner.
3. Drawing and Disbursement officers District Education Officer (Male) Buner.
4. The Govt: of KPK, through Secretary Education E&SE at Peshawar Secretariat.

Filed to-day

(Respondents)

↓  
Registrar,  
24/7/19

**SERVICE APPEAL UNDER SECTION IV OF THE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED OFFICE ORDERS / LETTERS 4496 DATED: 29-09-2018, 6173 DATED 11-12-2018 ENDST No. 6230-35 Dated 13-12-2018, ENDST No. 24-28/F No. 121/A-23 / MS / Buner -2 Dated: 01-02-2019.**

**Prayer:** on acceptance of this Service Appeal, the impugned office orders No. 6230-35/ SEC (Estab) dated 13-12-2018, 4496 Dated 29-09-2018, 6173 Dated 11-12-2018, ENDST No. 24-28/F No. 121/A-23 / MS / Buner -2 Dated: 01-02-2019. may kindly be set aside and the Respondents may kindly be directed to allow the Appellant, to perform his duties against his vacant post at District education office (Male), Buner in the best interest of public.

Respectfully Sheweth:

Brief facts giving rise to the instant Service appeal are as under:

**FACTS:**

1. That the Appellant is a bonafide resident of District Buner, and regular civil Servant under Section 2 (B) of civil servants Act 1973 and is working against the Assistant Post

in BPS-16 in the office of the D.E.O (Male) Buner since 01-04-2018. **(Copy of promotion order is Annexure A).**

2. That the Respondent No.2 & 3 without caring for Section 2 Sub Section (F) (i) of E & D rules 2011 issued later / Notification **No.4496 Dated: 29-09-2018** and leveled false allegations against the Appellant and demanded illegal cash amount from Appellant. Though the very notification was without any proof, without law and lawful authority, justice and facts just for the purpose to take/gain illegal amount from Appellant. But the Appellant produced himself along with record before Respondent No. 2 & 3 and made them satisfied. **(Copy of letter / Notification No.4496 Dated 29-09-2018 Annex B)**
3. That after a few days Respondents No. 2 & 3 issued another notification **No.6173 Dated: 11-12-2018** and leveled false allegation against the Appellant against the Appellant. Though the very notification was without any proof, without law and lawful authority, justice and facts. **(Copy of letter / Notification No.6173 Dated: 11-12-2018 is attached as Annexure C).**
4. That after two or three days later the Respondent No. 2 & 3 stopped Salary of Appellant. Though there is no concept of non-payment / Stoppage of Salary of Civil Servant more ever Honorable Lahore High Court declared that non-payment of Salary to the Civil Servant would amount valuation of constitution command.
5. That without caring for Section 2 Sub Section (F) (i) of E & D rules 2011 the respondent No. 2 issued the impugned order **No. 6230-35/ SEC (Estab) dated 13-12-2018** and the services of the petitioner has been placed at the disposal of Respondent No. 1 though the very notification is without any lawful authority and without any legal justification because there is no concept of relive and Respondent No.1 placed Services of Appellant at the disposal of the D.E.O Dir

lower (**Copy of order No. 6230-35/ SEC (Estab) dated 13-12-2018 Annexure D**).

6. That after issuing notifications and stoppage of Salary the Appellant moved an application to the District Nazim which was entrusted by the District Nazim to D.C Buner on which D.C Buner conducted an Inquiry and nominated the than ADC & ADO F and P Buner Inquiry officers. after thorough Inspection and Examination of record and parties. The committee/ inquiry officers declared Appellant innocent and Respondents No. 2 & 3 were directed to release the Salary of Appellant. (**Copy of inquiry report is attached as Annexure E**).
7. That the impugned office orders not only creates service issues for Appellant but for the employees of the whole department of the district because after issuance of impugned office orders by the respondent No. 2 controversy over the administrative powers between respondent No. 1 and 2 has been arisen. More ever all aforesaid orders, action and inaction taken by Respondents No. 2 & 3 against Appellant are void and without lawful authority because according to section 2 Sub Section F (i) of E & D Rules 2011 Respondent No. 2 was not competent authority to initiate any penal action etc against Appellant.
8. That after issuance of above orders / Notifications the Appellant preferred appeal to Respondent No. 1 on dated 28-12-2018 but the very appeal is not being decided by the Respondent No. 1 till now. (**copy of appeal is attach as Annexure F**).
9. That the Respondent No. 1 without carrying real situation of the case, illegally, against law and fact placed the appellant at the disposal of District Education office Dir Lower. (**Copy of ENDST No.24-28/F No.121/A-23 / MS /Buner -2 Dated: 01-02-2019. Annexure G**)

10. That after that Appellant preferred an appeal to the Secretary Education against the transfer / placed order of Respondent No. 3. Which is also not been decided yet. (Copy of appeal as **Annexure H**).
11. That being aggrieved from the actions and inactions of Respondents, the Appellant prefer this Service Appeal on the following grounds amongst others inter-alia.

**GROUND:**

- A. That the actions and inactions of Respondent No. 2 are arbitrary, mechanical, based on favoritism and personal interest, needs interference of this august court. hence the order of Respondent No. 2 liable to be set aside.
- B. That on one hand, the Respondents No. 2 & 3 were not competent to issue adjustment or transfer, relieved order of Appellant or issue other actions and inactions against the Appellant because the post of the Appellant has now been upgraded to BPS-16 vide notification/promotion order of Appellant dated 01-04-2018 and now the Appellant is working against the post of Assistant (BPS-16) which comes in the domain of Respondent No. 1 so the impugned orders/Notifications/ action and inaction has no legal sanctity and the same was issued by without lawful authority and totally against Section 2 Sub Section (F) (i) of E&D rules 2011 because according to Section 2 Sub Section (F) (i) of E&D rules 2011 for BPS-16 the Respondent No. 2 is not competent authority. hence the order of Respondent No. 2 & 3 liable to be set aside. **(copy of E&D Rules 2011 as Annexure I)**.
- C. That the Respondents No. 2 & 3 Demanded illegal cash amount from petitioner but on refusal of the Appellant the Respondents No. 2 & 3 issued false notifications though the very notifications also without lawful authority and just to pressurizes the petitioner. As it was in the knowledge of Respondent No. 2 & 3. That there is no official business in

5

cash amount so this fact is sufficient proof for the innocence of Appellant.

- D. That both the notifications letters Nos 4496 Dated 29-09-2018 and 6173 Dated 11-12-2018 are self contradictory and self speaking / Self explanatory that the Appellant is innocent and the Respondent No. 2 & 3 leveled false allegation against him.
- E. That in the meantime the services of the Appellant has been placed at the Disposal of Respondent No. 1 and the Appellant is a poor man and being the father minors and school going kids along with aged parents in District Buner, more ever there is no concept of relive hence the order of Respondent No. 2 liable to be set aside.
- F. That all actions and inactions, orders, letters, issued and taken by Respondents No. 2 & 3 are void, without lawful authority and without any legal justification.
- G. That action and in action taken by Respondent No. 1 are illegal and without justification and without any reason and liable to be set aside.
- H. That the Appellant seeks the permission of this august Court to rely on additional grounds at the hearing of this Appeal.

It is, therefore, humbly prayed that on acceptance of this Service Appeal, the impugned office orders No. 6230-35/ SEC (Estab) dated 13-12-2018, 4496 Dated 29-09-2018, 6173 Dated 11-12-2018, ENDST No.24-28/F No.121/A-23 / MS /Buner -2 Dated: 01-02-2019. may kindly be set aside and the Respondents may kindly be directed to allow the Appellant, to perform his duties against his vacant post at District education office (Male), Buner in the best interest of public.

OR


Any other relief which this august Court deems appropriate may kindly be awarded to meet the ends of justice.



**Interim Relief:**

By way of interim relief, the impugned office order dated order No. 6230-35/ SEC (Estab) dated 13-12-2018 and ENDST No.24-28/F No.121/A-23 / MS /Buner -2 Dated: 01-02-2019 may kindly be suspended and the petitioner may kindly be allow to perform his duties at District education office (Male), Buner. Moreover the on going inquiries in the matter may also be suspended being time barred(not concluded within more than three months).

*Nisar*  
*2*

Appellant  
Through:   
**Israr Ahmad** Advocate,  
High Court

**CERTIFICATE & AFFIDAVIT:**

Certified that no such like Appeal has earlier been filed before this august court regarding the instant matter.

  
**ADVOCATE**

**List of Books:**

- 1. Service Act.
- 2. E&D Rules 2011.
- 3. Any other law books according to need.

**ATTESTED**  
**Sohail Raza**  
Advocate & Commissioner  
Distt: Courts Daggar Buner  
No. 297 .....date 23/7/09

  
**ADVOCATE**

No. 1456

Dated 25/4 /2018

9

To

Ann X

System Office Guide

7 Ann X  
"A"

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BUNER  
SPECIMEN SIGNATURE.

It is stated that Mr. Nisar Ahmad of this office has been Promoted to Assistant BPS-16 (Gazetted) vide Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar Endost: No. 6020-34/A-23/MS/Promotion/SC-Assistant/2018 Dated Peshawar the 25-04-2018.

He took over charge of his duty as Assistant BPS-16 (Gazetted) at office of the DEO (M) Buner on 25-04-2018 A.N.  
His Specimen Signature are as under.

1. Nisar Ahmad
2. Nisar Ahmad
3. Nisar Ahmad

Nisar Ahmad

(Nisar Ahmad)  
Assistant BPS -16 (Gazetted)  
O/O DEO (Male) Buner

Nisar Ahmad  
Attested  
to be true  
Copy

21/11/14

Dated 16/8 /2018

forwarded for information to the:  
Director (E & SE) Khyber Pakhtunkhwa, Peshawar.  
Accounts Officer Buner at Daggar.  
B & A) Local Office.  
concerned.

DISTRICT EDUCATION OFFICER  
(MALE) BUNER

Nisar Ahmad

10

11

X. 1111  
B. 11

11  
11

(8)

OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER FEMALE DISTRICT BUNER.  
CHARGE REPORT.

Consequent upon the promotion of S/Clerks to Assistant Notification issued vide Director Elementary & Secondary Education Khyt Pakhtunkhwa Peshawar Endst; No.6020-34/A-23/MS/Promotion /Sc-Asstt; Dated Peshawar the 25/4/2018. Mr. Nisar Ahmad Assistant at the office c (M) Buner

He took over the charge of his duty on 25/04/2018 after Noon.

DISTRICT EDUCATION OFFICER (M)  
DAGGAR BUNER

Dated 27/4/2018.

Endst; No. 1767-74

Copy of the above is forwarded to the;

1. Director Elementary & Secondary Education Khyber Pakhtun Kihwa
2. District Accounts officer Buner.
3. Dy; District Education officer Male Buner.
4. Officer concerned.

DISTRICT EDUCATION OFFICER (M)  
DAGGAR BUNER

*N.A.M.*  
Attested

1
2
2
27
23

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)

DISTRICT BUNER

PHONE & FAX #:

0939510468

E.MAIL:

edobuner@gmail.com

No. 4456 /

Dated 25/9 /2018

To

Mr. Nisar Ahmad  
Assistant Account Branch  
Local office.

Ann X  
"B"

Subject: - DEPOSITING OF SAVING AMOUNT

Memo

You are working as Accountant in this office and during the Mutual reconciliation  
You have accepted the amount of Rs.227000/- as saving /cash in hand during the financial year  
2017-18.

Now you are directed to deposit the same amount to the account branch by tomorrow  
Other wise strict disciplinary action will be initiated against you.

  
DISTRICT EDUCATION OFFICER (M)  
BUNER

Received today  
on 11/12/2018  
M. Nisar Ahmad

Not  
attested



OFFICE OF THE  
DISTRICT EDUCATION OFFICER (MALE)  
BUNER (Cell # 0939-510468)

No. 6173 Dated. 11/12/2018

Annex  
"C"

(10)

To

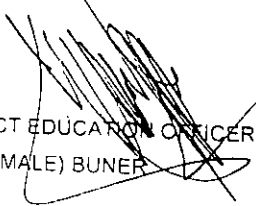
1. Nisar Ahmad Assistant (Accounts Branch)

**SUBJECT: - Deposit of Embezzled Amount in the Designated Office Account.**

Memo.

Consequent upon the inquiry report, you have been declared to be guilty of embezzling huge amount of Rs. 588341/- in the office non-salary budget for the year 2017-18.

Hence, You are vehemently directed to deposit the embezzled amount within in three days in the office designated account to be utilized in the best interest of this office, failing which a stern disciplinary action may be taken against you under the *Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011*, collaborated with referring your case to the Director Elementary and Secondary Education for further disciplinary action under the rules. You are also directed to make amends for the loss in terms of punctuality, performance of duty in future.


  
DISTRICT EDUCATION OFFICER  
(MALE) BUNER


Endst: No. \_\_\_\_\_ Dated \_\_\_\_\_

Copy for information to the:-

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Buner.
3. Deputy District Education Officer (M) Buner with the directive to stop his pay if he fails to deposit the embezzled amount.
4. District Accounts Officer Buner.

DISTRICT EDUCATION OFFICER  
(MALE) BUNER

  
Attested

Received  
today on 11/12/2018  




OFFICE OF THE DISTRICT EDUCATION OFFICER (M)  
 DISTRICT BUNER  
 PHONE & FAX NO. 0939-510468  
 EMAIL: edobuner@gmail.com

11

Annex  
"D"

**OFFICE ORDER.**

The undersigned is not satisfied with the duties and performance of Mr. Nisar Ahmad Assistant, BPS-16 of this office. His services are no more required to this office, so he is hereby relieved and is placed at the disposal of Directorate of Elementary and Secondary Education Peshawar due to embezzlement, absenteeism and misconduct for further formal inquiry and disciplinary action as per E & D Rules 2011.

(BAKHT ZADA)  
 DISTRICT EDUCATION OFFICER(M)  
 DISTRICT BUNER.

Endst;No. 6230-35 /Sec.(Estab;) Dated 13/12 /2018.

Copy of the above is forwarded to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Buner.
3. Deputy District Education Officer (M) Buner.
4. District Monitoring Officer(IMU) District Buner.
5. District Accounts Officer Buner.
6. Officials concerned.

*Handwritten signature*  
 Attested

Received to day  
 on 12/01/19

*Handwritten signature*  
 12/1/2019

*Handwritten signature*  
 DISTRICT EDUCATION OFFICER(M)  
 DISTRICT BUNER.

Admin

Admin

D. No-37

37  
 14-1-2019

*Handwritten notes*  
 Ex. Buner



OFFICE OF THE  
DEPUTY COMMISSIONER,  
BUNER.

No. 1162-67/DC(B)/Estt:  
Jan 23, 2019.

To: The District Education Officer (M),  
Buner.

Annex  
E

(22)

Subject: Inquiry Report

Memo:

An inquiry report submitted by the Additional Deputy Commissioner Buner & District Officer Finance & Planning Buner is sent herewith.

You are directed to implement the recommendations of the Inquiry within 03 days under intimation to this office.

*[Signature]*  
DEPUTY COMMISSIONER,  
BUNER.

Inst. No. & Date Even.

For Information:

- Secretary, Elementary & Secondary Education Development Department, Peshawar.
- Commissioner, Malakand Division.
- District Nazim, Buner.
- Additional Deputy Commissioner Buner.
- District Officer Finance & Planning Buner.

*[Signature]*  
DEPUTY COMMISSIONER,  
BUNER.

*[Signature]*  
*[Signature]*

DC SB Buner

The DY DEO (M) was not present in the office and the file related to Mr. NISAN Khan (Assistant of this office) in his custody

*[Signature]*  
20/1/2019

when the DY DEO (M) will come the office the matter will be proceeded as per rules and regulations





OFFICE OF THE  
ADDITIONAL DEPUTY COMMISSIONER  
BUNER

# 0939510310

mail: adcbuner1@gmail.com

No: 06 /ADC (B)

Dated Daggar, the 10th January, 2019.

To

The Deputy Commissioner,  
Buner

(13)

Subject: **STOPPAGE OF SALARY**

Enclosed please find herewith a copy of letter no. 366 dated 31-10-2018 received from Nazim District Government Buner regarding the subject noted above wherein Additional Deputy Commissioner Buner and District Officer F&P were assigned the task to inquire into the matter.

**Background of the Issue:**

The background of the issue is that Mr. Nisar Ahmad, Office Assistant (Accountant) of the office of District Education Office (M), Buner had submitted an application to Nazim District Government, Buner wherein the complainant had lodged a complaint that Deputy District Education Officer (M), Buner had stopped the salary of the complainant without any reason.

Nazim District Government, Buner forwarded the case to your kind office. whereas, your kind office constituted a committee consisting Additional Deputy Commissioner, Buner and District Officer F&P, Buner to probe into the matter and submit preliminary inquiry report.

*Allested*

**INQUIRY PROCESS:**

The inquiry officers summoned both the applicant Mr. Nisar Ahmad, Office Assistant (Accountant) Education Department (M), Buner and Deputy District Education Officer (M), Buner for recording their statements accordingly.

*15/01/2019*

Office Of The DC Buner.  
Dairy No. 265  
Branch.....  
Signature [Signature]  
11/01/2019

(16)

1. STATEMENT OF DEPUTY EDUCATION OFFICER (M), BUNER.

The Deputy District Education Officer (M), Buner submitted his written statement wherein he levelled allegations that Office Assistant was involved in embezzlement in the following three Accounts Heads.

- i. POL Heading
- ii. Enrolment Heading
- iii. Stationery & others Heading

The DDEO (M) Buner stated that Office Assistant/ Account Clerk has not paid the sanctioned amount of POL, Enrolment charges, Stationery and Others to the concerned shopkeepers.

The DDEO (M) Buner further levelled allegation against the office Assistant (Account Clerk) that he has not maintained stock Register, issuance Register and cheques issuance Register (Demands and Receiving) besides verbal allegations of non-compliance and absenteeism etc.

2. STATEMENT OF MR. NISAR AHMAD OFFICE ASSISTANT (ACCOUNT CLERK):

The Office Assistant (Account Clerk) submitted his written statement and stated therein that all the allegations levelled by District Education Officer (M), Buner and Deputy District Education Officer (M), Buner are baseless. He further told that he has received proper approval from DDEO (M), Buner and DEO(M), Buner regarding the whole expenditures and the amounts have been paid to the concerned petrol pumps and the concerned shopekeepers through cheques on their vendor number. He further told that he is available for all queries alongwith official records.

*Nisar Ahmad*  
Attested

*20/01/2019*

*10/01/2019*

FACTS FINDING REPORT:

15

In the presence of both the complainant and Deputy District Education Officer (M). Buner, the committee checked the account records and observed the following findings.

- > The Office Assistant (Account Clerk) had received proper approval from DEO (M), Buner and DDEO (M), Buner.
- > The Office Assistant (Account Clerk) had paid all the amount to the petrol pump and the concerned shopkeepers through cheques on vendor.
- > Some of the cheques were verified from the District Accounts Office for satisfaction (Enclosed).
- > The Stock Register, Cheque Issuance Register, Demands from the concerned sections and receiving statements from the concerned sections were not provided.

PROPOSAL:

After perusal of the statements and available record it is hereby recommended that his salary may be released. However, it is further recommended that a technical committee of the concerned Department may be constituted for internal audit of the accounts matters to further satisfy the Education Department.

Report is submitted for further orders, please.

*not checked*

*[Signature]*  
DISTRICT OFFICER (F&P),  
BUNER 19/01/2019

*[Signature]* 10/01/2019  
ADDITIONAL DEPUTY COMMISSIONER  
BUNER

EA

*Recommendations endorsed.*  
*[Signature]*  
21/01/19.



جنتیپ ٹیلیفون سمن ایپلانٹ حسب ذیل عرض کر رہے ہیں۔

1- یہ کہ سمن ایپلانٹ محکمہ ٹیلیفون سمن ڈویژن میں بحیثیت اسٹنٹ / ایگزیٹو اپنی خدمات سرانجام دے رہا ہے۔

(17)

2- یہ کہ بجٹ برائے سال 2017/2018 کے لیے سمن ایپلانٹ کو ٹیکس / حکومت وقت کی طرف سے مختلف جدول میں بجٹ کے لیے رقم چارٹریجڈ جس میں تیل گزائد میں سٹیٹ 106 لاکھ روپے، ٹیکس 102 لاکھ 72 ہزار روپے، ٹرانسپورٹ 101 لاکھ 50 ہزار روپے جبکہ سٹیٹ 103 لاکھ روپے سٹیشنری کی مدد میں جاری ہونے ہو کہ سمن ایپلانٹ نے مذکورہ بالا سال رقم صحیح اور درست طور پر خرچ کی اور اس نسبت سمن ایپلانٹ کے ساتھ اپنا ریکارڈ بھی موجود ہے نیز مذکورہ بالا بجٹ خرچ ہونے کی نسبت مسنول ٹیلیفون نے باقاعدہ طور پر سمن ایپلانٹ کو approval جاری کیا ہے اور پڑاے سی sanction پر بھی دستخط ثبت کیے ہیں۔

Attest

3- یہ کہ یہاں پر اس امر کی وضاحت ضروری ہے کہ مذکورہ بالا بجٹ کے درست استعمال کی نسبت باقاعدہ طور پر ایک چیکس سٹیٹ سمن ڈویژن نام مستطقیں میں جاری ہونے ہیں۔

4- یہ کہ مذکورہ بالا بجٹ عمل ختم ہونے کے بعد مسنول ٹیلیفون نے سمن ایپلانٹ کو اپنے دفتر لایا اور کہا کہ میں مذکورہ بالا بجٹ میں کمیشن / حصہ رو (یعنی ناچارجڈ رقم کا مطالبہ کیا) جس پر سمن ایپلانٹ نے مسنول ٹیلیفون کو بجٹ میں چھٹی بانی نہیں رہا اور مزید سمن ایپلانٹ نے مسنول ٹیلیفون کو کہا کہ میں خود بھی منہ ٹیلا کام کرتا ہوں اور اس کو روکنے دیتا ہوں جس پر مسنول ٹیلیفون براہم ہوئے اور سمن ایپلانٹ کو خطرناک قسم دہشکیاں دیں کہ ہم تم کو ٹیکس کا ریکارڈ نہیں چھوڑا دینگے۔

5- یہ کہ اعداد ازاں مسنول ٹیلیفون نے سمن ایپلانٹ کو ایک نوٹس نمبر 4486 مورخہ 29-09-2018 میں deposing of saving amount سٹیٹ 102 لاکھ 27 ہزار روپے کا جاری کیا جو کہ سمن ایپلانٹ کو مورخہ 11-12-2018 کو وصول ہوا جس نسبت سمن ایپلانٹ نے اپنا جملہ ریکارڈ مسنول ٹیلیفون کے روبرو پیش کیا۔ (نقل نوٹس ناف ہے)۔

جاری ہے

(18)

6- یہ کہ ایئر لائنز اسٹوڈنٹ علیہم نے ایک دیگر نوٹس نمبر 6173 مورخہ 2018-12-11 بابت نوٹس لے کر مبلغ 05 لاکھ 88 ہزار 341 روپے کا اور سٹال کیا جس میں اسٹوڈنٹ علیہم نے واضح کیا کہ سن ایپلانٹ کے خلاف آپ ایئر لائنز کی ٹین میں لائی گئی ہے حالانکہ سن ایپلانٹ مذکورہ ایئر لائنز سے بالکل بے خیر تھا کیونکہ اسٹوڈنٹ علیہم خود ایئر لائنز سے سٹیٹس، گواہان، ایئر لائنز آفیسر بھی تھے اور جج بھی خود بن گئے جبکہ سن ایپلانٹ کو ایئر لائنز کے نسبت کسی قسم کا کوئی نوٹس جاری نہیں کیا گیا اور نہ ہی سن ایپلانٹ کو ایئر لائنز کے بارے میں کوئی علم تھا اسٹوڈنٹ علیہم کا یہ آل نرا سہرا انسانی ہے مٹی ہے۔ (نوٹس لف ہے)۔

7- یہ کہ یہاں پر اس امر کی بھی وضاحت کرنا ضروری ہے کہ مذکورہ بالا ججٹ پر باقاعدہ طور پر لٹ لکھی ہو چکا ہے جس پر لٹ انٹرنیشنل اسٹوڈنٹ علیہم نے سن ایپلانٹ کی کارگردگی پر کسی قسم کا عذر دیا یا اعتراض نہیں کیا ہے۔

مسٹر  
Attorney

8- یہ کہ اسٹوڈنٹ علیہم کی جانب سے جاری کردہ نوٹس نمبر 6173 مورخہ 2018-12-11 نمبر 4486 مورخہ 2018-09-29 میں واضح تضاد موجود ہے جو کہ اس بات کا واضح ثبوت ہے کہ سن ایپلانٹ مذکورہ سن ہے اور اسٹوڈنٹ علیہم سن ایپلانٹ سے ناجائز مطالبہ کر رہے ہیں۔ جو کہ سن ایپلانٹ کے حقوق پر غیر مؤثر اور کاہنہ ہے۔

9- یہ کہ جب سن ایپلانٹ اپنی ماہانہ تنخواہ لینے کے لیے اپنے متعلقہ بینک گیا تو وہاں پر معلوم ہوا کہ سن ایپلانٹ کی ماہانہ تنخواہ ماہ اکتوبر سے اسٹوڈنٹ علیہم نے بند کر رکھی ہے حالانکہ گورنمنٹ کے قانون میں تنخواہ کے بندش کی کوئی شق موجود نہیں۔

10- یہ کہ اسٹوڈنٹ علیہم کے جانب سے سن ایپلانٹ پر بے بنیاد اور جھوٹے الزامات کی وجہ سے سن ایپلانٹ کی سائن اور عزت نفس بچھری ہوئی ہے اور سن ایپلانٹ اسٹوڈنٹ علیہم کے اس غلط فعل کی وجہ سے ذہنی آؤٹ میں بھی مبتلا ہو چکا ہے جس کے سن ایپلانٹ اپنا حق محفوظ رکھتا ہے۔

11- یہ کہ اسٹوڈنٹ علیہم کا فعل ہانے مکمل طور پر خلاف قانون اور خلاف حقیقت واقعات ہونے کے بنا پر سن ایپلانٹ کے حقوق پر غیر مؤثر اور کاہنہ ہے۔

(19)

12۔ یہ کیڈمیکرٹات بولت بخت با اجازت آپ جناب پیش کے جائیگے۔

لہذا استدعا سمجھتی ہے کہ منظور کی اپیل ہذا حکم ہائے منسوقی حکم ہائے ایگزیز ہائے  
نمبری 6173 مورخہ 12-11-2018، نمبر 4486 مورخہ 28-09-2018 رقم  
دراگرا مری رقم بابت بندش تھوڑا مگر اپیلانٹ کا عدم منسوخ فرمایا جا کر من اپیلانٹ کی  
داد کی فرمائی جائے اور مسئلہ حل ہونے کے خلاف محکمہ کارروائی میں لائے جانے کے  
اشکات سادہ فرمائے جائیں نیز مسئلہ حل ہونے کو حکم جاری فرمایا جائے کہ وہ من اپیلانٹ کی  
ماہانہ تھوڑا جاری کریں۔ یاد مگر داد و دعا جو قرین الصاف آپ جناب ہونے پر حتم فرمادیں

nl  
Mstet

نثار احمد (من اپیلانٹ)  
اسٹاف محکمہ تعلیم بونیر

(30)

Director (E&SE) KPK 2014

شماره نشست برتیسر جاگ DEO ہب بوسر

ADDE

8/2/19

ایسر ہزار سنونی حکم نمبر 35-30-2306 مورخ 2018-12-13

DEO ہب بوسر و سنونی حکم نمبر 28-24 مورخ 2018-1-31

جائے عالی! ایسر صبر زید کرنا ہے۔

ذریعہ کے اسٹیٹمنٹ محمد تعلیم بوسر میں ایسی ڈیوٹی گیت اسٹیٹمنٹ  
ایم دستاویز تھا۔

Attested

DEO ہب بوسر نے میرا Relined <sup>copy</sup> 4 مورخ 2018-1-31

(MT) میں گیت اسٹیٹمنٹ محمد تعلیم میں کام / ایسر ہب بوسر اسٹیٹمنٹ  
Bps 16 میں برتا ہے جسے Bps 16 سے Competent authority  
DEO ہب بوسر نے لکھا ہے کہ قلم مذکورہ قلم <sup>copy</sup> E&D Rules  
کے خلاف ہے۔

(MT) میں میرا مذکورہ Relined <sup>copy</sup> ملازمتوں کے دوران اس قلم  
کے بارے میں آئی ایم ایف کے ساتھ ساتھ دیوٹی گیت ہے۔  
لکھا مذکورہ بارے میں سوچ کر آیا ہے کہ کوئی ایسا ایسا ایسا ہے۔

لکھا اسٹیٹمنٹ ہے۔ آئی ایم ایف کے ساتھ ساتھ  
قلم کے بارے میں سوچ کر آیا ہے۔

8.2.2019  
شمارہ نمبر



Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.

Office Order.

Services of Mr. Nisar Ahmad Assistant of the DEO (M) Buner are hereby placed at the disposal of District Education Officer (Male) Dir Lower for further adjustment against Assistant post.

Note:

1. Compliance report should be submitted to all concerned.
2. No TA/DA is allowed.

Annex  
"G"

(2)

SPATCACHER  
Director (E&SE)  
K. Peshawar.

DIRECTOR  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst: No. 24-28 /F.No. 121/A-23/MS/Buner-2 Dated Peshawar the 1-2 /2019.

Copy forwarded to the:-

1. District Education Officer (Male) Buner w/r to his Endst No 6230-35 dated 13/12/2018.
2. District Education Officer (Male) Dir Lower
3. District Accounts Officer Buner / Dir Lower.
4. Official concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. Master File.

Attested

Assistant Director (Admn)  
Directorate of Elementary & Secy: Education  
Khyber Pakhtunkhwa, Peshawar

Subell  
07/02/19

Signature  
9/2

OFFICE OF THE SECRETARY ELEMENTARY AND SECONDARY  
EDUCATION KHYBER PAKHTUNKHWA PESH. WAR.

*Amox*  
*"H"*

Appeal No. \_\_\_\_\_/2019

*(22)*

*S. M. Ziyar Shah* Assistant of DEO (M) Bunner R/o  
Muzil Sagra District Bunner .

Appellant

VERSUS

Director (E&SE) KPK Peshawar.  
District Education Officer (Male) Bunner  
District Education Officer (Male) Bunner

*Not*  
*Attested*

Respondents

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED/OFFICE  
ORDERS NO. 6230-35 OF DATED 13/12/2018 ISSUED BY  
RESPONDENT NO. 2 (DISTRICT EDUCATION OFFICER (M)  
BUNNER), AND ENDSTT NO. 24-28 OF DATED 31/01/2019  
(RECEIVED BY APPELLANT ON DATED 07/02/2019) ISSUED  
BY RESPONDENT NO. 1 (DIRECTOR E&SE EDUCATION KPK)  
WHEREIN THE APPELLANT RELIEVED AND IS PLACED AT  
THE DISPOSAL OF DIRECTORATE OF E&SE EDUCATION  
PESHAWAR BY THE RESPONDENT NO.2 WERE AS THE  
RESPONDENT NO.1 FURTHER PLACED AT THE DISPOSAL  
OF DISTRICT EDUCATION OFFICER (M) DIR LOWER.

PAYER

ON ACCEPTANCE OF THIS APPEAL BOTH THE IMPUGNED  
ORDERS MENTIONED ABOVE MAY KINDLY BE CANCELLED AND

THE OFFICE AND THE APPELLANT MAY KINDLY BE REINSTATED  
/PLACED AGAINST ASSISTANT POST IN DISTRICT EDUCATION  
OFFICE (M) BUNER.

Respectfully Sheweth:-

Brief facts of the instant appeal as under:

1. That the appellant is serving against assistant post BPS-16 in education Department.
2. That the appellant was relieved by the respondent No.2 from Buner to directorate of E&SE Education Peshawar (Copy of Order dated 13/12/2018 is attached)
3. That latter on the respondent No. 1 Placed the appellant at the disposal of District Education officer (M) Dir Lower ( copy of endstt No. 24-28 dated 31/01/2019 is attached )
4. That the appellant now left with no choice but to file this departmental appeal inter alia on the following grounds.

Grounds:

A. That both impugned orders of dated 13/12/2018 as well dated 31/01/2019 issued by respondent No. 1 and 2 is against the settled procedure of service Law and facts which is liable to be set a side.

B. That the impugned order No.6230-35 dated 13/12/2018 mentioned above itself speak malafide on the part of respondent NO. 2 and also without lawful authority because the appellant serving as assistant in PBS-16 and according

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S:

*dlr*

*Attended*

to section 2(F) of EOD rules 2011 the respondent No. 2 is not a competent authority to issue such like order against the appellant.

(24)

C. That apparently both the impugned orders of dated 13/12/2018 and 31/01/2019 is against the pronouncement of the superior courts judgements regarding transfer without any reason.

D. That respondent No. 2 malafidely and without lawful authority issued the impugned order dated 13/12/2018 regarding relieved of the appellant hence both the impugned orders mentioned above being violation of service law, rules and void ab initio, needs to be interference.

not  
altered

E. That the appellant have school going kids and also aged parents as the appellant have no other male member in his house and the appellant can easily be adjust and district education office Buner Male and Female.

F. That the appellant has till date served with full devotion and the entire satisfaction of his high ups in this regard one inquiry conducted by deputy commissioner Buner which was latter on decided in favour of appellant but despite the fact his services has been relieved/transferred without assigning any reasons and against the transfer/posting policies specially of the employee of the for flung area, hence both the impugned order of dated 13/12/2018 and 31/01/2019 is need to be reverse by allowing him to

continue his duties in District Education Office male Buner.  
(copy of inquiry report is attached)

G. That legally the respondent No. 2 is not authorized to  
relieve the appellant to for flung area without prior  
permission from the secretary education hence both the  
impugned orders mention above needs to be reversed/set  
aside.

*not  
accepted*

H. That any other grounds will be raised at the time of hearing  
with due permission of this Honourable Court.

It is therefore most humbly prayed that PAYER on  
acceptance of this appeal both the impugned orders mentioned  
above may kindly be cancelled ~~and the office~~ and the appellant  
may kindly be reinstated /placed against assistant post in  
district education office (m) Buner.

Appellant  
Nisar Ahmad

Annex  
"I"  
26

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA**  
**ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.**

**NOTIFICATION**

*Peshawar dated the 16<sup>th</sup> September, 2011.*

**No.SO(REG-VI)E&AD/2-6/2010.**-In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

**1. Short title, application and commencement.**—(1) These rules may be called the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

(2) These shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with affairs of the Province.

(3) These shall come into force at once.

**2. Definitions.**—(1) In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- As per  
attached*
- (a) "accused" means a person in Government service against whom action is initiated under these rules;
  - (b) "appellate authority" means the authority next above the competent authority to which an appeal lies against the orders of the competent authority;
  - (c) "appointing authority" means an authority declared or notified as such by an order of Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder or an authority as notified under the specific laws/rules of Government;
  - (d) "charges" means allegations framed against the accused pertaining to acts of omission or commission cognizable under these rules;

(e) "Chief Minister" means the Chief Minister of the Khyber Pakhtunkhwa;

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(f) "competent authority" means-

- (i) the respective appointing authority;
- (ii) in relation to a Government servant of a tribunal or court functioning under Government, the appointing authority or the Chairman or presiding officer of such tribunal or court, as the case may be, authorized by the appointing authority to exercise the powers of the competent authority under these rules:

Provided that where two or more Government servants are to be proceeded against jointly, the competent authority in relation to the accused Government servant senior most shall be the competent authority in respect of all the accused.

(g) "corruption" means-

- (i) accepting or obtaining or offering any gratification or valuable thing, directly or indirectly, other than legal remuneration, as a reward for doing or for bearing to do any official act; or
- (ii) dishonestly or fraudulently misappropriating, or indulging in embezzlement or misusing Government property or resources; or
- (iii) entering into plea bargain under any law for the time being in force and returning the assets or gains acquired through corruption or corrupt practices voluntarily; or
- (iv) possession of pecuniary sources or property by a Government servant or any of his dependents or any other person, through his or on his behalf, which cannot be accounted for and which are disproportionate to his known sources of income; or
- (v) maintaining a standard of living beyond known sources of income; or
- (vi) having a reputation of being corrupt;

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Musth

- 28
- (h) "Governor" means the Governor of the Khyber Pakhtunkhwa;
  - (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
  - (j) "inquiry committee" means a committee of two or more officers, headed by a convener, as may be appointed by the competent authority under these rules;
  - (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
  - (l) "misconduct" includes-
    - (i) conduct prejudicial to good order or service discipline; or
    - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
    - (iii) conduct unbecoming of Government servant and a gentleman; or
    - (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
    - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
    - (vi) making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
    - (vii) conviction for a moral offence by a court of law.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Province Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) or any other statutory order or rules of Government for the time being in force.



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3. **Grounds for proceedings.**---A Government servant shall be liable to be proceeded against under these rules, if he is-

- (a) inefficient or has ceased to be efficient for any reason; or
- (b) guilty of misconduct; or
- (c) guilty of corruption; or
- (d) guilty of habitually absenting himself from duty without prior approval of leave; or
- (e) engaged or is reasonably believed to be engaged in subversive activities, or is reasonably believed to be associated with others engaged in subversive activities, or is guilty of disclosure of official secrets to any un-authorized person, and his retention in service is prejudicial to national security; or
- (f) entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

*Not  
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Allotted*

4. **Penalties.**---(1) The following are the minor and the major penalties, namely:

- (a) Minor penalties:
  - (i) censure;
  - (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:  

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:
  - (iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;
- (b) Major penalties:
  - (i) reduction to a lower post or pay scale or to a lower stage in a time scale.

- (ii) compulsory retirement;
- (iii) removal from service; and
- (iv) dismissal from service.

(2) Dismissal from service under these rules shall disqualify a Government servant from future employment under Government.

(3) Any penalty under these rules shall not absolve a Government servant from liability to any other punishment to which he may be liable for an offence, under any other law, committed by him while in service.

**5. Initiation of proceedings.**—(1) If on the basis of its own knowledge or information placed before it, the competent authority is of the opinion that there are sufficient grounds for initiating proceedings against a Government servant under these rules it shall either:-

- (a) proceed itself against the accused by issuing a show cause notice under rule 7 and, for reasons to be recorded in writing, dispense with inquiry;

Provided that no opportunity of showing cause or personal hearing shall be given where-

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or
- (ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or
- (iii) a Government servant is involved in subversive activities; or
- (iv) it is not reasonably practicable to give such an opportunity to the accused; or

- (b) get an inquiry conducted into the charge or charges against the accused, by appointing an inquiry officer or an inquiry committee, as the case may be, under rule 11:

Provided that the competent authority shall dispense with the inquiry where-

*not  
substantive*

(3)

- (i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or
- (ii) a Government servant is or has been absent from duty without prior approval of leave:

Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry.

(2) The charge sheet or statement of allegations or the show cause notice, as the case may be, shall be signed by the competent authority.

6. **Suspension.**—A Government servant against whom action is proposed to be initiated under rule 5 may be placed under suspension for a period of ninety days, if in the opinion of the competent authority, suspension is necessary or expedient, and if the period of suspension is not extended for a further period of ninety days within thirty days of the expiry of initial period of suspension, the Government servant shall be deemed to be reinstated:

*nl*  
*nl*

Provided that the competent authority may, in appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave as may be admissible to him, from such date as may be specified by the competent authority.

7. **Procedure where inquiry is dispensed with.**—If the competent authority decides that it is not necessary to hold an inquiry against the accused under rule 5, it shall-

- (a) inform the accused by an order in writing, of the grounds for proceeding against him, clearly specifying the charges therein, alongwith apportionment of responsibility and penalty or penalties proposed to be imposed upon him;
- (b) give him a reasonable opportunity of showing cause against the proposed action, within seven days of receipt of the order or within such extended period, as the competent authority may determine;
- (c) on receipt of reply of the accused within the stipulated period or after the expiry thereof, if no reply is received, determine whether

the charge or charges have been proved against the accused or not:

Provided that after receipt of reply to the show cause notice from the accused, the competent authority, except where the Chief Minister himself is the competent authority, shall decide the case within a period of ninety days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons:

Provided further that if the case is not decided by the competent authority within the prescribed period of ninety days, the accused may file an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period;

- (d) afford an opportunity of personal hearing before passing any order of penalty under clause (f), if it is determined that the charge or charges have been proved against him;
- (e) exonerate the accused, by an order in writing, if it is determined that the charge or charges have not been proved against him; and
- (f) impose any one or more penalties mentioned in rule 4, by an order in writing, if the charge or charges are proved against the accused:

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Provided that where charge or charges of grave corruption are proved against an accused, the penalty of dismissal from service shall be imposed, in addition to the penalty of recovery, if any.

**8. Action in case of conviction or plea bargain under any law.**—Where a Government servant is convicted by a court of law on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices, or has been acquitted by a court of law as a result of compounding of an offence involving moral turpitude under any law for the time being in force, the competent authority, after examining facts of the case, shall-

- (a) dismiss the Government servant where he has been convicted on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices voluntarily:

Provided that dismissal in these cases shall be with immediate effect from the date of conviction by a court of law; and

- (b) proceed against the Government servant under rule 5, where he has been convicted of charges other than corruption or moral turpitude.

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

10. Procedure to be followed by competent authority where inquiry is necessary.---(1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include-

- (a) appointment of an inquiry officer or an inquiry committee, provided that the inquiry officer or the inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall be of a rank senior to the senior most accused;
- (b) the grounds for proceeding, clearly specifying the charges along with apportionment of responsibility;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit written defense to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than seven days and more than fifteen days of the date of receipt of orders.

(2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(3) In a case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary inquiry.

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**11. Procedure to be followed by inquiry officer or inquiry committee.**---(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

(4) Statements of witnesses and departmental representative(s), if possible, will be recorded in the presence of accused and vice versa.

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.

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(6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.

(7) The inquiry officer or the inquiry committee, as the case may be, shall submit his or its report, to the competent authority within thirty days of the initiation of inquiry:

Provided that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of the inquiry.

**12. Powers of the inquiry officer or inquiry committee.**---(1) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act No.V of 1908), in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;

- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be the judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

**13. Duties of the departmental representative.**---The departmental representative shall perform the following duties, namely:

- (a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused, and with the permission of the inquiry officer or inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and
- (c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

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**14. Order to be passed on receipt of report from the inquiry officer or inquiry committee.**---(1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rule.

(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall-

- (a) Inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;

- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him: provided that the accused shall, in his reply to show cause notice, indicate as to whether he wants to be heard in person or not;
- (c) Provide a copy of the inquiry report to the accused; and
- (d) Direct the departmental representative to appear, with all the relevant record, on the date of hearing.

(5) After affording personal hearing to the accused the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or inquiry committee, as the case may be, facts of the case and defense offered by the accused during personal hearing, by an order in writing-

- (i) Exonerate the accused if charges had not been proved; or
- (ii) Impose any one or more of the penalties specified in rule 4 if charges have been proved.

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(6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee.

(7) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the competent authority shall decide the case within a period of fifteen days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.

(8) If the case is not decided by the competent authority within the prescribed period of fifteen days, the accused may submit an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period.

**15. Personal hearing.**—The competent authority may, by an order in writing, call the accused and the departmental representative, alongwith relevant record of the case, to appear before him, for personal hearing on the fixed date and time.



**16. Procedure of inquiry against Government servant lent to other governments or organizations etc.**---(1) Where the services of Government servant to whom these rules apply are transferred or lent to any other government department, corporation, corporate body, autonomous body, authority, statutory body or any other organization or institution, hereinafter referred to as the borrowing organization, the competent authority for the post against which such Government servant is posted in the borrowing organization may-

- (a) Suspend him under rule 6; and
- (b) Initiate proceedings against him/her under these rules:

Provided that the borrowing organization shall forthwith inform the authority which has lent his services, (hereinafter referred to as the lending organization) of the circumstances leading to the order of his suspension or the initiation of the proceedings, as the case may be:

Provided further that the borrowing organization shall obtain prior approval of the competent authority in the lending organization before taking any action under these rules against a Government servant holding a post in basic pay scale 17 or above.

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(2) If, in the light of findings of the proceedings taken against the accused in terms of sub rule (1), the borrowing organization is of the opinion that a penalty may have to be imposed on him, it shall transmit the record of the proceedings to the lending organization, and the competent authority in the lending organization shall thereupon take action against the accused under rule 14.

(3) Notwithstanding anything to the contrary contained in sub-rules (1) and (2), the Chief Minister may, in respect of certain Government servant or class of Government servants to whom these rules apply, authorize any officer or authority in the borrowing organization to exercise all the powers of the competent authority under these rules.

**17. Departmental appeal and review.**---(1) An accused who has been awarded any penalty under these rules may, within thirty days from the date of communication of the order, prefer departmental appeal to the appellate authority:

Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.

(2) The authority empowered under sub-rule (1) shall call for the record of the case and comments on the points raised in the appeal from the concerned

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department or office, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

- (a) Uphold the order of penalty and reject the appeal or review petition; or
- (b) Set aside the orders and exonerate the accused; or
- (c) Modify the orders or reduce the penalty.

(3) An appeal or review petition preferred under these rules shall be made in the form of a petition, in writing, and shall set forth concisely the grounds of objection in impugned order in a proper and temperate language.

**18. Appearance of counsel.**—No party to any proceedings under these rules at any stage of the proceedings, except proceedings under rule 19, shall be represented by an advocate.

**19. Appeal before Khyber Pakhtunkhwa Province Service Tribunal.**—(1) Notwithstanding anything contained in any other law or rules for the time being in force, any Government servant aggrieved by any final order passed under rule 17 may, within thirty days from the date of communication of the order, prefer an appeal to the Khyber Pakhtunkhwa Province Service Tribunal established under the Khyber Pakhtunkhwa Province Service Tribunals Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974).

(2) If a decision on a departmental appeal or review petition, as the case may be, filed under rule 17 is not communicated within a period of sixty days of filing thereof, the affected Government servant may file an appeal in the Khyber Pakhtunkhwa Province Service Tribunal within a period of thirty days of the expiry of the aforesaid period, whereafter, the authority with whom the departmental appeal or review petition is pending, shall not take any further action.

**20. Exception.**—Notwithstanding anything to the contrary contained in these rules, in cases where Government servants collectively strike work, wilfully absent themselves from duty or abandon their official work, the competent authority in respect of the senior most accused may serve upon them, through newspapers or any other mean, such notice as may be deemed appropriate to resume duty and in the event of failure or refusal to comply with the directive contained in the notice, impose upon the defaulting Government servants any of the major penalties prescribed in these rules.

**21. Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the competent authority or any other authority for anything done or intended to be done in good faith under these rules or the instructions or directions made or issued there-under.

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22. **Jurisdiction barred.**—Save as provided under these rules, no order made or proceedings taken under these rules shall be called in question in any court and no injunction shall be granted by any court in respect of any decision so made or proceedings taken in pursuance of any power conferred by, or under these rules.

23. **Repeal.**—(1) The Khyber Pakhtunkhwa government servants (Efficiency & Discipline) Rules, 1973 are hereby repealed.

(2) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any Government servant under repealed rules shall continue under these rules.

(3) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any employee under the said repealed rules or under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and rules made thereunder, or any other law and rules shall continue under that law and rules, in the manner provided thereunder.

SECRETARY TO  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT.

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**GOVERNMENT OF THE KHYBER PAKHTUNKHWA**  
**ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.**

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**NOTIFICATION**

*Peshawar dated the 18<sup>th</sup> July, 2012.*

No.SO(REG-VI)E&AD/2-6/2010.-In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules,2011, the following amendments shall be made, namely:

**AMENDMENTS**

1. In rule 4, in sub rule (1), in clause (b), for sub-clause (i), the following shall be substituted, namely:

“(i) reduction to a lower post of pay scale or to a lower stage in a time scale for a maximum period of five years:

Provided that on restoration to original pay scale or post, the penalized Government servant will be placed below his erstwhile juniors promoted to higher posts during subsistence of the period of penalty;”.

2. In rule 8, in clause (a), in the proviso, the word “immediate Committee”, occurring second time, the words “subject to sub-rule (7) of rule 11” shall be added.

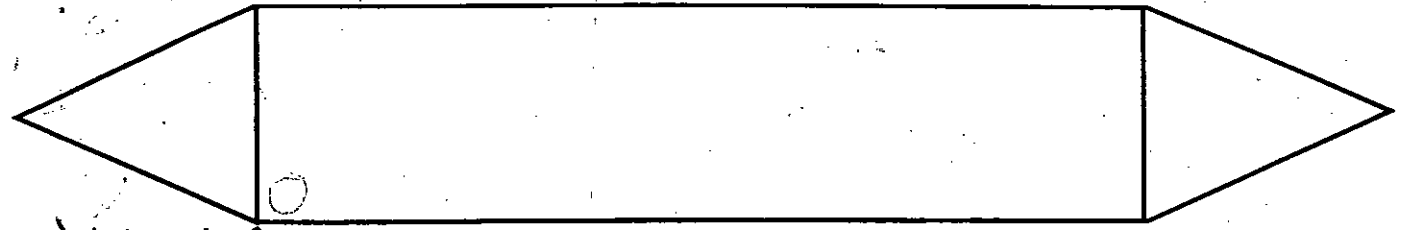
3. In rule 14, in sub-rule (6), after the words “Inquiry Committee”, occurring second time, the words “subject to sub-rule (7) of rule 11” shall be added.

4. In rule 19, in sub-rule (2), for the word “thirty”, the word “ninety” shall be substituted.

5. Rule 22 shall be deleted.

**CHIEF SECRETARY**  
**GOVERNMENT OF KHYBER PAKHTUNKHWA**

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مورخہ 2019ء منجانب سید علی حسین  
 مقدمہ شاد احمد بنام سید محمد علی Director  
 دعویٰ سروس ایس ایس  
 جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکل کارروائی متعلقہ آن مقام کے لئے اسرار احمد صاحب مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک نہ روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمد اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پداختہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہے تو وکیل صاحب پابند نہ ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 22 ماہ جولائی 2019ء

العبد گواہ شاد احمد

بمقام سید علی حسین کے لئے منظور ہے۔  
 Accepted  
 18/7/19  
 Advocate