

21.07.2016

Appellant in person present and submitted an application requesting for withdrawal of his appeal because his grievances have been redressed by the respondent-department. Request is accepted. His signature should be obtained on the margin of the order sheet as acknowledgement of withdrawal of the appeal. The appeal is dismissed as withdrawn. File be consigned to the record room.





ANNOUNCED
21.07.2016


MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 320/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	31.03.2016	<p>The appeal of Mr. Muhammad Arif resubmitted today by Mr. Arbab Sheraz Khan 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</p>
2	31-3-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>13.4.16</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	13.4.2016	<p>Appellant in person present. Seeks adjournment as his grievances are considered by the department. Adjourned for preliminary hearing to 11.05.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	11.5.2016	<p>Learned counsel for the appellant seeks further adjournment as the departmental proceedings are in progress. Adjourned for preliminary hearing to 21.07.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

Mian Muhammad Arif
NIC# 17301-0268752-1

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A
B

181

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31-3-18

13.4.18

17

Handwritten notes or stamps, possibly including a date or reference number, located in the bottom right corner of the page.

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

WITHDRAWL OF SERVICE APPEAL NO.320/2016

Title: Muhammad Arif V E R S U S Government of Khyber
Pakhtunkhwa and others (Respondents)

Respectfully Sheweth:

FACTS:

1. That the Appellant made an Appeal before this Hon'ble Tribunal when his departmental representation against his dismissal from service was not replied within due time by the Appellate Authority/Chief Minister, Khyber Pakhtunkhwa.
2. That later on, consequent upon acceptance of the departmental representation by the Appellate Authority/Chief Minister, Khyber Pakhtunkhwa, the appellant was reinstated in service with all back benefits vide Elementary & Secondary Education department Notification No. SO(S/M)E&SED/4-17/2014 dated June 14,2016.
3. As all the grievances of the appellant have been solved, therefore the appellant may kindly be allowed to withdraw his service appeal.

July 21,2016

APPELLANT:


Muhammad Arif

Subject Specialist

Elementary & Secondary
Education Department, KP



Dated Peshawar the June 14, 2016

NOTIFICATIONNO.SO(S/M)E&SED/4-17/2014/M. Arif SS & Dure Shehwar SDEO (F) Peshawar:

WHEREAS Mr. Muhammad Arif, SS Economics BS-17 GHSS Hazar Khawani District Peshawar) was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. AND WHEREAS Mr. Sohail Khan, PAS (BS-18) Deputy Commissioner Dir Lower was appointed as inquiry officer to conduct formal Inquiry against Mr. Muhammad Arif, SS Economics BS-17 GHSS Hazar Khawani District Peshawar for the charges leveled against him in accordance with the rules.

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

4. AND WHEREAS a show cause notice was served upon Mr. Muhammad Arif, SS Economics BS-17 GHSS Hazar Khawani District Peshawar) which was conveyed to the accused on 10-09-2014, in pursuance of the above inquiry.

5. AND WHEREAS the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, explanation of the accused officer in response to the Show Cause Notice and personal hearing granted to him by Chief Secretary Khyber Pakhtunkhwa on 07-07-2015 at 1000 hours, concluded that the charges against the accused officer have been proved.

6. AND WHEREAS, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) was pleased to impose major penalty of "Dismissal from service" upon Mr. Muhammad Arif, SS Economics BS-17 GHSS Hazar Khawani District Peshawar vide this Department notification of even number dated 14-10-2015.

7. AND WHEREAS, Mr. Muhammad Arif, preferred an appeal to the Chief Minister/appellate authority under Rule-17 of the Rules ibid against this Department notification of even number dated 14-10-2015.

8. AND WHEREAS, The Secretary Labour Department afforded him an opportunity of personal hearing on behalf of the Chief Minister/appellate authority on 16-05-2016 and recommended exoneration of Mr. Muhammad Arif SS Economics BS-17 GHSS Hazar Khawani District Peshawar .

9. NOW THEREFORE, in exercise of the powers conferred under Rule-17 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011, the Chief Minister/appellate authority is pleased to exonerate Mr. Muhammad Arif SS Economics BS-17 GHSS Hazar Khawani District Peshawar from the charges levelled against him and to re-instate him into service w.e.f 14-10-2015 with all back benefits.

SECRETARY

Endst: of Ever. No. & Date:

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3- District Education Officer (Male), Peshawar.
- 4- Mr. Muhammad Arif, Subject Specialist Economics BS-17 GHSS Hazar Khawani District Peshawar.
- 5- PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 6- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 7- PA to Additional Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 8- Office order file.




(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

The appeal of Mr. Muhammad Arif Subject Specialist GHSS Chamkani Peshawar received to-day i.e. on 15.03.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Copies of reply to charge sheet and show cause notice mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal may be attested.
- 4- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 448 /S.T,

Dt. 16/3 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Arbab Sheraz Khan Adv. Pesh.

The case is resubmitted after fulfilling all the deficiencies. Please.


Muhammad Arif

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 320/2016

Muhammad Arif Ex -Subject SpecialistAppellant

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber
Pakhtunkhwa, Civil Secretariate, Peshawar and other.....Respondents

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Appellant

Through


Arbab Sheraz Khan

&


Naveed Khan

Advocated High Court, Peshawar

Cell No. 0333-9144439

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 320 /2016

**W.P. Province
Service Tribunal
Diary No 225
Dated 15-3-2016**

Muhammad Arif Ex-Subject Specialist, Government Higher
Secondary School Chamkani, Peshawar (Elementary &
Secondary Education Department(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariate, Peshawar
2. The Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariate, Peshawar.
3. The Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Civil Secretariate, Peshawar
(Respondents)

**APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER
DATED 14/10/2015 WHEREBY THE APPELLANT WAS
DISMISSED FROM SERVICE AND NOT TAKING ACTION
ON THE DEPARTMENTAL APPEAL OF THE APPELLANT
WITHIN THE STATUTORY PERIOD OF NINETY DAYS**

~~Filed to-day~~
[Signature]
Registrar
15/3/16

PRAYER IN APPEAL:

On acceptance of this appeal, the impugned order dated 14/10/2015 may be set aside being passed in the violation of law and rules. The respondent departments may please be

~~re-submitted to-day~~
~~and filed.~~
[Signature]
Registrar 31/3/16

directed to reinstate the appellant with all back and consequential benefits.

Any other remedy which this august Tribunal deems fit and appropriate may also be awarded in favour of the appellant.

Respectfully Sheweth:

FACTS:

1. That, appellant was serving as Subject Specialist Economics (BPS-17) in Elementary & secondary Education Department at GHSS Chamkani, District Peshawar. And has served about 18 years in Elementary & secondary Education Department.
2. That the appellant was appointed as Superintendent in the BDS 1st Professional Examination by the Khyber Medical University, Peshawar at the Abbottabad International Medical College, Abbottabad w.e.f 21/03/2014 to 31/03/2014 and performed duty with the prior permission of the head of the institution.
3. That a pseudonymous complain has allegedly been received to Additional Secretary, Elementary & secondary Education Department through email on his personal email address on 07/04/2014 from one Dr. Muhammad Tariq in which an erroneous story was

narrated against the appellant in which the complainant stated that the appellant demanded Rs. 150,000/- as bribe for helping his son during the exam but he managed to handover Rs. 100,000/- through one Mst. Durre Shawar, Deputy Superintendent of the exam hall as a broker or otherwise.

4. That after receiving the pseudonymous complain via email, the appellant was served with the charge sheet while Muhammad Suhail, Deputy Commissioner Lower Dir was appointed as Inquiry Officer to conduct inquiry against the appellant along with Durre Shawar. The said charge sheet was duly replied by the appellant in which he denied all the allegations therein. (Copies of Charge Sheet and replies are annexed as annexure "A" & "B").
5. That at the same time and parallel to the departmental inquiry, the case was also referred to Anti-corruption Establishment, Khyber Pakhtunkhwa to probe into the matter.
6. That on the basis of departmental inquiry, the appellant was served with the Show Cause notice which was duly replied by the appellant in which too he denied all the allegations therein. (Copies of Show cause and replies are annexed as annexure "C" & "D").
7. That the appellant was called for personal hearing on 27-11-2014 but personal hearing was postponed due to

unavailability of Anti-corruption Establishment report. The appellant was again called for personal hearing on 08-7-2015 but hearing was again postponed due to unavailability of Exoneration Notification of Dr. Muhammad Tariq (the Complainant). However the appellant was imposed major penalty of dismissal from service as specified under E&D Rules 2011 on October 14, 2015, without conducting personal hearing. (copy of dismissal from service order is attached as annexure "E").

8. That, against the dismissal order, the appellant filed departmental appeal/ representation to the Chief Minister Khyber Pakhtunkhwa (Appellate Authority) on dated 19/11/2015, which was not responded within the statutory period of ninety days. (Copy of departmental appeal is attached as annexure "F").

9. That, now the appellant has no other remedy but constrain to file the instant appeal on the following grounds amongst others:

GROUND:

A. That the impugned order dated 14/10/2015 and not taking action on the departmental appeal of the appellant is against the law, rules, norms of justice and material on record. Therefore is not maintainable and is liable to be set aside.

- B. That, the case of misconduct and corruption against the appellate has not made out beyond the shadow of doubt, therefore the penalty imposed on the appellant is liable to be set aside.
- C. That it is pertinent to mention here, that the complainant namely Dr. Muhammad Tariq appear before the inquiry officer and denied the email and giving bribe to anyone to facilitate his son in the exam. He also stated that his son has failed in the said exam.
- D. That Mst Dure Shwar also stated in her written statement that the charge of a broker against her is not correct which means that she has not given the appellant the so-called bribe.
- E. That, the inquiry officer has not enquired about the mobile number from which Mr. Arif and Mst. Durre Shwar were contacted.
- F. That, the so-called complainant Dr. Muhammad Tariq and Mr. Aurangzeb refused ownership of the voice in the audio recording. The same was not sent for F.S.L by the inquiry officer.
- G. That, when the complainant disown the Complaint (email), the inquiry officer/ department did not inquire

about owner of the email by verifying the email address from which email complaint was received.

H. That, the complainant refused the ownership and genuineness of the complaint and as such the complaint became pseudonymous but contray to the policy instructions regarding anonymous/ pseudonymous complaints, disciplinary action was initiated against the appellant on the basis of a pseudonymous complaint.

I. That, the appellant has performed the duties as superintendent in the examination hall with the permission of the principal and with full commitment and probity. Moreover, no complaint has been raised by any one from any quarter during the process of examination.

J. That, the principal accused Dr. Muhammad Tariq (BPS-18)/ Complainant has been exonerated by the Chief Minister, Khyber Pakhtunkhwa in the capacity of Competent Authority vide Notification No.SOH(E-V)1-933/2014 (Annex "G") with specific remarks that the charge of misconduct—by trying to purchase a Govt. Officer Mr. Muhammad Arif, Subject Specialist for getting illegal advantage to extend unfair help to a student in the BDS 1st professional exam , as the charges of misconduct against the doctor is not proved. As the charge of misconduct against Dr. Muhammad Tariq has

not been proved meaning thereby that Dr. Muhammad Tariq has not even tried to purchase the appellant, then there arises no question of penalizing the appellant on the basis of one and the same charge.

- K. That, the Chief Secretary Khyber Pakhtunkhwa was not the competent authority to order dismissal of the appellant from service rather the legal right of the Competent Authority lies with the Chief Minister, Khyber Pakhtunkhwa under (Rule-2 (f) (ii) of the Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline Rules, 2011)
- L. That, in the instant case, the Anti-Corruption Establishment, Peshawar in its final report has recommended filling of the case and categorically declared the complaint as fake and fabricated one as the complainant has denied the ownership of the complaint and plainly refused giving any gratification to the appellant or anybody else. In its final report, the Anti-corruption Establishment has exonerated the appellant from the charges leveled against him. (Copy of report is attached as annexure "H").
- M. That he appellant has been condemned unheard and has not been treated according to law and rules.
- N. That according to judgment of august supreme court, the departmental appeal of the appellant should be

responded as reported in 2011 SCMR-01, but despite that no action was taken on the departmental appeal of the appellant which proves malafide on part of the respondent department.

O. That any other grounds will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

It is therefore prayed that on acceptance of this appeal, the impugned order dated 14/10/2015 may be set aside being passed in violation of the law and rules. The respondents department may please be directed to reinstate the appellant with all back and consequential benefits.

Any other remedy which this august Tribunal deems fit and appropriate may also be awarded in favour of the appellant.

APPELLANT:  **Muhammad Arif**

THROUGH:

Dated: 15/03/2016


Arbab Sheraz Khan

&


Naveed Khan

Advocates High Court,

Peshawar

(9)

Annexure (A)

CHARGE SHEET

I, Amjad Ali Khan, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Muhammad Arif, Subject Specialist (BS-17) GHSS Chamkani District Peshawar, as follows:-

That you, while posted as Subject Specialist (BS-17) GHSS Chamkani District Peshawar, committed the following irregularity:

- i) "Performed duty as Superintendent in BDS 1st year Examination in Abbottabad International Medical College Abbottabad without prior approval/ permission of E&SE Department.
- ii) Demanded Rs.1,50000/- as bribe in return to facilitate son of Mr. Tariq
- iii. Received Rs.100000/- as bribe for the above purpose through Ms Dure Shehwar SDEO (Female) Peshawar."

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

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

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

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

6- A Statement of Allegations is enclosed.

Attested
&
Accepted

Amjad Ali Khan

16/5/2014

(AMJAD ALI KHAN)

CHIEF SECRETARY KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Muhammad Arif, Subject Specialist
(BS-17) GHSS Chamkani District Peshawar.

To

Mr. Sohail Khan
Inquiry Officer/ Deputy Commissioner
Lower Dir at Timergera

Subject: CHARGE SHEET

Sir

Refer to the Notification issued vide No. SO(S/M) E&SED/4-11/ 2014 Muhammad Arif SS dated 14-5-2014, alongwith copy of the statement of allegations. My humble submissions are as under.

That I have performed my duty as superintendent in BDS 1st year examination in Abbottabad international Medical College Abbottabad with the prior approval and consent of the Principal GHSS Chamkani, and the same practice is in vogue since long. There is no violation of any rule or practice. I have performed my duty honestly, diligently, showing no ill-will of favor to any examinee.

That so far the allegation of demanding bribe or illegal gratification is concerned through Ms Dure Shehwar SDEO (female) Peshawar, I have neither any knowledge of it nor I am privy to any of such bargain.

Moreover offering bribe/Gratification itself is an offence punishable under the law and to offer such bribe the act of complainant (Mr. Tariq) is tantamount to committing an offence under the Pakistan Penal Code that is a cognizable offence.


An offender has charged an innocent person who has performed his duty up to the satisfaction of his superiors and nobody else has raised finger to his performance.

I am innocent and the charges are false, fabricated, unfounded and untenable under the law, Hence the allegations are worth to be withdrawn.

I also reserve the right to suit the complainant in the court for giving me mental torture and agony without any substantial proof.

Sir I will produce defence and wished to be heard in person.

Dated: 27-05-2014


Muhammad Arif
Subject Specialist (BPS-17)
GHSS Hazar Khawani
District Peshawar

REPORT OF THE ENQUIRY AGAINST Mr. MUHAMMAD ARIF, SUBJECT
SPECIALIST AND Ms. DURRE SHEHWAR, SDEO (F), PESHAWAR

Mr. Muhammad Arif, SS, was appointed as Superintendent in the BDS, 1st Professional Examination held at the Abbotabad International Medical college, Abbotabad w.e.f 21.3.2014 to 31.3.2014 (Flag-A). One, Mr. Tariq, approached Secretary Elementary & Secondary Education via email dated April 7, 2014; stating that Mr. Muhammad Arif demanded Rs. 150,000 as bribe for helping his son during the exam but he managed to handover Rs. 100,000 instead. In yet another email text, Dr. Tariq promised of providing relevant proof which he provided in the shape of audio recording of two phone calls made to Mr. Muhammad Arif and Ms. Durre Shehwar (Flag-B). Based on the information, Charge Sheets/Statement of Allegations were issued to Mr. Muhammad Arif, Ex- Subject Specialist GHSS Chamkani and Ms. Durre Shehwar, SDEO (F), Peshawar under Notification NO.SO(S/M) E&SED/4-17/2014/Muhammad Arif SS dated 14/5/2014 (Flag C) and the undersigned was appointed as inquiry officer to scrutinize conduct of the officers and submit report.

Issues before the undersigned were to ascertain as to whether Mr. Muhammad Arif performed duty as Superintendent in BDS 1st year examination in Abottabad International Medical College, Abottabad without prior approval/ permission of E & SE Department; he demanded Rs 150,000 as bribe for facilitating son of Mr. Tariq and received Rs 100,000 for the above purpose through Durre Shehwar, SDEO (F) as a broker or otherwise.

Attested & Accepted
[Signature]

PROCEEDINGS:

Both the accused were directed to submit written defense and to appear for personal hearing on 5.6.2014 (Flag D). The accused officers submitted written replies to the allegations/Charges which are placed at (Flags E & F). The audio recordings were played before the accused officers and written statements were obtained from both of them regarding the conversation in the recordings. Both attested that the voices were theirs. The SDEO admitted the money transaction referred to in the recording but denied its relevance with the examination. Mr. Arif, on the other hand, states that Mr. Tariq was an unknown person for him and that he later on called Durre Shahwar for confirmation but she denied the transaction. Mr. Arif further states that he was tackling the issue of "blame for the examination hall" while driving his car. Therefore, he could not focus on the content of the phone call (flags G & H). Both the accused were asked certain questions; who denied all the charges being baseless and malafide (I & J).

[Signature]

The SDEO while commenting in-writing on the audio recording, admitted that Mr. Aurangzeb and Mr. Muhammad Ayaz (Both Ex Assistant District Education Officers) contacted her for extending help to their relative. Therefore, both the officers alongwith Dr. Muhammad Tariq, the Complainant, were asked to attend office of the undersigned on 17.6.2014 (Flag K). In his response to the Questionnaire, Mr. Aurangzeb (now AD) refused the voice in the recording to be his but admitted that he had requested Durre Shahwar to extend help to his relative. He further informed that his relative had failed again (Flag L). Mr. Muhammad Ayaz (Assistant Director, Basic Education Improvement Programme, Directorate of Elementary & Secondary Education) stated that he had just called her to help the relative of Mr. Aurangzeb (Flag M). Dr. Muhammad Tariq, strange enough, even refused his voice in the recording and payment to Durre Shahwar but he said his son had failed again. He disowned the complaint even (Flag N).

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Similarly, Mr. Arif, while giving assurance to the caller of his support rendered to the student (in the audio recording), named two other persons namely, Mr. Atif and Mr. Innam. Mr. Innam had requested for advancing help to the student while Mr. Atif was the outside "Helper". All this further prove the charges leveled against him.

Commenting on authorization for the exam duty, both the officers claimed that they had obtained proper permission as per past practice. Supporting his point, Mr. Muhammad Arif submitted Appointment Letter from the Deputy Controller of Khyber Medical University (as if he is the employee of the University) and a certificate from the Principal of his School (Flag O). It may be pointed out that KMU is an independent entity working and controlled by its statute with regulatory role of Higher Education Department and Health Department. The Elementary & Secondary Education Department, however, is a distinct Provincial Government Department which has not been taken on board before sending its employee for exam duty at a private medical college.

Attested
&
Accepted
[Signature]

Ms. Durre Shahwar, on the other hand, has not been allowed even by the KMU. She presented only an application addressed to Director E & SE, with forwarding signature of the Dy. Director (Dev.), asking for the exam duty and, on the pretext, to see her son studying there. This is the document which led her to claim that she has been allowed for the duty. No formal permission of the Department was obtained for attending the dubious exam duty (Flag P).

The E & SE Department has not devised any Policy/ Guidelines for exam duty at a University/Private college. Some guidelines are, however, available in the shape of minutes of the meetings which provide a base for such duties at the BISEs- attached formations of the E & SE Department (Flag Q).

LIMITATION:

Mr. Arif, in the audio recording, named two persons namely, Mr. Innam and Mr. Atif who played important roles in the illegal deal. Mr. Innam, according to Mr. Arif, called him to extend help to the student and Mr. Atif helped in transmitting the cheating material to the student via his mobile phone. However, due to the limited time allotted for completing the instant inquiry, Mr. Innam and Mr. Atif could not be called for taking their statements. In the interest of justice, however, both the persons may be located with the help of Mr. Arif and Mr. Auragzeb and proceeded against under the relevant law.

FINDINGS:

1. Neither Mr. Muhammad Arif nor Ms. Durree Shahwar could produce any document which shows that prior approval of Elementary & Secondary Education Department was obtained for taking the exam duty at the private Medical College at Abbottabad.
2. Based on the audio recording, written statements and his response to the Questionnaire, Mr. Arif has extended the illegal help to the student in return of Rs. 100,000 as bribe. This is evident from his confessions in the audio recording regarding extending the required help and the trust in the co-accused, Ms. Durre Shehwar.

3. Similarly, the charge leveled against ~~Ms. Durre Shahwar of being a broker~~ has also been proved. Mr. Arif confirms that she had requested him for the help. Being interested, she went as an invigilator in the said exam even without taking the pain of getting formal permission of her administrative department. Moreover, she confirms, in the audio recording, that the amount has been paid to Mr. Arif. The counter argument she forwarded in writing, after hearing the audio recording, that the contents in the audio recording are not in the context of examination is baseless as she herself talks about the situation in the hall and complains about the behavior of Mr. Arif; assuring the caller that the student solved all the questions with courage. She rejoiced and thanked Allah that the exam ended peacefully.
4. It is proved further, that Mr. Aurangzeb and Mr. Muhammad Ayaz (Assistant Directors in the Directorate of E & SE) requested Ms. Durre Shahwar for extending help to the student. This point is clear from the written statements of all the three. Moreover, Mr. Arif also admitted in the audio recording that Ms. Durre Shahwar and one Mr. Innam had requested him for helping the student.
5. During telephonic conversation allegedly with Dr. Tariq, Mr. Arif recognizes the student, recalls the way he was helped, comments upon the behavior of the person (Mr. Atif) who was tasked to help from outside through mobile phone and criticized disclosing of the secret by the Helper.
6. Mr. Arif and Ms. Durre Shahwar know each other well and have long and durable working relationship (10/12 years as stated by Mr. Arif in the audio recording). They trust each other and cannot afford to discontinue the mutually beneficial business of extracting money from exam duties. It is evident from the voice recording that although the amount (Rs. 100,000) had not been handed over to Mr. Arif till the call was made to him, allegedly by Dr. Tariq, but he did not allow the caller to discuss it with Ms. Durre Shahwar telling that he himself will discuss the matter with her at an appropriate occasion. Mr. Arif further told that if he felt that his son had been helped out in the exam then he needed not worry about the money; that he should consider that That money had been received to him.
7. Mr. Aurangzeb knew the working relationship between the accused, therefore, he tried to strike the deal between them and Dr. Tariq who is his relative. Knowing that his relative (the student) was not helped out; he tried to punish both by managing the call recordings although he refused the voice to be his. Had his relative been helped the way he desired, the scam would not have surfaced even.
8. Mr. Aurangzeb has been the active player and the side broker who managed the business and remained instrumental in the whole episode. Still, he managed to escape the departmental inquiry and tries to conceal his involvement by refusing to admit the voice in the recording to be his voice.
9. Dr. Muhammad Tariq disowned the complaint in his written statement mainly because of the fact that he along with Mr. Aurangzeb might have been threatened to be sued as the Doctor himself was equally involved in the illegal transaction like the other active players.

Attested
&
Accepted
[Signature]

[Handwritten mark]

Recommendations:

- I. Mr. Muhammad Arif, Subject Specialist, and Ms. Durre Sahwar, SDEO (F), may be issued Show Cause Notices for imposing the major penalty of dismissal from service as specified under E & D Rules, 2011 as the charges have been proved against them beyond any doubt.
- II. Although there seemed close resemblance between his voice and the voice in the recording, Mr. Aurangzeb, Assistant Director, Basic Education Improvement Programme, Directorate of Elementary & Secondary Education, denied his voice in the audio recording. During the personal hearing, he took the plea that the modern technology has made it possible to manipulate the voices. It is, therefore, suggested that the matter may be inquired through an expert competent to decide whether the voice in the recordings is of Mr. Aurangzeb or otherwise. If it proves in affirmative then he may also be served with a show cause notice for removal from service. However, one step demotion is presently recommended for him on the basis of his proved involvement to the extent that he requested Ms. Durre Shahwar for extending the "help" to the student.
- III. Similarly, one step demotion is recommended for Mr. Muhammad Ayaz, Assistant Director, Basic Education Improvement Programme, Directorate of Elementary & Secondary Education, who too asked for the "help" on the dent of his official position.
- IV. Dr. Muhammad Tariq, Manager Prime Minister Programme, District Health Office, Swabi, the complainant, may be issued charge sheet/statement of allegations through Health Department for misconduct as he tried to purchase government officers for getting undue and illegal advantage.

Attested & Accepted
[Signature]

[Signature]

(Muhammad Suhail Khan)
INQUIRY OFFICER/DEPUTY COMMISSIONER,
DIR LOWER.

15

REGISTERED



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

No.SO(S/M) E&SED/4-17/2014/M. Arif & Durre Shehwar SDEO Peshawar
Dated Peshawar the September 10, 2014

To

Mr. Muhammad Arif Subject Specialist Economics
BS-17 GHSS Hazar Khwani District Peshawar.

Subject: - **SHOW CAUSE NOTICE**

I am directed to refer to the subject noted above and to enclose herewith a copy of the Show Cause Notice wherein the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) has tentatively decided to impose upon you the Major Penalty of "**Dismissal from Service**" under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges leveled against you.

2. You are therefore directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and **also intimate whether you desire to be heard in person.**
3. Your reply should reach to this Department **within Seven (07) days** of the delivery of this letter otherwise ex-parte action shall be taken against you.
4. Copy of the inquiry report is enclosed herewith.

Encl: As Above:

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

- i. Director E&SE Khyber Pakhtunkhwa Peshawar.
- ii. PS to Secretary E&SE Khyber Pakhtunkhwa Peshawar.

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

SECTION OFFICER (SCHOOLS/MALE)

SHOW CAUSE NOTICE

I, Amjad Ali Khan, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Ms. Durre Shehwar Sub Divisional Education Officer (Female) BS-17 Peshawar as follows:-

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

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

- (a) Guilty of Misconduct
- (b) Guilty of Corruption

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

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

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

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

(AMJAD ALI KHAN)
CHIEF SECRETARY KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Ms. Durre Shehwar Sub Divisional Education Officer
(Female) BS-17 Peshawar

Annex IX

(17)

Annexure

(B)

To

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar
(Competent Authority)

Subject: REPLY TO THE SHOW CAUSE NOTICE

Attested
&
Accepted
[Signature]

Dear Sir,

With due regards and humble submissions, the following reply is submitted to the Show Cause notice served upon me under the SO (Schools/Male) letter No. SO(S/M) E & SE/4-17/2014/M. Arif & Durre Shawar, SDEO, Peshawar dated 10/9/2014. The said show Cause Notice was received by me on 16/9/2014.

In the Show cause Notice, it has been conveyed to me that the charges of Misconduct & Corruption have been proved against me in light of the findings and recommendations of the inquiry officer, the material on record and other connected papers including my defense before the inquiry officer. I categorically emphasize that nothing has been proved from the enquiry proceedings except a fabricated plot against me. I express extreme sorrow that the concerned officers have not analyzed the findings of inquiry report, material on record and the arguments or proof put forth by the accused officer in his defense.

In the midst of these circumstances, with utmost regards and respect, you are beseeched that in the capacity of a Competent Authority, you are divinely duty bound not only under the relevant laws but under all canons of equity and Justice that you may apply your objective, neutral, unbiased and rationalistic mind before agreeing or disagreeing with the material put forth to you by the Administrative Departments or inquiry officer or by the accused officers. Sir, I will request your honour with great expectations that you may please analyze, scrutinize and examine the case with utmost objectivity, neutrality and with rationalistic manner

[Signature]

1

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so that real justice could be ensured to the so called accused as action against them have futuristic negative consequences upon all family members of the victim employ and will also be a cause of ruining the honour and future career of an entire family for no fault on their part. It is the situation in my case.

Sir, now I will dare to draw your attention to the following facts:-

Attested
&
Accepted



(1) In the charge sheet, I have been charged with the allegations that I have performed the duty of superintendent in the examination without permission and that I had demanded Rs. 150000 as bribe from one Mr. or Dr. Tariq to facilitate his son in the 1st year BDS exam at Abbottabad and received Rs. 100000 through Mst Durre Shawar. In this connection it is submitted that:-

- (i) First of all it may be stated that examination duties are assigned to personnels of the education department by the examining bodies and the employees concerned with prior permission of their immediate officers perform the duties. I was assigned the duty of superintendent in the said examination by the Controller of Examinations, Khyber Medical University. In my case the allowing authority was the Principal GHSS Chamkani who had permitted me to do the task assigned to me by the KMU. (Annexure-I). I have not violated any policy/ rule devised by E & SE department.
- (ii) It is also stated that I have never demanded any gratification from Dr. Tariq or from anybody else. Neither the so called complainant has mentioned it nor there any other proof in this regard. It is also evident from my talks with the caller in the audio recording that such a thing has never been acceptable to me neither I shall accept such a thing ever at any cost.
- (iii) As I have not demanded anything/amount from anyone, therefore the question of receipt of the amount does not arise.



2

(2) Besides the above, there are two materials on record on which the enquiry officer based his proceedings, namely

(a) A pseudonymous complaint received to Mr. Qaisar Alam, Addl. secretary, E&SE Deptt: on his personal email address from the email of some Palwash100@yahoo.com with the name of Dr. Tariq as complainant. However the said Dr. Tariq has categorically denied in writing before the inquiry officer that he has not sent any complaint (Flag N of the inquiry report). When the complainant disowned his so called complaint, this complaint becomes pseudonymous and cannot be made basis for construction of some inferences therefrom as under the specific policy of the Government anonymous and pseudonymous complaints should not be entertained and the same may be filed straightaway. In this very case in term of para-5 of the policy instructions, "in complaint against a civil servant, the petitioner should be asked to furnish an affidavit to the effect that all facts stated in his complaint are true and if his affidavit is proved false, he would be prepared to face legal action which could be taken against him." (Annexure II). Had these instructions been complied with in time, this whole baseless proceeding would have not be required.

Attested & Accepted
[Signature]

(b) An Audio recording of phone call in which the complainant (Dr. Tariq) had called me on the end of examination. Dr. Muhammad Tariq refused making of any call to me and disown voice in the recording during the inquiry proceedings before the inquiry officer and also in his written statement.

[Signature]

(3) Now the question remains unsolved as who sent this message to Mr. Qaisar Alam's email address and if the complainant was genuine in alleging some bodies with the charges of receiving bribes from him, why he not addressed

it to the official address of Secretary or Special Secretary of the Department. It is a matter of suspicion to be pondered upon. How, the personal email address was in the know of the pseudonymous complainant who requires to be identified?

- (4) When the so called complainant and real father of the student concerned categorically disowned the complaint, refused giving of any bribe to me through Durre Shawar and also refused the voice of the audio recording that neither it is his voice nor he has contacted me on telephone, why the inquiry officer is stressing on the correctness of that audio-recording and supposing that he might have refused it as he was entreated to be sued. When and where I entreat him? If the complainant was right and true, why was he afraid of court proceedings against him. Even under the aforesaid Policy instructions the Government has categorically warned such complainants to be ready to face consequences if their allegations proved as false. The inquiry Officer appears unaware of these instructions otherwise he would not suppose that Mr Tariq disowned the complaint, telephonic discussions and payment of bribes due to the fear to be sued in the court.
- (5) When Dr. Tariq, Inter-alia expressed before the inquiry officer and his written statement that his son has failed in the examination, then why he telephoned me and Mst Dure Shawar for thanks after closing up the examination? Even, Mr. Aurangzeb, AD, the maternal uncle of the student also wrote in his statement before the enquiry officer that the student had failed, then how the charge of bribes can be leveled against me? If the student failed, then it is an ample proof of the fact that no help has been extended to him in the exam by me or anybody else.
- (6) When

Attested & Accepted
[Signature]

[Signature]

I categorically denied the charge of corruption

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- The father of the student Dr. Tariq disowns the genuineness of the complaint and his voice in the audio recording
- Mst Dure Shawar also stated in her written statement that the charge of a broker against her is not correct which means that she has not given me the so-called bribes
- From her discussion with Mr. Aurangzeb, AD in the 2nd audio, Mst. Dure Shawar showed a clear concern about the stern and strict attitude of mine in the hall and stated in that recording that I asked the invigilator to be strict in the hall
- Mst Dure Shawar expressed a sigh of relief expressing her rejoice and thanked Allah that the exam ended peacefully. (Para-3 of the Findings of inquiry report is referred besides the audio talks). If she was so irritated from my attitude and rejoiced on ending of the exam peacefully, it is also an ample proof of the fact that I was not soft and cooperative in the hall.

Attested
&
Accepted
[Signature]

From which words it can be proved that I have demanded and received any gratification to facilitate son of Mr. Tariq. Besides, not the superintendents but common invigilators are in a better position to facilitate the examinees.

(7) In Para 7 of the Findings, the Inquiry Officer recorded that

“Mr. Aurangzeb knew the working relationship between the accused, therefore, he tried to strike the deal between them and Dr. Tariq who is his relative. Knowing that his relative (the student) was not helped out; he tried to punish both by managing the call recordings although he refused the voice to be his. Had his relative been helped the way he desired, the scam would not have surfaced even”.

[Signature]

In this Para of the report, the inquiry officer is convinced that the student was not helped.

- (8) Attention is drawn to the self contradictory statements of inquiry officer in para-2, para-6 and Para -7 of the findings which have been explained above and about which the Competent Authority will be further apprised during the course of personal hearing. These contradictory statements are ample proof of the fact that he has dealt with the issue superficially and recommended drastic punishment on me even before ascertaining that whether the voices in both the audios are of Aurangzeb about which he expressed in very clear words in Para II of the recommendations of the report. If it is proved that the voice belongs to Mr. Aurangzeb and not to Dr Tariq, the entire scenario would change and the concocted plot will become quite evident.

Attested
&
Accepted
[Signature]

- (9) Moreover, the inquiry officer in para-6 of his report is expressing that:-

“Although the amount of 1 lac had not been handed over to Mr. Arif till the call was made to him allegedly by Dr Tariq, but he did not agree with the caller to discuss it with Ms Durre Shehwar telling that he himself will discuss the matter with her at an appropriate occasion”

The said call was made to me after closing of the examination. As I had not received the illegal gratification till end of the exam, why and how I could be condemned to help the student. Is this logic not sufficient proof of the fact that it is a concocted plot fabricated by the ill wishers for obvious reasons?

- (10) In the last but not the least, the inquiry officer did not bother to investigate all the above aspects of the issue as well as did not try to identify that if the voices in both the Audios, namely in one of which Dr. Tariq is phoning me and in the other one Mr. Aurangzeb is talking to Durre Shawar are the same

[Signature]

6

but the inquiry officer altogether ignored this clear and unambiguous reality, I do not know why? Perhaps due to the influence of some high ups with whom he has a close liasion and whom he called during the personal hearing of the accuseds.

"Then on what other expressions they believe after that".

Attested & Accepted



In view of the position explained above, it,s clearer than crystal that:-

- (i) The complaint is pseudonymous as the so called complainant Dr. Tariq refused its genuineness.
- (ii) The complainant also refused the claim that he has paid any bribes to any one for facilitating his son.
- (iii) The complainant disowned the voice in the audio recording with me.
- (iv) The complainant also stated that his son has failed in the said examination.
- (v) Mr. Aurangzeb also disowned voice in the audios. Mr. Aurangzeb is the relative of the student.
- (vi) Then the only question before the Inquiry Officer was that who was the complainant in the so called email to Mr. Qaiser Alam Addl. Secretary and who is the person in both the audios talking with me in the disguise of Dr. Tariq and with Mst Dure Shawar as Aurangzeb. Whereas about the audio with Mst Dure Shawar he stated that the voice is not his. As such the only conclusion which can be drawn from the aforesaid submissions that it is a concocted plot fabricated about someone for some specific purposes which require to be dig out. This was the task of Inquiry Officer but he did not bothered a little to reach to the depth of the entire episode and to unveil the real defaulters, conspirators, palace intriguers, real culprits and black



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sheep in the circles of Govt Deptt: but he made wrong interpretations of the audio recordings and drew conclusions just superficially without feeling and foreseeing the consequences of his stern recommendations which may result into destruction of entire life career of innocent families.

I also request personal hearing as per rules and will request you to give full attention to my submissions in the personal hearing so that I could be able to apprise you fully about the facts of the case and the ill will of some palace intriguers for grinding their own axes. It is further requested that the departmental proceedings against me may kindly be dropped/set aside.

Thanking you in anticipation

September 25; 2014

Yours Obediently,


(Muhammad Arif)

Subject Specialist(B-17)

Attested
&
Accepted


Dated Peshawar the October 14, 2015

NOTIFICATIONNO.SO(S/M)E&SED/4-17/2014/M. Arif SS & Dure Shehwar SDEO (F) Peshawar:

WHEREAS Mr. Muhammad Arif, Subject Specialist Economics (BS-17) GHSS Chamkani District Peshawar (now SS Economics BS-17 GHSS Hazar Khawani District Peshawar) was proceeded against under the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. AND WHEREAS Mr. Sohail Khan, PAS (BS-18) Deputy Commissioner Dir Lower) was appointed as inquiry officer to conduct formal Inquiry against Mr. Muhammad Arif, Subject Specialist Economics (BS-17) GHSS Chamkani District Peshawar (now SS Economics BS-17 GHSS Hazar Khawani District Peshawar) for the charges leveled against him in accordance with the rules.

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

4. AND WHEREAS a show cause notice was served upon Mr. Muhammad Arif, Subject Specialist Economics (BS-17) GHSS Chamkani District Peshawar (now SS Economics BS-17 GHSS Hazar Khawani District Peshawar) which was conveyed to the accused on 10-09-2014, in pursuance of the above inquiry.

5. AND WHEREAS the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, explanation of the accused officer in response to the Show Cause Notice and personal hearing granted to him by Chief Secretary Khyber Pakhtunkhwa on 07-07-2015 at 1000 hours, is of the view that the charges against the accused officer have been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) is pleased to impose major penalty of "Dismissal from service" upon Mr. Muhammad Arif, Subject Specialist Economics (BS-17) GHSS Chamkani District Peshawar (now SS Economics BS-17 GHSS Hazar Khawani District Peshawar) with immediate effect.

SECRETARY

Ends: of Even No. & Date:

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3- District Education Officer (Male), Peshawar.
- 4- Mr. Muhammad Arif, Subject Specialist Economics BS-17 GHSS Hazar Khawani District Peshawar).
- 5- PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 6- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 7- PA to Additional Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 8- Office order file.

(Signature)
 (MUJEEB-U-R-REHMAN)
 SECTION OFFICER (SCHOOLS/MALE)

Attested
&
Accepted

To

The Chief Minister,
Khyber Pakhtunkhwa,
Peshawar.
(Appellate Authority)

Subject: - APPEAL AGAINST AN ORDER OF THE CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

Sir,

Attested
&
Accepted



With due regards it is humbly stated that on the basis of a fake pseudonymous complaint (e-mail complaint), disciplinary proceedings were initiated against the appellant and the Chief Secretary, Khyber Pakhtunkhwa dismissed me from service vide Notification No.SO (S/M) E&SED/4-17/ 2014/M.Arif dated October 14,2015(Annex-I).

Facts of the Case are as under:

1. Served with Charge Sheet and Statement of Allegations, Mr. Muhammad Suhail Khan was appointed as Enquiry Officer in the case to conduct a joint enquiry against the appellant and others on the basis of a pseudonymous complaint. The Enquiry Officer, submitted his report (Annex-II) and thereby recommended imposition of major penalties for Dr. Muhammad Tariq— the complainant—and Muhammad Arif— the appellant.
2. The principal accused Dr. Muhammad Tariq (BPS-18) has been exonerated by the Chief Minister, Khyber Pakhtunkhwa in the capacity of Competent Authority vide Notification No.SOH(E-V)1-933/2014 with specific remarks that the charge of misconduct—by trying to purchase a Govt. Officer Mr. Muhammad Arif, Subject Specialist for getting illegal advantage to extend unfair help to a student in the BDS 1st professional exam, as the charges of misconduct against the doctor is not proved (Annexure III). As the charge of misconduct against Dr. Muhammad Tariq has not been proved meaning thereby that Dr.



Muhammad Tariq has not even tried to purchase me, then there arises no question of penalizing me on the basis of one and the same charge.

3. Moreover, in the instant case, the Anti-Corruption Establishment, Peshawar in its final report has recommended filling of the case and categorically declared the complaint as fake and fabricated one as the complainant has denied the ownership of the complaint and plainly refused giving any gratification to the appellant or anybody else. (Annex-IV).
4. Dr. Muhammad Tariq was in B-18 and the appellant was in B-17. As per the relevant law on the subject (Rule-2 (f) (ii) of the Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules, 2011), where it is laid down that:- (Annex-V)

Attested
&
Accepted
[Signature]

“Provided that where two or more Govt. Servants are to be proceeded against jointly, the Competent Authority in relation to the accused Govt. servant senior most shall be the Competent Authority in respect of all the accused”

However, due to splitting of the case into two halves, the appellant has been dismissed from service by the Chief Secretary, Khyber Pakhtunkhwa in the capacity of competent Authority. However, in the light of the above stated Rule, the Chief Minister Khyber Pakhtunkhwa was the competent Authority rather than the Chief Secretary.

5. It is very astonishing that the principal accused—the complainant has disowned the pseudonymous complaint and also refused giving any gratification to me or anybody else. Attention is drawn to policy instructions contained in S.No. 2 of the Esta. Code, Khyber Pakhtunkhwa, 2012, which is reproduced as under:- (Annex-VI)

“Anonymous communications must invariably be destroyed by their recipients. No action of any kind is to be taken on them and no notice of any kind is to be taken on their contents. If a communication is found to be pseudonymous,

[Signature]

it (and any previous notes, etc. connected with it) must similarly be destroyed. There is no exception to this rule."

Since the so called complainant Dr. Muhammad Tariq refused the genuineness of the complaint and as such the complaint becomes pseudonymous but contrary to the above policy, disciplinary action has been initiated against me on the basis of the said pseudonymous complaint.

- 6. In terms of para -5-7 of the Govt. policy circulated by the S&GAD vide their letter No. SORII(S&GAD)5(29)/97-II, dated 22.7.1998, where it is mandatory for the Department that:- (Annex-VII)

"(5) In complaint against a civil servant, the petitioner should be asked to furnish an affidavit to the effect that all facts stated in his complaint are true and if his affidavit is proved false, he would be prepared to face legal action which could be taken against him.

(6) Complaints received through anonymous/pseudonymous sources should be ignored.

(7) Antecedents and credentials of a complaint should be verified before an inquiry is instituted against the official concerned"

Attested & Accepted
[Signature]

In light of the above policy instructions, had the antecedents and credentials of the complaint been verified before institution of the inquiry and had complainant been asked to furnish an affidavit to the above legal effects no such illegal, malafide and wrong disciplinary action would have been initiated at all.

- 7. Dr. Muhammad Tariq was in B-18 and the remaining accused including the appellant were in B-17. As per the relevant law on the subject (Rule-10 (a) of the Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules, 2011), where under it is laid down that:- (Annex-VIII)

[Signature]

“appointment of an enquiry officer or an enquiry committee, provided that the enquiry officer or the enquiry committee, as the case may be, shall of a rank senior to the accused and where two or more accused are proceeded against jointly, the enquiry officer or the convener of inquiry committee shall be of a rank senior to the senior most accused”

Dr. Muhammad Tariq is in B-18 and the inquiry officer in the case namely Muhammad Suhail Khan is also in B-18, which is against the above provisions of the rules.

Attested
&
Accepted

8. In response to the Show Cause Notice, I had submitted a reply thereof which was not only self contained, elaborative, and explanatory but also based on logical and legal arguments but no heed was given thereto. A copy of the same reply is attached at annex-IX for perusal of the Appellate Authority, so as the decision on this appeal may be taken in the clearest perspective.
9. Let me solemnly declare that I have performed my duties as superintendent in the examination hall with the permission of the Principal and with full commitment, probity and to the best satisfaction of my superiors. Moreover, no complaint has been raised by anyone at any stage from any quarter during the conduct of examination.

In view of the position explained above, its clearer than crystal that:

- i. The complaint is pseudonymous as the so-called complainant Dr. Muhammad Tariq has refused its ownership and genuineness.
- ii. The Chief Minister Khyber Pakhtunkhwa, in the capacity of Competent authority has exonerated the so-called complainant Dr. Muhammad Tariq from the charge of misconduct namely trying to purchase the superintendent of examination (Muhammad Arif S.S). Hence no question of receiving gratification by the appellate arises.

- iii. The Anti corruption Establishment, in its report, has also exonerated the appellant from the charges leveled against him.
- iv. Para No. 4 makes it abundantly clear that the Chief Secretary Khyber Pakhtunkhwa was not the competent authority to order dismissal of the appellant from service rather the legal right of the Competent Authority lies with the Chief Minister, Khyber Pakhtunkhwa.

In view of the above factual position, it is beseeched that my case may please be perused in the clearest prospective keeping in view fact of the case and I may please be re-instated in service with all back benefits thereof and the charges leveled against me being unfounded may be dropped and I may be exonerated.

Thanking you in anticipation.

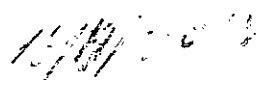
Your's Obediently,

Attested
&
Accepted



November 16, 2015

(Muhammad Arif)
Ex- Subject Specialist,
Education Department.





GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 12th August, 2015

(31)

Annex 5 (4)

NOTIFICATION

NO.SOH(E-V)1-933/2014 WHEREAS Dr. Muhammad Tariq (BS-19) attached to District Health Officer Swabi was proceeded under Khyber Pakhtunkhwa Govt Servants (Efficiency and Discipline) Rules, 2011 on account of misconduct by trying to purchase a Govt officer Mr. Muhammad Arif Subject Specialist for getting illegal advantage to extend unfair help to a student in the BDS 1st Professional Examination.

AND WHEREAS formal inquiry was conducted into the matter with the approval of the competent authority against the doctor concerned to probe into the charge of misconduct.

AND WHEREAS Show Cause Notice was served upon him for which he replied.

AND WHEREAS an opportunity of personal hearing was provided to the officer concerned under the aforementioned rules.

AND WHEREAS charges of misconduct against the doctor concerned is not proved.

NOW THEREFORE in exercise of powers conferred under Sub Rule (3) of Rule-14 of the Khyber Pakhtunkhwa Govt Servants (Efficiency and Discipline) Rules 2011 the competent authority is pleased to exonerate Dr. Muhammad Tariq (BS-19) attached to District Health Officer, Swabi from the charges mentioned in the Show Cause Notice.

1707
19/8

2343
17/08/15

SECRETARY HEALTH
Govt of Khyber Pakhtunkhwa.

Endst. No & Date Even.

Copy to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. PSO to Chief Secretary Khyber Pakhtunkhwa
3. Director General Health Services, Peshawar.
4. Section Officer (School/Male) Elementary & Secondary Education Department w/r to his letter No.SO(S)/ME&SED/4-17/M.Arif & Dure Shahwar SDEO, Peshawar.
5. District Health Officer, Swabi.
6. District Accounts Officer, Swabi.
7. PS to Minister for Health Khyber Pakhtunkhwa.
8. PS to Secretary Health Department.
9. PS to Secretary Establishment Department.
10. Computer Programmer Health Department.
11. Officer/doctor concerned.

w/r to TMD

(HINA HAFEEZ)
SECTION OFFICER(E-V)

OFFICE OF THE DIRECTORATE GENERAL HEALTH KPK PESHAWAR

No. 14912/EA

Dated: 21/08/2015

Copy of the above is forwarded to:-

1. DHO Swabi.
2. DAO Swabi.
3. Officer concerned.

For information & necessary action.

Assistant Director (P-1)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

Handwritten signature and date: 21/8/15

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~~Annexure~~ IV

Annexure

(GH)

Final Report

Complaint No 4735 dt 29/05/2014

Name of complainant: Dr.Mohd Tariq s/o Mohd Junaid Khan r/o Kalu Khan, Swabi, presently Islamabad,

Names of Respondents:

- 1) Mr.Muhammad Arif, Subject Specialist GHSS Chamkani (BPS-17),
- 2) Ms Durre Shehwar, Sub-Divisional Education Officer, Peshawar (BPS-17)!

Allegations:

On 07/04/2014, the above mentioned complainant reported (from Email ID palwash100@yahoo.com) alleging therein that Respondent No:1(The Duty Superintendent) demanded Rs.1,50000/- as illegal gratification, in connection with the BDS Exam of the complainant's son, at Abbottabad International Medical College. Out of the said amount, Rs.100000/ was claimed to have been handed over to Mr.Muhammad Arif, through Ms. Durre Shehwaar. An audio recording was also supplied subsequently, as an attachment, by the complainant.

Consequent thereupon, a letter No: SO(S/M) E&SED/4-17/2014/Muhammad Arif (SS) dated 15/05/2014 from Government of KPK, Elementary and Secondary Education Department (along with a three paged copy of the Note/Note sheet for the Worthy Chief Secretary KPK) was addressed to the Worthy Director Anti-Corruption KPK whereby request for Legal Action was made against the above mentioned respondents.

Attested
&
Accepted
[Signature]

Investigation:

The statements of the complainant, the respondents and one Aurangzeb Assistant Director E & SE, Education Department were recorded. Attested copies of the Emails (as well as the forwarded Email) were collected from the concerned quarters. Apparently Mr. Aurangzeb vide his mob discussion with his colleague Durre Shehwaar, requested her to act as a broker between him and the Superintendent of Exam Mr. Muhammad Arif, so as to illegally support Umar Farooq, (1st year student of BDS, the son of the complainant, and nephew of Mr. Aurangzeb.) in order to get through the exam.

Attested
&
Accepted
[Signature]

FINDINGS

- 1) The purported complainant disowns the complaint.
- 2) The right context of impugned audio cannot be ascertained. Moreover there seems an element of concoction as Mst Durre Shawaar seemed to have been progressively inveigled into the trap, during the discussion.
- 3) There is no supporting evidence with respect to the impugned Audio.
- 4) Aurangzeb (brother-in-law of the complainant and a colleague of Mst. Durre Shahwaar), who admits to have talked to Mst Durre Shehwaar, denied having discussed any monetary transaction.
- 5) The time of the email (from Email <palwash100@yahoo.com> to <afzallatif@hotmail.com>) is 10:59:22+0500. This means almost

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16:00 hrs. (F/A). The message was forwarded at 02:23 PM i.e. 14:23 hrs. the same day. 16:07\04\2014. This is impossible.

6) As per the written statements the complainant as well as that of Anurag (only attested by both commissioner and Civil Judge/JMIC---F\B and F\C) Mr. Umar Farooq appeared in the 1st year supplementary BDS Exams in March 2014, under Roll No.4480. But he failed the Anatomy paper. The result can be verified from the web site www.knu.edu.pk. This goes against the allegations.

7) It is worth noticing that the complaint was lodged on 07\04\2014 i.e. one day prior to another supplementary exam. This could be a pressure tactic or mala fide. Especially if the statement of Ms. Dure Shewar is placed in juxtaposition herewith when she says that at times, she had to say yes, on phone in order to carry forward off undue pressure. She also stated in her statement that she refused to submit to gender or other harassments.

RECOMMENDATIONS

Both the respondents are grade-17 officers, one of them being female. Legally, they cannot be proceeded against, on the basis of a pseudonymous complaint and an audio, the right context of which cannot be ascertained, especially in the absence of supporting evidence. Since they have already been proceeded against departmentally, the complaint is therefore recommended for filing. OR:

Attested
Secretary

If the Departmental Enquiry is still in progress, the instant complaint may be referred for Departmental Enquiry.

Submitted for necessary orders.

Javaid Khan

(JAVAID KHAN)
Assistant Director Crimes
Anti-Corruption Estb.
Peshawar

Attested
&
Accepted
[Signature]

TO WHOM IT MAY CONCERN

Certified that Mr. Mian Muhammad Arif, Ex Subject Specialist of this school has performed duty in BDS 1st year Examination in Abbottabad International Medical College, Abbottabad w.e.f 20-3-2014 to 31-3-2014 with prior permission of the principal as per official record of the school.

Attested
&
Accepted

[Signature]

[Signature] 31/5/2014

Principal
GHSS Chamkani,
Peshawar

PRINCIPAL
Govt. Higher Secondary School
Chamkani, Peshawar

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Announcement JGA



KHYBER MEDICAL UNIVERSITY, PESHAWAR
OFFICE OF THE CONTROLLER OF EXAMINATIONS
☎ +92-91-9217697 / 9217703 Ext: 117 ☎ +92-91-9217698 / 9217704

No:053/CE/KMU

Dated: 17/03/2014

To:

Name: **Main Muhammad Arif**

Designation: Subject Specialist BPS: 17

Institute: Govt. Higer Secondary School, Peshawar.

Mobile No:

Chamkani, sp

Subject:

BDS 1st Prof. Supplementary Examination, 2013 at Abbottabad International Medical College, Abbottabad..

The under signed is directed to appoint you as a **Superintendent** in the above subject title which is due to commence as per the date sheet subject to the following declaration.

DECLARATION

I hereby solemnly declare that "No Near-relative (Full and Half Brother/Sister or their Children, Paternal and Maternal Uncle or their Children, Spouse, Son/Daughter-In-Law Etc) is appearing in this examination centre" particulars given above are correct .In case of any wrong information or concealment of facts I shall be responsible for the consequences. Further, I undertake to abide by the Rules and Regulations of Examination prescribed by the Khyber Medical University, Peshawar.

Date Sheet(Time: 09Am to 12AM)

BDS 1st Prof. Supply, Examination 2013.		
<i>Dated</i>	<i>Day</i>	<i>Subject</i>
21.03.2014	Friday	Anatomy/Histology
24.03.2014	Monday	Physiology
27.03.2014	Thursday	Bio Chemistry
31.03.2014	Monday	Dental Materials

Attested & Accepted
[Signature]

Note: Please see instructions overleaf.

[Signature]
Dr. Hafiz Muhammad Ilyas
Deputy Controller of Examinations