

S.No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
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1	2	3
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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CAMP COURT ABBOTTABAD

SERVICE APPEAL NO. 58/2016

(Wasif Mir-vs- Secretary to Govt. of Khyber Pakhtunkhwa, Local Govt. Election and Rural Development Department, Peshawar and two others)

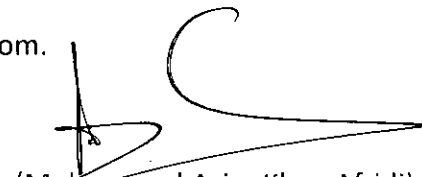
JUDGMENT

16.03.2016

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN: Appellant with

counsel and Mr. Gul Mir, Court Clerk alongwith Mr. Muhammad Saddique, Senior Government Pleader for respondents present. Arguments on maintainability of appeal heard and record perused.

The appellant is admittedly employee of Gilyat Development Authority (GDA) Abbottabad which is an Autonomous Body and the appellant is, therefore, not a civil servant within the meaning of section-2(b) of Khyber Pakhtunkhwa Civil Servants Act, 1973. According to Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974, a civil servant aggrieved of any final order is authorized to prefer appeal before this Tribunal in the prescribed manners. Since the appellant is not a civil servant as such appeal of the appellant is not found maintainable under section-4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 read with section-2(b) of Khyber Pakhtunkhwa Civil Servants Act, 1973. The same is, therefore, dismissed in limine. File be consigned to the record room.


(Muhammad Azim Khan Afridi)

Chairman
16.03.16


ANNOUNCED

16.03.2016

17.02.2016

Counsel for the appellant present and heard. The appellant has impugned orders passed by Gilyat Development Authority a body created under Act-7 of 1996. The question as to whether the appellant is a civil servant within the meaning of Section-2(b) of Civil Servants Act, 1973 would require determination.



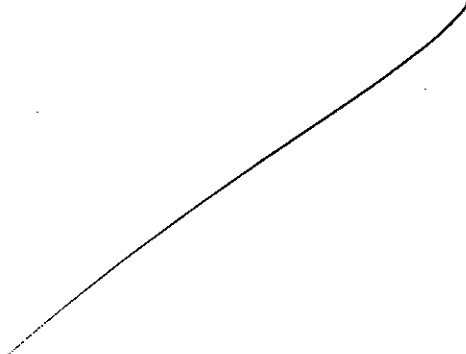
Let pre-admission notice be issued to the respondents for 16.3.2016 before S.B at Camp Court A/Abad.


Chairman
Camp Court A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____


Case No. 58/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15.01.2016	<p>The appeal of Mr. Wasif Mir resubmitted today by post Through Mr. Abdul Aziz Tanoli Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up thereon <u>17-02-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mr. Wasif Mir son of Muhammad Bashir Ex-Building Inspector GDA A.Abad received today i.e. on 29.12.2015 is returned to the counsel for the appellant with the direction to submit four spare copies/sets of the memorandum of appeal along with annexures i.e. complete in all respect within 10 days.

No. 2025 /S.T,

Dt. 30/12/2015.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Abdul Aziz Khan Tanoli
Advocate High Court A.Abad.

original appeal received on 7-1-2015 the
same is re-submitted after removal of objection
on 14-1-2015 one original and 4 spare copies

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

Service Appeal No. 58 /2016

Wasif Mir son of Muhammad Bashir, Ex. Building Inspector, Gilyat Development Authority (GDA), Abbottabad, resident of Post Office Chotti Sheikhu Bandi, Abbottabad.

...APPELLANT

VERSUS

Secretary to Govt. of Khyber Pakhtunkhwa Local Govt. Election & Rural Development Department Peshawar and others.

...RESPONDENTS

SERVICE APPEAL

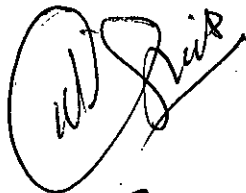
INDEX

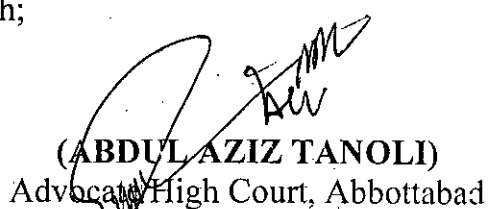
S.#	Description	Page No.	Annexure
1.	Service Appeal	1 to 7	
2.	Copy of appointment order	8	"A"
3.	Copy of show cause notices	9 to 10	"B" & "C"
4.	Copy of reply	11 to 12	"D"
5.	Copy of order is Annexure	13 to 15	"E"
6.	Copy of departmental appeal	16 to 20	"F"
7.	Wakalatnama	21	

...APPELLANT

Through;

Dated: 26-12/2015




(ABDUL AZIZ TANOLI)
Advocate High Court, Abbottabad

Note: Copies for Respondents Submitted after Admission

(2)

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

Service Appeal No. 58 /2016

M. W. F. Peshawar
Service Tribunal
Diary No. 1536
Dated 29-12-2015

Wasif Mir son of Muhammad Bashir, Ex. Building Inspector, Gilyat Development Authority (GDA), Abbottabad, resident of Post Office Chotti Sheikhu Bandi, Abbottabad.

...APPELLANT

VERSUS

1. Secretary to Govt. of Khyber Pakhtunkhwa Local Govt. Election & Rural Development Department Peshawar.
2. Director General G.D.A Abbottabad.
3. Deputy Director (Admn) G.D.A Abbottabad.

....RESPONDENTS

filed to-day
[Signature]
Registrar

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974, AGAINST IMPUGNED ORDER NO. GDA/PF/1519-22/ADMN DATED 03/08/2015 WHEREBY THE MAJOR PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSE TO THE APPELLANT UNDER E&D RULES 2011 OF KPK, WITHOUT CONDUCT OF REGULAR INQUIRY.

re-submitted to-day
and filed;

[Signature]
Registrar
15/1/16

3

PRAYER: ON ACCEPTANCE OF THE INSTANT APPEAL, THE IMPUGNED ORDER DATED 03/08/2015 MAY VERY KINDLY BE SET-ASIDE AND THE RESPONDENTS MAY PLEASE BE DIRECTED TO REINSTATE THE APPELLANT IN HIS SERVICE WITH ALL BACK BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

Respectfully Sheweth: -

Following are the facts, giving rise to the instant appeal;-

1. That the appellant was appointed in the G.D.A vide order No. GDA 9208-15 Admn dated 03/12/2011 as a building inspector in BPS-11. Copy of appointment order is annexed as Annexure "A".
2. That the appellant after appointment regularly performed the duties to the satisfaction of his superiors, therefore no any complaint against the appellant ever been made and appellant service record is also unblemished.

3. That respondent No.2 issued two show cause notice to the appellant in the same day on the same allegation vide letter No. GDA/PF-9413 Admn dated 31/12/2014 and letter No. GDA/ PF-9353 Admn dated 31/12/2014 on personal grudge. Copy of show cause notices is annexed as Annexure "B" & "C"
4. That the appellant submitted detailed reply to the show cause notices alongwith documentary record against the allegation, wherein the appellant through reply denied the allegation of respondents and prove through record. That allegations leveled against the appellant is baseless and without any cogent evidence. Moreover, appellant through written and verbally asked the respondents that encroachment report of the said pinpoint area was available in the office record. Copy of reply is annexed as Annexure "D".
5. That respondent No.2 without considering record and reply of the appellant and without conducting the regular inquiry, final show cause notice was issued to the appellant and same was replied with the request to consider already submitted reply to the show cause notice.

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6. That the respondent No.2 with malafide intention and on the basis of predetermined mind without considering record and reply due to cover up of his illegality, impugned order of dismissal from service against the appellant was passed vide order dated 03/08/2015. ~~Copy of order is Annexure~~ (E)
7. That the appellant being feeling aggrieved from the impugned order dated 03/08/2015 filed departmental appeal before respondent No.1 but no reply has been received so far hence, the present appeal, on the following grounds, amongst the other; - Copy of departmental appeal is Annexure "F".

GROUND:-

- a. That appellant was served 04 years and he was in BPS-5 to the best interest of G.D.A to best of his ability.
- b. That there is no any evidence against the appellant before respondents. Moreover, appellant has never did an act which amounts to misconduct or violation of any prevailing concerned law, hence, not

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sustainable in the eye of law and is liable to be set-aside.

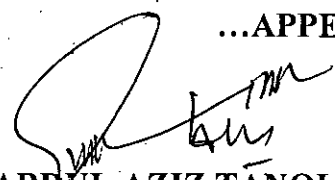
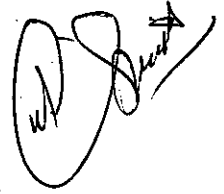
- c. That the appellant was not treated in accordance with law and rules by the respondents/ department on the subject noted above and as such the respondents violated Article 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- d. That the impugned order dated 03/08/2015 is against the law, facts and norms of natural justice and material available on the record, hence, not sustainable and liable to be set-aside.
- e. That the respondent No.2 simply without sufficient evidence or record, inquiry proceedings dispense withholding inquiry proceedings against serious nature of allegation, needed to be proved through regular inquiry, moreover major punishment of dismissal from service is not permissible without conducting of inquiry.

f. That the appellant not did an act which amounts to misconduct in E&D Rules of KPK, thus act and action of respondents is not sustainable in the eye of law and liable to be set-aside.

It is therefore, humbly prayed that on acceptance of the instant appeal, the impugned order dated 03/08/2015 may very kindly be set-aside and the respondents may please be directed to reinstate the appellant in his service with all back benefits. Any other remedy which this august tribunal deems fit may also be awarded in favour of the appellant.

Dated: 26-12 /2015

Through;

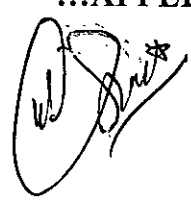


...APPELLANT

(ABDUL AZIZ TANOLD)
Advocate High Court, Abbottabad

VERIFICATION: -

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



...APPELLANT



GALIYAT DEVELOPMENT AUTHORITY, ABBOTTABAD

Phone # 0992-9310245, 40

Fax # 0992-9310288

Abbottabad, Dated: - 3 / December / 2011.

OFFICE ORDER:

No. GDA/FFORD/908-15 /Admn: Consequent upon the recommendations of the Departmental Selection Committee held on 08-12-2011 Mr. Mir Wasif S/o Muhammad Bashir R/o Village Sheikh-ul-Bandi, Tehsile & District Abbottabad is hereby appointed and posted in office of GDA at Nathiagali against the vacant post of Building Inspector BPS-11 (Rs. 6600-260-20400) subject to the following terms & Conditions :-


1. You will report in **GDA office at Nathiagali** and supervise all field / BCA staff as well as ensure the enforcement of "**Building by laws**" in the GDA towns / land, failing which you will be personally held responsible on this account and will not leave the office without prior permission of the DG/Director/AD (T).
2. You will get pay at the minimum of BPS-11 (Rs. 6600-460-20400) including usual allowances as admissible under the rules. You are also entitled to annual increment as per existing policy.
3. Your service will be liable to termination with or without any reason on one month notice from either side. In case of termination without notice by the employee or from the employee, one month's pay / allowances shall be paid by the Authority or refunded by the employee as the case may be.
4. You will not be entitled for any pension or gratuity benefits.
5. You will not contribute towards G.P Fund. However, you will contribute C.P Fund 10% of minimum of pay scale and an equal amount of 10% contribution will be made by the Authority as per rule.
6. Your appointment will be purely temporary and will not confer on you any right for regular appointment and will remain **on probation for a period of one year**. Your services can be terminated without any notice / reason at any time in case his performance is found un-satisfactory and he will not sue the department in any court of law.
7. Rest of instructions / guidelines/ terms & Conditions are enclosed (Annexure-A).

Before joining the post you will have to provide (a) medical fitness certificate by Civil Medical Supdt (b) Character Certificate from two Govt Officials Grade 17 or above. (c) Attested copy of relevant certificates / District Employment Exchange Card.

If above terms and conditions of the appointment are acceptable then you are allowed to join your duty on or before 15-01-2012. In case you fail to join the duty within the stipulated time your appointment order will stand cancelled without any further notifications.

attested
Qus


Ahmed Aziz Khan Tausif
Admnstr


Director General
Galiyat Development Authority
Abbottabad

NDST: NO & DATE EVEN:

C:

1. Director GDA, Abbottabad.
2. Accounts Officer GDA, Abbottabad
3. AD (T) GDA, Abbottabad.
4. RAD (LFA) GDA, Abbottabad
5. Draftsman GDA, Abbottabad
6. All Sub Engineers GDA, Abbottabad
7. Record Keeper GDA, Abbottabad


Director General



Galiyat Development Authority, Abbottabad

Government of Khyber Pakhtunkhwa

Ph: 0992-9310240, Fax: 0992-331535

Email: gdaatd@gmail.com

No. GDA/ DP / 19413 / Admn:

The Dated 31/12/2014

To,

MR. WASIF MIR,
Building Inspector, Galiyat Development Authority,
Abbottabad.

Subject: **SHOW CAUSE NOTICE**

Whereas, you named above was directed vide Office Order bearing No. GDA/Office Order/4034-38/Admn:/2013, dated 18th November, 2013 and Office Order bearing No. GDA/Office Order/7481-84/Admn; dated 9th May, 2014 to demarcate the encroachments and to place the correct and updated position of encroachments and properties falling in the right of way, before the Competent Authority. But, you deliberately did not demarcate the encroachments, therefore, disobeyed the lawful order of the Competent Authority. You have also intentionally concealed the fact that allotment of land for Fog Land Hotel, Mochidhara, Nathiagali had not been approved/concurred by the Provincial Government, and illegal occupier of Fog Land Hotel was not entitled to any permission to construct the Hotel Building on alternate site, in the wake of the Hon'ble Chief Minister's directive to allocate alternate sites to the affected allottees. Due to your willful concealment, the illegal occupier of Fog Land Hotel constructed hotel building on alternate site, with your active connivance and collusion.

Your above mentioned act tantamount to gross misconduct and renders you liable to be proceeded against under the relevant law. Since, record establishes your willful and deliberate acts of concealment of facts, and disobedience of lawful orders, therefore, feeling no need to order inquiry, you are directed to submit your written defence within seven (07) days of the receipt of this notice, positively, failing which you will be proceeded against, ex-parte.

Attested
[Signature]

Muhammad Aziz Khan Taruli
14/12/2014

[Signature]

DIRECTOR GENERAL
GALIYAT DEVELOPMENT AUTHORITY
ABBOTTABAD



C 10

(C)

Galiyat Development Authority, Abbottabad

Government of Khyber Pakhtunkhwa

Ph: 0992-9310240, Fax: 0992-331535

Email: gdaatd@gmail.com

No. GDA/ 9453 /Admn:

Dated 31-12 /2014

To,

MR. WASIF MIR

Building Inspector, Galiyat Development Authority,
Abbottabad.

Subject:

SHOW CAUSE NOTICE

Whereas, you named above misguided the Anti-encroachment Team, when the Team reached "Saba Dreams Hotel", Ayubia for removal of illegal construction on land belonging to GDA. You willfully and knowingly informed the Team that there was no encroachment on GDA land, and that the Hotel was holding possession of the area duly allotted. But, when the Team undertook the measurements by itself, the covered area of Hotel came out to be about 11 Marlas against the allotted area of 5 Marlas.

Similarly, you intentionally and deliberately misled the Anti-encroachment Team in the case of Lalazar Hotel, Ayubia, where the Hotel Management was found encroaching upon 5 Marlas land in excess against the allotted land, but you had informed the Team that the Hotel was not holding any excess land.

You have also willfully concealed the encroachment of Al-Azim Hotel, where the Management of the Hotel was found encroaching upon an area of more than 1 Kanal by damaging the Green Belt by concrete work, illegally and without any sanction.

You have also been found disobedient to comply with the lawful orders of the Competent Authority to perform your duties, duly assigned, particularly, the affairs of Building Control Agency (BCA) and to submit timely reports of construction activities to your seniors, which is a clear evidence of your connivance extended to the land grabbers, land mafia and encroachers, and speak loud that you have joined hands with them.

Your above willful and deliberate acts and omissions tantamount to gross misconduct and render you liable to be proceeded against under the relevant law. Since, the record and personal observations of the undersigned establish your willful and deliberate acts, therefore, feeling no need to order inquiry, you are directed to submit your written defence within seven, (07) days of the receipt of this notice, positively, failing which you will be proceeded against, ex-parte.

attested
Qu

Muhammad Ariz Khan Tanoli
Director General
Galiyat Development Authority
Abbottabad

OK

DIRECTOR GENERAL
GALIYAT DEVELOPMENT AUTHORITY
ABBOTTABAD

To

The Director General,
Galiyat Development Authority,
Abbottabad

D

11

D

Subject:

SHOW CAUSE NOTICE

With reference to show cause notice No.GDA/PF/9413/Admn: dated: 31-12-2014, my written reply is as under:

Admitted and needful as directed by the chairman has been obeyed accordingly during the operation.

I have performed my assigned duty and delivered services where and when order during the operation. Particularly Fog land was also demarcated and marked the required width of the road along with other buildings.

As regards facts regarding Fog land hotel were not conceived but the hotel was reconstructed at present site (alternate site) due to the following facts:

1. That the cancellation of the property is not in my knowledge as the file of above case has not been marked to the undersigned.
2. Record file pertained to the property was with NAB due to which cancellation of the property was hidden.
3. The allottee has also not disclosed the facts about the cancellation deliberately.
4. Further we think that order for giving alternate site was placed after having complete information regarding the status of the property. We therefore have no option except compliance of the order of our superiors.

Keeping in view the above written defense, I am confident that my above statement given in my defense shall be considered synthetically and will not proceed further.

Yours Sincerely,

06/1/2015

Wasif Mir (Building Inspector)
Galiyat Development Authority
Abbottabad

Attested

Muhammad Arif Khan Taseeli

The Director General,
Galiyat Development Authority,
Abbottabad

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E

Subject: **SHOW CAUSE NOTICE**

With reference to show cause notice No.GDA/PF/9453/Admn: dated: 31-12-2014, my written Para wise reply is as under:

SABA DREAM HOTEL

Possibility of mistake is there but willfully and knowingly how I could give false statement when we have already reported the encroachment and violation as per detail below:

1. Report vide list of plots at Ghoradhakka at S.No.27 (Anx: "A")
2. Measurement taken at spot with inquiry officer and Report of NAB submitted to Peshawar high Court vide S.No.12 (iii),(a) (Anx: "B")
3. It is worth mentioning that I was the member of the team which was taking the measurements of encroachments. And I never concealed the encroachment but after getting the measurement I signed the measurements and handed over the same to Dy. Director, and after that the building was dismantle 15' from the front as the mark placed by me.

LALA ZAR HOTEL

1. Measurement taken at spot with inquiry officer and Report of NAB submitted to Peshawar High Court vide S.No.12 (iii) (b) (Anx: "C")
2. Report -vide list of plots at Ghoradhakka at S.No.27 (Anx: "D").

AL AZIM HOTEL

1. Encroachment measured with NAB vide list of plots at Ghoradhakka/ Khanspur showing the encroachment with related data at S.No.10, annexed with letter dated: 04-04-2014 (Anx: "E")
2. Encroachment reported on file with note sheet (Anx: "F").
3. Report of the encroachment was conveyed to the immediate officer, and after that the encroachment of Al-Azim Hotel was demolished / removed by me with the help of excavator photo attached. Due to which the hotel owner gave threats of serious nature on the phone at site.

It is evident that I have been remained punctual and hardworking throughout the service and delivered the services at my level best. And I always obeyed the orders of the competent authority and remained obedient and sincere throughout.

1. As regard BCA, reporting of unauthorized construction, I always reported the same to my immediate officer and also stopped unauthorized constructions if found any and submitted written report on note sheets of concerned files. Due to this I have faced much hardship and threats from different land owners and violators at different stages and times.
2. Hence charge vide last sentence (underline) may please be seems not appropriate.

Keeping in view the above written defense, I am confident that the statement given in my defense shall be considered sympathetically and will not proceed further.

attestels
W
Amir Aziz Khan Feduli

Yours Sincerely,

Wasif Mir
Wasif Mir (Building Inspector)
Galiyat Development Authority
Abbottabad

06/01/2015



(E) 13

Galiyat Development Authority, Abbottabad

Government of Khyber Pakhtunkhwa

Ph: 0992-9310240, Fax: 0992-331535

Email: gdaatd@gmail.com

OFFICE ORDER:

The Dated: 03/08/2015:

No: GDA/P.F/1519-22/Admn: In exercise of powers under Rule 5 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 read with Rule 20 of Galiyat Development Authority (Terms & Conditions) of Service Rules, 2012, I, Syed Nazar Hussain Shah, being Competent Authority have decided to dispense with the requirement of holding inquiry against Mr. Wasif Mir, Building Inspector, GDA (accused official) due to availability of sufficient material on record and grounds mentioned below:

1. The accused official was directed vide office orders bearing No. GDA/Office Order/4034-38/Admn;/2013, dated 18th November, 2013 and No. GDA/Officer Order/7481/Admn: dated 9th May, 2014 to demarcate the encroachments and properties hindering the right of way, and to place correct and updated data before the Competent Authority. But, he deliberately did not conduct the demarcation, thereby, committed willful disobedience and concealment of facts.
2. The accused official had willfully concealed the fact that the allotment of Fog Land Hotel, Nathiagali was not approved by the Provincial Government, therefore, he was not entitled to construction on any alternate site. And due to such concealment of facts, the illegal occupier of Fog Land Hotel was permitted to construct the hotel building on alternate site, in the wake of the Chief Minister's directive.
3. The accused official intentionally had misguided the Anti-encroachment Team, when the Team arrived at "Saba Dreams Hotel", Ayubia for removal of illegal construction on land belonging to GDA by informing the Team that there was no encroachment on GDA land, and that the Hotel was holding possession of the area duly allotted. But, when the Team undertook the measurements itself, the covered area of Hotel came out to be about 11 Marlas against the allotted area of 5 Marlas.

Attested

[Signature]
Ahmad Aziz Khan Tazuli
14/08/15

[Signature]
3/8

- 4. The accused official had intentionally and deliberately misled the Anti-encroachment Team in the case of Lalazar Hotel, Ayubia informing that there was no encroachment. But, Hotel Management was found to have encroached upon approximately 5 Marlas land in excess against the allotted land.
- 5. The accused official had willfully concealed the encroachment of Al-Azim Hotel, where the Management of Al-Azeem Hotel was found encroached upon an area of more than 1 Kanal, damaging Green Belt by concrete work, illegally and without any sanction.
- 6. The accused official had been found disobedient in complying the orders of Competent Authority concerning performance of duties, duly assigned, particularly, regarding the affairs of Building Control Agency (BCA) and to submit timely reports of construction activities to seniors, which was a clear proof of his connivance extended to land grabbers, land mafia and encroachers, and speak loud that the accused official had joined hands with them.

The accused official was served with a Show Cause Notices No. GDA/PF/9413/Admn; and No. GDA/PF/9453/Admn, dated 31-12-2014, he however, submitted written replies to the Show Cause Notices, on 07-01-2015. But, the replies were found un-satisfactory, as the charges leveled against the accused official were proved on record and were physically apparent. Moreover, no convincing defence could have been offered. Therefore, Final Show Cause Notices bearing No. PF/149/Admn; and No. PF/150/Admn; dated 06-03-2015 were served upon the accused official, which he received on 09-03-2015. But, no reply was submitted thereto. However, the accused official was afforded opportunity of personal hearing and was heard in person on 09-07-2015. But, nothing worth considering has been placed before the undersigned to have explained his position with respect to the charges mentioned above.

In view of the above circumstances, the charges stand proved against the accused official as per record and ground realities, who failed to advance any convincing and acceptable defence. Hence, I, Director General, Galiyat Development Authority, Abbottabad being Competent Authority do, hereby, impose major penalty of dismissal from service upon Mr.

attested
[Signature]
 Director General
 Galiyat Development Authority
 Abbottabad

[Signature]
 3/8

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Wasif Mir, Building Inspector GDA, Abbottabad, with immediate effect, in the larger interests of public.

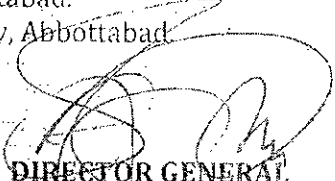
**DIRECTOR GENERAL
GALIYAT DEVELOPMENT AUTHORITY
ABBOTTABAD**

Cc:

1. Secretary to Government of Khyber Pakhtunkhwa, Local Government, Election & Rural Development Department.
2. Director, Galiyat Development Authority, Abbottabad.
3. Accounts Officer, Galiyat Development Authority, Abbottabad.

attested

As
Abdul Aziz Khan Tausif
Accounts Officer
Galiyat Development Authority
Abbottabad



**DIRECTOR GENERAL
GALIYAT DEVELOPMENT AUTHORITY
ABBOTTABAD**

To,

The Honourable Secretary,
to Govt. of Khyber Pakhtunkhwa,
Local Govt., Election and Rural Development Department,
Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED
ORDER NO. GDA/P.E/1519-22/ADMN DATED 03/08/2015 VIDE
WHICH THE LEARNED DIRECTOR GENERAL GDA
ABBOTTABAD VIDE WHICH, APPELLANT WAS DISMISSED
FROM HIS SERVICE AGAINST WITH OUT CONDUCTING OF
REGULAR INQUIRY AND PERSONAL HEARING OF THE
APPELLANT.

Respectfully Stated;-

1. That the appellant was appointed in the GDA vide order No. GDA/Office order / 9208-15/Admn dated: 31/12/2011 as a building inspector in BPS-11, Copy of appointment order is Annexed at Annexure "A".
2. That the appellant after appointment performed the duties to the satisfaction of his superior as well as local community therefore no any complaint was made by any person against the appellant.

attested
W
Rajal Gha Khan Tashir

17

3. That learned Director General, GDA issued two show cause notices

1. letter No.GDA/PF/9413 / Admn: dated: 31-12-2014

2. letter No.GDA/PF/9453 / Admn: dated: 31-12-2014

to the appellant on the basis of the same charges as alleged on other officials, but the responsibility was not fixed whether according to the rule, who was duty bound about the said function and that was not done. copy of show cause notices is Annexed as annexure "B" & "C"

4. That the appellant submitted detail para-wise reply to the show cause notice and documentary record against the allegation. Moreover appellant through documentary and verbally asked the Authority that encroachment report of the said pin point area was available in the office record. Copies of reply of show cause notice is at Annexure "D" & "E"


attested

[Signature]

Attested by
[Signature]
[Name]
[Designation]

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5. That in spite of above facts detail reply to the show cause notices the Authority without considering the facts and without conducting of regular inquiry final show cause notice was issued to the appellant and the same was replied with the request to consider already submitted reply.
6. That the authority on the basis of predetermined and mind without proving of allegation against the appellant impugned order of dismissal from service of the appellant was issued and copy is annexed at Annexure "F".
7. That the appellant filed instant departmental appeal against the impugned order on the following ground amongst others.

attested

Akht Aziz Khan Tesoli
1.4.2022

GROUNDS:-

- a. That the authority imposed the major punishment of dismissal from service without conducting of regular inquiry, in violation of principal of natural

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justice. Thus the penalty is illegal against the law and liable to be set a side.

b. That the penalty imposed to the appellant serious nature of allegations of the facts, but competent authority did not considered such facts and arbitrarily dispensed with the regular departmental inquiry and appellant was also condemned this the penalty and impugned order is illegal and liable to set a side.

c. That the appellant denied allegation leveled against him, holding regular inquiry was absolutely necessary, but neither regular inquiry was need nor appellant was given opportunity of personal hearing. Appellant could be declared guilty only through regular inquiry thus the whole action and impugned order is illegal unlawful discriminatory.

d. That the charges against the appellant are groundless in support of which no sufficient

Attested
Des
Attested by: *Atas Faridi*

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evidence prove brought on the record by the authority.

e. That the appellant dismissed from services without completing the codal formalities of the law thus the impugned order against the appellant is not sustainable in the eyes of law.

It is, therefore, respectfully prayed that on acceptance of this appeal impugned order against the appellant may graciously be set aside and appellant reinstated on service with all back benefits. Any other relief which deems fit and proper may also be grated in the interest of justice.


Dated: 31/08 /2015



(Mr. Wasif Mir)
Ex. Building Inspector,
GDA, Abbottabad

Copy to:-

1. Director General Galliyat Development Authority, PMA Kakul Road, Abbottabad.



Director General Galliyat Development Authority
PMA Kakul Road, Abbottabad

DBA No.	498
BC No.	10 - 2543
Name of Advocate	

S.No. _____



Head Clerk
District Bar Association
Abbottabad

وکالت نامہ

بعدالت سروس کے ہونے پر 19746
 عنوان: واحدہ نام محمد علی
 منجانب: رہبر نوعیت مقدمہ سروس
 باعث تحریر آنکے

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی اور عدالتی برائے پیشی یا تصفیہ مقدمہ بمقام اسٹریٹس کے لیے
عبدالغفور خان کھول اسٹریٹس
 کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے
 جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر منظر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ
 سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے
 علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ کچہری کے علاوہ کسی اور جگہ
 ساعت ہونے پر یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے
 کسی معاوضہ کے ادا کرنے یا بخاندہ کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخستہ صاحب موصوف
 مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم
 درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے
 اور ہر قسم کے بیان دینے اور اس پر ثالثی و رضامندی نامہ و فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیرونجات
 از کچہری صدر اپیل و برآمدگی مقدمہ یا منسوخ ڈگری یکطرفہ درخواست حکم اتحالی یا قرقی یا گرفتاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب
 موصوف کو بشرط ادائیگی علیحدہ ضمانت پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے
 کسی جزو کی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں
 وہی اور وہی اختیار حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف
 کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ
 کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے کہ سند ہے۔ مورخہ 26/12/2017
 مضمون وکالت نامہ سن لیا جہاں اچھی طرح لکھا گیا ہے۔ دن 26 ماہ سال

محمد علی
 محمد علی