

Appeal No. 704/2016
Hazarat Younas vs Govt

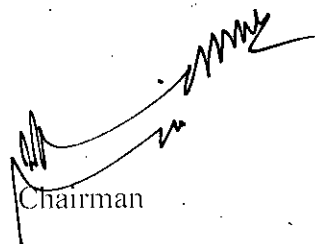
13.02.2018

Appellant in person present. Mr. Zia Ullah, DDA
for the respondents present. He requested for withdrawal of
the present appeal as grievances of the appellant has been
redressed.

In view of the statement the present appeal is
dismissed as withdrawn. File be consigned to the record
room.

ANNOUNCED
13.02.2018


Member


Chairman

704/16

20.03.2017

Counsel for the appellant and Mr. Ziaullah, G.P for the respondents present. Rejoinder submitted. Counsel for the appellant requested for adjournment. To come up for final hearing before the D.B on 20.07.2017.


Member


Chairman

20.07.2017

Appellant alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 02.11.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

02.11.2017

Mr. Jawad Ahmad, junior counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not in attendance today. Adjourned. To come up for arguments on 30.11.2017 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

30.11.2017

Counsel for the appellant and Mr. Muhammad Jan, DDA for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 13-02-2018 before D.B.


Member


Chairman

28.11.2016

Appellant in person and Addl. AG for the respondents present. Requested for adjournment. To come up for written reply/comments on 12.01.2017 before S.B.


Chairman

12.01.2017

Appellant with counsel and Mr. Muhammad Irshad, SO alongwith Additional AG for the respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 13.02.2017 before S.B.


Chairman

13.02.2017

Appellant in person and Mr. Farooq Shah, Assistant alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 29.03.2017.


(AHMAD HASSAN)
MEMBER

01.08.2016

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant submitted that the appellant was deferred from promotion on the basis of adverse remarks which remarks have been expunged by the departmental authority. He further argued that when again case of the appellant came up for consideration of promotion, again his case was deferred unlawfully on the ground of a penalty awarded in the year 2008. He submitted that vires of such penalty washes down with the passage of time of three years and the appellant was unlawfully deferred from promotion.

Amount of Security & Process Fee

The points raised at the bar need further consideration, therefore, admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 17-10-16.


Member

17.10.2016

Clerk to counsel for the appellant and Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 28.11.2016 before S.B.


Member

11.07.2016

Agent to counsel for the appellant present. Preliminary arguments could not be heard due to strike of the bar. To come up for preliminary hearing on 25-7-16


Member

25.07.2016

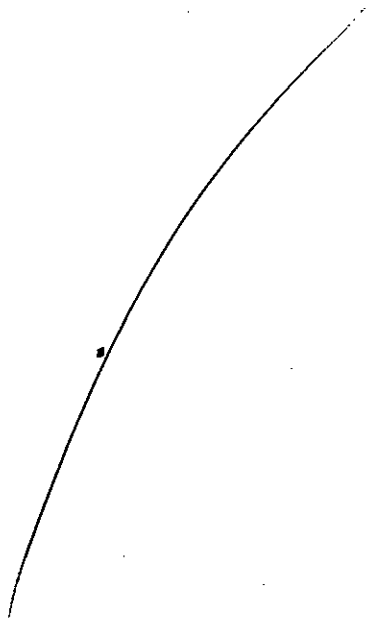
Counsel for the appellant present. Seeks adjournment. Adjourned for preliminary hearing to 01.08.2016 before S.B.

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Chairman



Form- A

FORM OF ORDER SHEET

Court of _____
 Case No. 704/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01/07/2016	<p>The appeal of Mr. Hazrat Younas presented today by Mr. Sajid Amin 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;"><i>Mr. Saighol</i> REGISTRAR</p>
2-	4-07-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>11-07-2016</u></p> <p style="text-align: right;"><i>Ch</i> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 704 /2016

Hazrat Younas Assistant Accountant (OPS) Office of the
Treasuries Bajor Agency.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary
Khyber Pakhtunkhwa Peshawar and others.

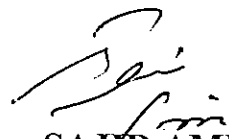
(Respondents)

INDEX

S. No	Description of Documents	Annexure	Page No
1	Memo of Appeal and Affidavit		1-5
2	Copy of the Seniority List	A	6-11
3	Copies of the Letter dated 08.01.2016 and ACR for the Year 2008.	B & C	12-13
4	Copy of the representation dated 22.01.2016	D	14-17
5	Copies of the letter dated 09.05.2016, letter dated 09.06.2016 and minutes of DPC.	E, F & G	18-22
9	Vakalatnama		23


Appellant

Through


SAJID AMIN
Advocate, High Court
Peshawar
Contact # 0333-4584986

BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 686

Dated 01-7-2016

Appeal No. 704/2016

Hazrat Younas Assistant Accountant (OPS) Office of the
Treasuries Bajor Agency.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
3. Director Treasuries and Accounts Khyber Pakhtunkhwa, Peshawar.

(Respondents)

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunals Act, 1974 against the letter dated 08.01.2016, whereby the appellant has been denied promotion to the post of Assistant Accountant BPS-16, -on account of un-communicated Adverse Remarks in the ACR for the year 2008 wherein the appellant was debarred for promotion forever, against which the appellant made representation on 22.01.2016, which was partially allowed to the extent of expunction of Adverse Remarks from ACRs, but again deferred from promotion in DPC dated. 27.04.2016 which was communicated to appellant vide letter dated 09.06.2016.

Prayer in Appeal:

On acceptance of this appeal the order dated 08.01.2016 and 09.06.2016, may please be declared as unlawful, illegal against the norms of justice and regulations with direction to the respondents to consider the appellant for promotion from his due date i.e when he became eligible for promotion but denied and deferred from promotion while juniors to him were promoted, the appellant may also be allowed back/consequential benefits. Any other remedy deems appropriate may also be awarded in favour of appellant.

Filed to day

Registrar

Respectfully submitted:

1. That the appellant was initially appointed as Sub Accountant 24.12.1984. He has at his credit a long and meritorious service career. During the course of his service, the appellant was also promoted as Assistant Accountant in the year 1998. However in the year 2009, the appellant was reverted to the post of Sub Accountant. Presently the appellant is posted as Assistant Accountant (OPS) in the Agency Accounts Office, Bajaur.
2. That ever since his appointment the appellant is performing his duties with zeal and devotion and has never given any chance of complaint whatsoever regarding his performance.
3. That as per the rules the next post in the channel of promotion to the post of Sub Accountant BPS-14 is Assistant Accountant BPS-16. The rules also provide the criteria for promotion to the said post as seniority cum fitness.
4. That it is pertinent to mention here that as per the seniority list of the Sub Accountants, the appellant is the senior most amongst the Sub Accountants, besides he also fulfilled the required criteria for promotion to the post of Assistant Accountant BPS-16. **(Copy of the Seniority List is attached as Annexure A)**
5. That in the year 2012, a DPC was conducted to consider the cases for promotion to the post of Assistant Accountant BPS-16, however, the appellant was differed for the reason that he has not completed 5 years ACRs and that after the completion of ACRs he may be promoted. That it is pertinent to mention here that during this period two of his junior colleagues were also promoted as Assistant Accountant BPS-16.
6. That thereafter the ACRs for 5 years of the appellant were completed in the year 2013. The appellant has already passed SAS exam in the year 2009, and was also the senior most Sub Accountants, therefore he was perfectly eligible for promotion to the post of Higher Scale.
7. That on 9th of December, 2015, again DPC was conducted wherein his name was also included for consideration for promotion, but to the great surprise of the appellant, when he received order dated. 08.01.2016 ,wherein he was informed that *"he has been differed from promotion for the reason that he has been reported as adverse i.e "not fit for promotion forever" in the ACR for the year 2008."* Thereafter it was decided to communicate the Adverse remarks to the appellant accordingly

he was communicated the remarks so recorded in his ACRs for the year 2008 through same order dated. 08.01.2016. **(Copies of the Letter dated 08.01.2016 and ACR for the Year 2008, is attached as Annexure B & C)**

8. That the appellant submitted his representation dated 22.01.2016 against his deferment on the basis of un-communicated adverse remarks, and prayed to expunged the remarks and to promote him from his due date. **(Copy of the representation dated 22.01.2016, is attached Annexure D)**
9. That the departmental appeal/ representation of the appellant was partially accepted and vide letter dated 09.05.2016, though the Adverse Remarks in the ACR for year 2008 i.e **“not fit for promotion for ever”** has been expunged and converted by the competent authority as **“may be promoted on his due turn”**, however again the appellant has been deferred from promotion to the post of Assistant Accountant BPS-16, by the DPC in its meeting held on 27.04.2016, on wrong presumption of earning one more good ACR for 2016, the same has been communicated to the appellant on 09.06.2016.**(Copies of the letter dated 09.05.2016, letter dated 09.06.2016 and minutes of the DPC are attached as Annexure E, F & G)**
10. That the repeated impugned acts and omissions of the respondents of not promoting the appellant to the post of Account Assistant despite his eligibility is highly illegal, unlawful against the law and facts, and violative upon the secured rights of the appellant, hence the appellant prays for the acceptance of the instant appeal inter alia on the following grounds:

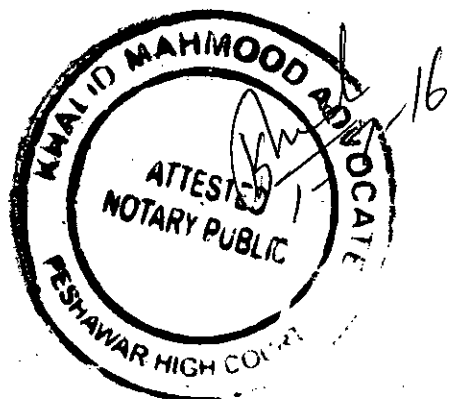
GROUND OF SERVICE APPEAL :

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That the mandatory provisions of Section 9 of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Khyber Pakhtunkhwa Civil Servant (Appointment, Promotions and Transfer) Rules, 1989 and enabling instructions contained in the ESTA Code have not been adhered to, thus the appellant has been deprived of his legal and due rights in an arbitrary manner.

- C. That the appellant has been deferred from promotion for the sole ground that he has been adversely reported in the ACR of the year 2008, however the remarks so recorded were never communicated to him thus the same could not be made ground for denying him his due right of promotion which then respondents did on account of un-communicated ACRs.
- D. That even otherwise when the adverse remarks were once expunged and converted into "*may be promoted on his due turn*" then the appellant was ever right to be considered for promotion from the date it was due to him but denied on flimsy grounds.
- E. That the appellant was never given any opportunity of personal hearing before recording him adverse in the ACR for the year 2008 and the appellant was penalized for no faults on his part.
- F. That even the view record in DPC dated. 27.04 2016, "*differed from promotion for one year for the reason that he was awarded major penalty of reversion in lower scale due to his involvement in embezzlement case in 2008, however, he will be considered for promotion after earning of good ACR for the year 2016*". are not legal and in accordance with law because if the reversion of appellant was made in 2008 then he would be automatically restored to his grade after lapse of maximum period of 5 years as envisaged in E&D Rules, 2011. The said period comes to an end in the year 2013, then for what purpose the ACR for the year 2016 is required. Especially when previous ACRs during reversion period are good.
- G. That even the superior courts have consistently held that un-communicated adverse remarks cannot be made hurdle in way of promotion.
- H. That the adverse remarks for the period 2008 were never conveyed to the appellant, the appellant only came to know about the remarks recently on 08.01.2016, when he was dropped from promotion for the reason that he was reported not fit for promotion forever in the year 2008 i.e after a considerable long delay and thus the remarks so recorded carried no sanctity and is a hidden whip for harming the spot less service career of the appellant, since it has already been expunged, therefore the appellant has ever right to be promoted from his due date i.e when his juniors were promoted.

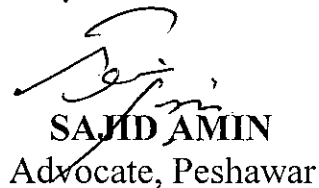
- I. That it is a well established rule/law that any adverse remark in the ACR of a civil servant must be communicated to him without any delay, however in his case, the appellant has been informed about the adverse remarks after a considerable long delay and has been made to suffer in shape of his deferment.
- J. That the appellant has at his credit a considerable long service, he is the senior most of the Sub Accountants and fulfilled the required criteria, therefore have every right to be considered for promotion to the next higher scale/post from the date when his juniors were promoted.
- K. That since similarly placed employees have been given promotion while the appellant has been denied the same which is highly discriminatory and also against the law.
- L. That the appellant seeks the permission of this Honourable Court to rely on additional grounds at the hearing of this appeal.

It is therefore prayed that on acceptance of this appeal the order dated 08.01.2016 and 09.06.2016, may please be declared as unlawful, illegal against the norms of justice and regulations with direction to the respondents to consider the appellant for promotion from his due date, i.e when he became eligible for promotion but denied and was deferred from promotion while juniors to him were promoted, the appellant may also be allowed back/consequential benefits.




Appellant

Through


SAJID AMIN
Advocate, Peshawar

Affidavit

I, **Hazrat Younas** Assistant Accountant (OPS) Office of the Treasuries Bajor Agency, do hereby solemnly affirm and declare on oath that the contents of the above appeal are true and correct and that nothing has been kept back or concealed from this Honorable Court.


Deponent

ADINBA "A"

②

Directorate of
Treasuries & Accounts



No. 1-45/DT&A/12/Seniority List/1185
Dated Peshawar the 14-05-2015

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

To

1. All the District Comptrollers of Accounts.
2. All the District/Agency Accounts Officers.

Subject: TENTATIVE SENIORITY LIST OF SUB-ACCOUNTANT (B-14) IN KHYBER PAKHTUNKHWA TREASURY ESTABLISHMENT AS IT STOOD ON 31-12-2014.

I am directed to refer to the subject noted above and to enclose herewith tentative seniority list in r/o Sub-Accountants of Treasury Establishment, Khyber Pakhtunkhwa as it stood on 31-12-2014 and to state that representation/ suggestion/ modification, if any, to the tentative seniority list (Part-B only) or correction in particulars may be communicated with your comments to this Directorate within fifteen days after the receipt of this letter. If no any representation in (Part-B) received within the stipulated period, it will be presumed that the tentative list is final

Deputy Director
Treasuries & Accounts
Khyber Pakhtunkhwa

Endst No & date even

Copy for information is forwarded to

1. The Section Officer (Estt-I), Finance Department, Government of Khyber Pakhtunkhwa, Peshawar.

Deputy Director
Treasuries & Accounts
Khyber Pakhtunkhwa

7

TENTATIVE SENIORITY LIST OF SUB ACCOUNTANTS, TREASURY ESTABLISHMENT, KHYBER PAKHTUNKHWA AS IT STOOD ON 31-12-2014

Part-A

S.NO	NAME OF OFFICIAL	DOMICILE	Whether SAS qualified or not	DATE OF BIRTH	DATE OF IST ENTRY INTO GOVERNMENT SERVICE	DATE OF JOINING TREASURY SERVICE	PLACE OF PRESENT POSTING	REMARKS
1	Hazrat Younas	Dir Lower	SAS (2009)	20-03-1959	23-12-1984	23-12-1984	AAO Bajour	reverted as Sub Accountant
2	Muhammad Jamil	Swat	NIL	03-03-1965	30-11-1995	30-11-1995	DCA Swat	
3	Raees Khan	Swabi	NIL	20-04-1956	01-01-1979	01-08-2002	DAO Swabi	(AA, on Acting Charge Basis)
4	Murad Ali	M.Agency	NIL	07-02-1980	14.06.2004	14-06-2004	working in S.T.I	(AA, on Acting Charge Basis)
5	Sahibur Rehman	Chitral	NIL	19-03-1974	13.05.2004	13.05.2004	DAO Chitral	(AA, on Acting Charge Basis)
6	Abdullah	Battagram	SAS (2013)	13-08-1969	31.05.2004	31.05.2004	DAO Battagram	(AA, on Acting Charge Basis)
7	Abdul Qadir	Bannu	NIL	24-11-1967	26.04.1992	12.05.2004	DAO,Charsada	(AA, on Acting Charge Basis)
8	Iftikhar Hussain	Manshera	SAS (2013)	17-04-1983	07-06-2004	07-06-2004	DAO Tor Ghar	(AA, on Acting Charge Basis)
9	Khan Zada Zeb	Haripur	SAS (2013)	18-12-1980	27-09-2002	07.07.2004	DAO Haripur	(AA, on Acting Charge Basis)
10	Israr Ali	Shangla	NIL	10-04-1981	17.05.2004	17.05.2004	DAO Shangla	(AA, on Acting Charge Basis)
11	Shah Hussain	Khyber Agency	NIL	22-10-1982	01-06-2004	01-06-2004	On deputation to FDA	(AA, on Acting Charge Basis)
12	Haji Rehmat	Chitral	NIL	10-12-1978	01.06.2004	01.06.2004	DAO Chitral	on E.O.L (14-05-2012 to 13-05-2013)
13	Qudrat Ullah Khan	L.Marwat	SAS (2013)	15-01-1982	31.05.2004	31.05.2004	DAO L/Marwat	(AA, on Acting Charge Basis)
14	Abid Ali	M.Agency	NIL	11-06-1975	15.07.2004	15.07.2004	DCA Peshawar	(AA, on Acting Charge Basis)
15	Abdur Rehman	Peshawar	NIL	26-01-1975	14.05.2004	14.05.2004	DCA Peshawar	(AA, on Acting Charge Basis)
16	Ghaus-ur-Rehman	Dir	NIL	01-01-1977	08.05.2004	08.05.2004	DAO Dir Lower	On E. O. L (01.07-2011 to 21-03-2015)
17	Alam Said	M.Agency	NIL	11-02-1977	19.07.2004	19.07.2004	AAO, Mohmand	(AA, on Acting Charge Basis)
18	Muhammad Alam	Peshawar	NIL	07-02-1977	01.06.2004	01.06.2004	On deputation to " Lisail e wal Mahrom Project"	(AA, on Acting Charge Basis)
19	Kashif Sultan	MKD Agency	SAS (2013)	21-09-1979	05.06.2004	05.06.2004	DAO Dir Upper	(AA, on Acting Charge Basis)
20	Touqeer Ahmad	Manshera	NIL	12-10-1976	07.06.2004	07.06.2004	DAO kohistan	(AA, on Acting Charge Basis)
21	Shujaat Khan	Peshawar	NIL	03-03-1977	14.05.2004	14.05.2004	on deputation to R. M. U., FD	
22	Riaz-ud-Din	Dir	NIL	04-02-1978	29.05.2004	29.05.2004	DAO, Dir Lower	(AA, on Acting Charge Basis)
23	Waheed Ullah	D.I.Khan	SAS (2013)	13-01-1984	01.06.2004	01.06.2004	DAO D.I.Khan	(AA, on Acting Charge Basis)
24	Ghulam Farid	Karak	NIL	03-03-1967	24-01-1995	12-02-2005	DAO Karak	(AA, on Acting Charge Basis)

8

S.NO	NAME OF OFFICIAL	DOMICILE	Whether SAS qualified or not	DATE OF BIRTH	DATE OF IST ENTRY INTO GOVERNMENT SERVICE	DATE OF JOINING TREASURY SERVICE	PLACE OF PRESENT POSTING	REMARKS
25	Ahmad Ghaffar	Nowhera	NIL	24-06-1979	22.12.2005	22.12.2005	DAO Nowshera	(AA, on Acting Charge Basis)
26	S. Aftab Hussain	Peshawar	NIL	03-04-1981	22.12.2005	22.12.2005	DAO, Charsadda	(AA, on Acting Charge Basis)
27	Sultan Wali Khan	Chitral	NIL	05-04-1976	22.12.2005	22.12.2005	DAO Chitral	(AA, on Acting Charge Basis)
28	Abdul Wahid	K.Agency	NIL	10-10-1976	27.12.2005	27.12.2005	DCA Peshawar	(AA, on Acting Charge Basis)
29	Abid Khan	Nowshera	NIL	07-01-1983	31.12.2003	24.12.2005	DAO Haripur	(AA, on Acting Charge Basis)
30	Fazal Wahab	MKD Agency	NIL	05-10-1978	22.12.2005	22.12.2005	DAO Malakand	(AA, on Acting Charge Basis)
31	Noor Ali Khan	Karak	NIL	12-12-1970	22.12.2005	22.12.2005	DCA Kohat	(AA, on Acting Charge Basis)
32	Miss Rafhan Sana	Karak	NIL	10-03-1980	19-09-2006	19-09-2006	DAO Karak	(AA, on Acting Charge Basis)
33	Mrs Khola Kanwal	Peshawar	NIL	10-06-1980	09-09-2006	09-09-2006	DCA Peshawar	
34	Maqbool ur Rehman	L.Marwar	NIL	01-04-1978	29.05.2007	29.05.2007	DAO L/Marwat	
35	Waheed Khan	Bannu	NIL	15-04-1980	29.5.2007	29.05.2007	DCA Bannu	
36	Iftikhar Ahmad	Karak	NIL	10-01-1981	30.05.2007	30.05.2007	DAO, Karak	
37	Khanzala	FR Bannu	NIL	19-04-1983	31.05.2007	31.05.2007	DCA, Kohat	
38	Awal Khan	Baj: Agency	NIL	05-05-1977	30.05.2007	30.05.2007	DCA Mardan	
39	Abid Usman	Karak	NIL	02-02-1983	18.06.2007	18.06.2007	DCA Peshawar	
40	Shahzad Muhammad	Haripur	NIL	15-03-1983	31.05.2007	31.05.2007	DAO Haripur	
41	Abdul Ghaffar Khan	Chitral	NIL	03-02-1974	29.05.2007	29.05.2007	DAO Chitral	
42	Tanveer	Swat	NIL	01-01-1980	30.05.2007	30.05.2007	DCA Swat	
43	Muhammad Basharat Abbasi	Manshera	NIL	15-01-1975	04-10-2002	16-06-2007	DAO Manshera	
44	Libni Amin	MKD Agency	NIL	01-04-1983	28.05.2007	28.05.2007	DAO Malakand	
45	Muhammad Raziq	Swat	NIL	10-02-1979	31.05.2007	31.05.2007	DAO Shangla	
46	Jamil Yousaf	Abbot Abad	NIL	22-12-1979	30.05.2007	30.05.2007	DAO Charsadda	
47	Maqsood Ali	MKD Agency	NIL	08-10-1984	28.05.2007	28.05.2007	DAO Dir Upper	

Attest


9

S.NO	NAME OF OFFICIAL	DOMICILE	Whether SAS qualified or not	DATE OF BIRTH	DATE OF IST ENTRY INTO GOVERNMENT SERVICE	DATE OF JOINING TREASURY SERVICE	PLACE OF PRESENT POSTING	REMARKS
48	Naveed Khan	Peshawar	NIL	17-04-1987	01-07-2010	01-07-2010	D. C. A. Peshawar	
49	Muhammad Riaz	Peshawar	NIL	12-12-1986	21-06-2010	21-06-2010	DT&A, Peshawar	
50	Muhammad Ishfaq Shah	Kohistan	NIL	02-06-1985	21-06-2010	21-06-2010	DAO, Kohistan	
51	Ikram Ullah	Lakki Marwat	NIL	01-02-1985	17-06-2010	17-06-2010	DCA, D. I. Khan	
52	Shahzad Mehmood	Abbott Abad	NIL	01-05-1986	29-06-2010	29-06-2010	DCA, Abbott Abad	
53	Naveed-ur-Rehman	Peshawar	NIL	25-02-1983	18-06-2010	18-06-2010	DCA, Peshawar	
54	Muhammad Hamid Younas	Abbott Abad	NIL	16-02-1985	05-07-2010	05-07-2010	DAO, Battagram	
55	Ghulam Dastagir	Karak	NIL	01-05-1987	17-06-2010	17-06-2010	DAO, Karak	
56	S. Muhammad Abdul Qadir	Mohmad Agency	NIL	10-03-1985	02-07-2010	02-07-2010	DAO Charsadda	
57	Haider Ali	Peshawar	NIL	25-08-1987	16-06-2010	16-06-2010	DCA, Peshawar	
58	Imraz Ali	Swabi	NIL	04-02-1988	02-08-2010	02-08-2010	DAO, Buner	
59	Barkat Ullah	Lakki Marwat	NIL	09-07-1984	17-06-2010	17-06-2010	DAO, Tank	
60	Roohullah	Malakand	NIL	18-07-1984	24-06-2010	24-06-2010	DCA, Peshawar	
61	Muhammad Nadeem Khan	Lakki Marwat	NIL	01-03-1988	28-06-2010	28-06-2010	DAO Tank	
62	Syed Naeem Ullah Shah	Peshawar	NIL	07-02-1983	17-06-2010	17-06-2010	DT&A, Peshawar	
63	Mussawar Khan	Peshawar	NIL	02-02-1986	17-06-2010	17-06-2010	DCA, Mardan	
64	Muhammad Zeeshan	Haripur	NIL	10-04-1987	16-06-2010	16-06-2010	On deputation to PDMA	
65	Waheed Ullah Khan	S. W. Agency	NIL	15-01-1987	28-06-2010	28-06-2010	DCA D. I. Khan	
66	Mehran Saeed	D. I. Khan	NIL	02-04-1985	17-06-2010	17-06-2010	DCA, D. I. Khan	
67	Sher Wahab	Lakki Marwat	NIL	11-04-1985	16-06-2010	16-06-2010	DAO, L/ Marwat	
68	Muhammad Tariq	Khyber Agency	NIL	11-04-1987	16-06-2010	16-06-2010	AAO Khyber	Asstt Acctt in OPS
69	Azmat Ali	Dir	NIL	24-10-1984	09-07-2010	09-07-2010	DAO, Dir Upper	
70	Asad Khan	Malakand	NIL	01-08-1985	21-06-2010	21-06-2010	DCA, Peshawar	
71	Abdul Salam	Khyber Agency	NIL	12-02-1984	18-06-2010	18-06-2010	DCA, Kohat	
72	Wajid Ullah	F. R. Bannu	NIL	09-03-1986	26-06-2010	26-06-2010	DCA, Bannu	
73	Atif Siddique	Mansehra	NIL	18-03-1986	05-07-2010	05-07-2010	DAO, Torghar	
74	Nasim Jan	S. W. Agency	NIL	02-02-1984	10-06-2010	10-06-2010	DCA, Bannu	
75	Abid Azeem	Abbott Abad	NIL	15-04-1985	01-07-2010	01-07-2010	DCA Abbott Abad	
76	Nazir Hussain	Chitral	NIL	12-03-1986	21-06-2010	21-06-2010	DAO, Chitral	
77	Naseh-ud-Din	N. W. Agency	NIL	02-04-1986	21-06-2010	21-06-2010	AAO, N. W. A.	
78	Hayat Anjum	Dir	NIL	01-06-1977	30-06-2010	30-06-2010	DAO, Dir Upper	
79	Zain Ullah	F. R. Bannu	NIL	02-01-1985	01-07-2010	01-07-2010	AAO, Kurram	

Attest
[Signature]

10

S.NO	NAME OF OFFICIAL	DOMICILE	Whether SAS qualified or not	DATE OF BIRTH	DATE OF IST ENTRY INTO GOVERNMENT SERVICE	DATE OF JOINING TREASURY SERVICE	PLACE OF PRESENT POSTING	REMARKS
80	Hafeez Ullah	Battagram	NIL	15-08-1985	18-06-2010	18-06-2010	DAO, Battagram	
81	Nauman Akbar	Mansehra	NIL	01-05-1987	17-06-2010	17-06-2010	DAO, Mansehra	
82	Sumbal Jamil	D. I. Khan	NIL	07-04-1987	30-06-2010	30-06-2010	DCA, D. I. Khan	
83	Nida Habib	D. I. Khan	NIL	20-11-1986	01-07-2010	01-07-2010	DCA, D. I. Khan	
84	Misbah Jabeen	D. I. Khan	NIL	04-06-1987	01-07-2010	01-07-2010	DAO, Noshera	
85	Atika Khalid Awan	Abbott Abad	NIL	02-08-1985	10-11-2010	10-11-2010	DAO, Mansehra	
86	Nafees Sultana	Karak	NIL	17-03-1985	10-05-2011	10-05-2011	DAO, Karak	
87	Naila Shaukat	Karak	NIL	2/8/1988	27-11-2012	27-11-2012	DCA, Kohat	
88	Azra Gul	Charsadda	NIL	24-04-1989	20-11-2012	20-11-2012	DCA, Peshawar	
89	Sana Amin	D. I. Khan	NIL	1/1/1987	25-03-2013	25-03-2013	DCA, D. I. Khan	
90	Tariq Ullah	Baj: Agency	NIL	1/2/1986	15-03-2013	15-03-2013	DAO, Swabi	
91	Gohar Ali	Dir	NIL	1/4/1985	22-03-2013	22-03-2013	DCA, Swat	
92	Kabir Jan	Baj: Agency	NIL	1/2/1988	26-03-2013	26-03-2013	AAO, Kurram	
93	Muhammad Salman Khan	Swabi	NIL	17-08-1986	22-03-2013	22-03-2013	DAO, Swabi	
94	Haider Mussarat shah	Mardan	NIL	25-01-1987	27-03-2013	27-03-2013	DCA, Mardan	
95	Junaid Gulfam	Mansehra	NIL	20-03-1987	14-03-2013	14-03-2013	DAO, Mansehra	
96	Abid ur Rehman	Chitral	NIL	25-02-1987	16-03-2013	16-03-2013	DAO, Chitral	
Part-B								
97	Irsala Aman	D. I. Khan	NIL	18-05-1988	3/1/2014	3/1/2014	DCA, D. I. Khan	
98	Shadam Mustafa	Peshawar	NIL	2/6/1992	9/1/2014	9/1/2014	DCA Peshawar	
99	Nida Faraz	Karak	NIL	6/10/1989	9/1/2014	9/1/2014	DCA Kohat	
100	Ghufan Khan	Bannu	NIL	17-04-1988	16-06-2014	16-06-2014	DCA Bannu	
101	Tahir Ullah Khan	Bannu	NIL	26-01-1990	16-06-2014	16-06-2014	DCA Bannu	
102	Yahya Khan	Swat	NIL	20-12-1988	13-06-2014	13-06-2014	DCA Swat	
103	Mohay-ud-Din	Bannu	NIL	11/4/1989	16-06-2014	16-06-2014	DCA Bannu	
104	Asfandyar	Charsadda	NIL	15-03-1988	17-06-2014	17-06-2014	DAO Charsadda	
105	Muhammad Atif	Karak	NIL	1/8/1988	11/6/2014	11/6/2014	DCA Kohat	
106	Fazli Wadood	Charsadda	NIL	15-04-1991	11/6/2014	11/6/2014	DCA Peshawar	
107	Shabarat Khan	SW. Agency	NIL	11/5/1989	17-06-2014	17-06-2014	DAO Tank	
108	Abdul Wadood	Swat	NIL	1/1/1987	17-06-2014	17-06-2014	DCA Swat	
109	Hidayat Shah	Mohmad Agency	NIL	12/1/1989	17-06-2014	17-06-2014	DAO Charsadda	

Atif

11

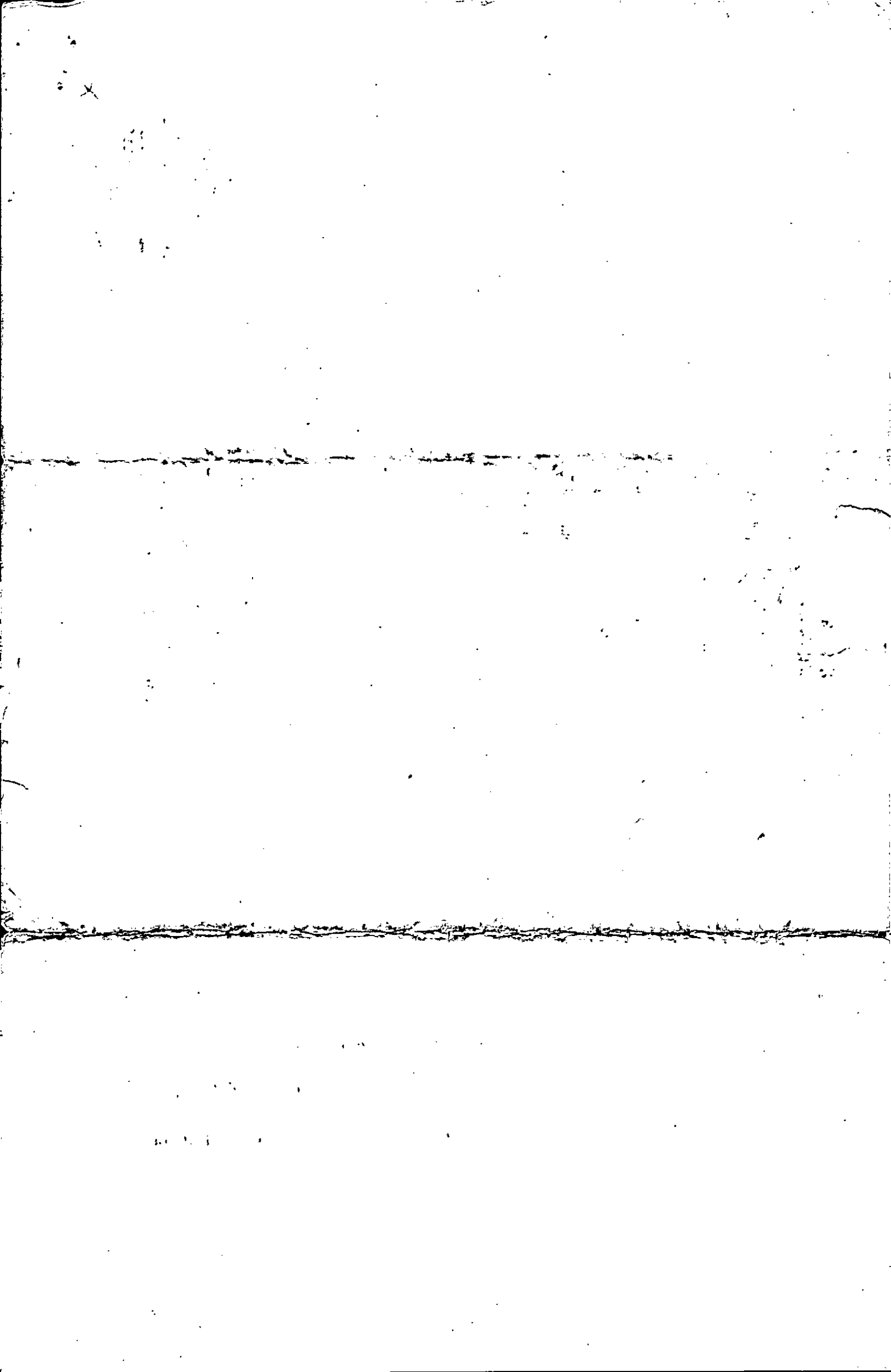
S.NO	NAME OF OFFICIAL	DOMICILE	Whether SAS qualified or not	DATE OF BIRTH	DATE OF IST ENTRY INTO GOVERNMENT SERVICE	DATE OF JOINING TREASURY SERVICE	PLACE OF PRESENT POSTING	REMARKS
110	Adnan	Dir	NIL	3/2/1989	11/6/2014	11/6/2014	DAO Dir Lower	
111	Amir Bacha	Mardan	NIL	4/4/1992	11/6/2014	11/6/2014	DAO Swabi	
112	Jalal Khan	SW. Agency	NIL	1/12/1985	17-06-2014	17-06-2014	DAO Tank	
113	Wasif Khan	Dir	NIL	5/3/1986	11/6/2014	11/6/2014	DAO Dir Lower	
114	Muhammad Arif Khan	Charsadda	NIL	6/3/1988	17-06-2014	17-06-2014	DAO Charsadda	
115	Inam Ullah	Khyber Agency	NIL	1/3/1987	11/6/2014	11/6/2014	DCA Peshawar	
116	Jawad Anwar	Peshawar	NIL	1/4/1985	11/6/2014	11/6/2014	DCA Peshawar	
117	Aurang zeb Khan	Bannu	NIL	2/8/1990	17-06-2014	17-06-2014	DCA Bannu	
118	Waqas Manzoor	Haripur	NIL	14-07-1989	16-06-2014	16-06-2014	DAO Haripur	
119	Haq Nawaz	Nowshera	NIL	4/3/1992	13-06-2014	13-06-2014	DAO Nowshera	
120	Muhammad Roman	F. R. Bannu	NIL	22-02-1985	23-06-2014	23-06-2014	AAO Kurram	
121	Usman Rasheed	Mansehra	NIL	1/12/1988	16-06-2014	16-06-2014	DCA Abbottabad	
122	Muhammad Ijaz	Dir	NIL	15-04-1989	11/6/2014	11/6/2014	DAO Dir Lower	
123	Haider Alli	Swat	NIL	29-02-1988	16-06-2014	16-06-2014	DCA Swat	
124	Mehmood Iqbal	Mansehra	NIL	14-03-1988	13-06-2014	13-06-2014	DAO Manshera	
125	Muhammad Nasir	Mansehra	NIL	6/2/1991	13-06-2014	13-06-2014	DAO TorGhar	
126	Bilal Ahmad Abbasi	Mansehra	NIL	10/4/1991	16-06-2014	16-06-2014	DAO Manshera	
127	Inam Ullah	F. R. Bannu	NIL	1/4/1989	18-06-2014	18-06-2014	DCA Bannu	

Note:

- ★ Part-A of seniority list is final.
- ★ Part-B of seniority list is tentative.

(Habib Ur Rehman)
DEPUTY DIRECTOR
TREASURIES & ACCOUNTS
KHYBER PAKHTUNKHWA

Attested



ANNEX B

(12)

To be Substituted with even No. & Date:



Directorate of
Treasuries & Accounts
Khyber Pakhtunkhwa

No. 1-55/DT&A/16/Promotion/1954
Dated Peshawar the 08-01-2016

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

To

Mr. Hazrat Younas
Sub Accountant O/O Agency Accounts Officer, Bajaur.

Subject: MINUTES OF THE MEETING REGARDING PROMOTION OF SUB ACCOUNTANT (BPS-15) TO THE POST OF ASSISTANT ACCOUNTANT (BPS-16)

Please refer to this Directorate letter No. even dated 08-01-2016 on the subject noted above and to state that Departmental Promotion Committee in its meeting held on 09-12-2015 under the chairmanship of Finance Secretary has deferred your promotion for the reason that the countersigning officer has recorded adverse remarks in your PER for the year 2008 that "the official is not fit for promotion forever" (Copy of ACR for the year 2008 enclosed) and decided to convey these adverse remarks to you and to give you a chance of representation.

Deputy Director
Treasuries & Accounts
Khyber Pakhtunkhwa

Endorst No & Date Even

Copy is forwarded for information to:

1. Mr. Fida Muhammad with a copy of ACR for the year 2008 in respect of Mr. Hazrat Younis, (Sub Accountant), Ex-District Accounts Officer, Malakand, now District Comptroller of Accounts, Mardan for comments and further necessary action.
2. Agency Accounts Officer, Bajaur with the remarks that the official may be informed accordingly.
3. Section Officer (Estt) Govt: of Khyber Pakhtunkhwa, Finance Department Peshawar.

Deputy Director
Treasuries & Accounts
Khyber Pakhtunkhwa

ANNEX "C"

(13)

FORM "C"

GOVERNMENT OF NWFP FINANCE DEPARTMENT

CONFIDENTIAL REPORT OF MINISTERIAL TREASURY AND ACCOUNTS
STAFF EXCULCING ACCOUNTANT/S.T.O. FOR THE YEAR ENDING 31.12.2008

NOTE

- 1. This form should be filled according to the Service and General Admin. Department letter No. 52-II-2 89/401 dated 20th March, 1965.
- 2. This report is to be written up by the Reporting Officer for each calendar year and is to be reviewed in a fortnight of January unless it is written any other time on the reporting Officer.

1. **NAEM & QUALIFICATION** **HAZRAT YOUNIS MA**

2. **POST HELD & DATE OF POSTING** **ASSISTANT ACCOUNTANT**

3. **SCALE OF PAY & PRESENT PAY WITH THE DATE OF INCREMENT BPS.NO.** **16 RS. 14990/-**

4. **TOTAL SERVICE YEARS** **24 MONTHS 0 DAYS 10**

5. **BRANCHES IN WHICH EMPLOYED DURING THE YEAR WITH PERIOD** **COMPILATION SECTION**

6. OBSERVATIONS OF OFFICE PROCEDURE

- i. Referencing & paging of note and correspondance. = Good =
- ii. Keeping files registers & papers in tidy condition = Good =
- iii. Promptness and accuracy in disposing of Work = Good =
- iv. Neatness in maintaining accounts register etc. = Good =

7. OBSERVATIONS

- i. Intelligence. = Good =
- ii. Knowledge of accounts procedure & regulations. = Good =
- iii. Promptness and accuracy punctuality = Good =
- iv. Cooperation with other staff. = Good =
- v. Admissibility of discipline = Good =
- vi. Skill of drafting = Good =
- vii. Integrity = Good =

8. **FITNESS FOR PROMOTION** *adverse* He is involved in fraudulent case of double lock and proceedings are in progress against him.

9. **GENERAL REMARKS.** He is involved in fraudulent case of double lock and P. Proceedings are in progress.

Assistant Treasury Officer
Malakand

10. GENERAL REMARKS BY THE HIGHER OFFICER.

The above charges has been proved & reverted to the past of Sns Accountant by competent authority. He is corrupt and dishonest person. He is not fit for further promotion for ever.

Signature

AGENCY ACCOUNTS OFFICER
MALAKAND

(14)

To

The Secretary,
Finance Department,
Khyber Pakhtunkhwa, Peshawar.

Through: Proper Channel

Subject: **Representation against the letter dated 08.01.2016, whereby I have been deferred from promotion to the post of Assistant Accountant BPS-16, and have also been informed about adverse remarks i.e "not fit for promotion for ever" (un-communicated) recorded in my ACRs for the year 2008.**

Prayer in representation:

On acceptance of this representation the letter dated 08.01.2016, may kindly be set aside and I being the senior most of the Sub Accountants and fit and eligible may be considered for promotion to the post Assistant Accountant BPS-16 from the year 2012, i.e when I was deferred from promotion for the first time due to incomplete ACRs and be allowed back/consequential benefits. Furthermore the adverse remarks recorded in my ACR for the year 2008, may also be declared as illegal and may be expunged.

Respectfully Submitted:

I respectfully submit my representation for its expunction inter-alia on the following grounds:

1. That I was initially appointed as Sub Accountant 24.12.1984 and has long and meritorious service career at my credit. During the course of my service I was also promoted as Assistant Accountant in the year 1998. In the year 2009, I was reverted to the post of Sub Accountant. Presently I am posted as Assistant Accountant (OPS) in the Agency Accounts Office, Bajor.
2. That as per the rules the next post in the channel of promotion to the post of Sub Accountant BPS-14 is Assistant Accountant BPS-16. The rules also provides the criteria for promotion to the said post.

Ally

3. That it is pertinent to mention here that I am the senior most amongst the Sub Accountants and also fulfilled the required criteria for promotion to the post of Assistant Accountant BPS-16.
4. That in the year 2012, a DPC was conducted to considered the cases for promotion to the post of Assistant Accountant BPS-16, however, I was differed for the reason that I have not completed for the last 5 years ACRs and that after the completion of ACRs I may be promoted. That it is pertinent to mention here that during this period two of my junior colleagues were also promoted as Assistant Accountant BPS-16.
5. That thereafter my ACRs for 5 years were completed in the year 2013, since I also passed SAS exam in the year 2009 and was also the senior most of the Sub Accountants, therefore I was perfectly eligible for promotion to the post of Higher Scale.
6. That recently on 9th of December, 2015, again DPC was conducted wherein my name was also included for consideration for promotion.
7. That to the great surprise I was communicated the minutes of the DPC vide letter dated 08.01.2016, wherein I was informed that I have been differed from promotion for the reason that I have been reported as adverse i.e *"not fit for promotion forever"* in the ACR for the year 2008.
8. That I pray for the acceptance of the instant appeal/representation inter alia on the following grounds:

GROUND OF REPRESENTATION :

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.
- B. That I have never been given any opportunity of personal hearing before recording me adverse in the ACR for the year 2008.
- C. That the adverse entries recorded in the ACR are not in accordance law and the instructions contained in the "Instructions on Performance Evaluation Report" hence carries no sanctity.

Attest
#

- D. That the mandatory provisions of Section 9 of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Khyber Pakhtunkhwa Civil Servant (Appointment, Promotions and Transfer) Rules, 1989 and enabling instructions contained in the ESTA Code have not been adhered thus I have been deprived of my legal and due rights.
- E. That ~~the~~ I have been deferred from promotion for the sole ground that I have been adversely reported in the ACR of the year 2008, however the remarks so recorded were never communicated to me thus the same could not be made ground for denying me my due right of promotion.
- F. That even the superior courts have time and again held that un-communicated adverse remarks cannot be made hurdle in way of promotion.
- G. That the adverse remarks for the period 2008 were never conveyed to ~~the~~ me, I only came to know about the remarks recently on 08.01.2016, when I was dropped from promotion for the said reason that I was reported not fit for promotion forever in the year 2008 i.e after a considerable long delay and thus it carries no sanctity and is a hidden whip for harming the spot less service career of the undersigned, the same are thus liable to be expunged on this score alone.
- H. That it is a well established rule/law that any adverse remark in the ACR of a civil servant must be communicated to him without any delay, however in my case I have been informed about the adverse remarks after a considerable long delay.
- I. That the performance of the undersigned during the period I was reported adverse was up to all standard, I was not served with any explanation call or counseling etc hence the adverse remarks having no base are liable to be struck down.
- J. That the adverse remarks recorded in my ACR are not judicious and does not reflect the ground realities regarding my performance thus should be ignored and expunged.
- K. That even otherwise the impugned adverse entries recorded in ACR is a stigma in my bright and long service career, and on this ground too the adverse entries are liable to expunction.


Atiqul
[Signature]

L. That the adverse entries recorded in the ACR are ambiguous, not based on facts.

M. That I have at my credit a considerable long service I am the senior most of the Sub Accountants and fulfilled the required criteria, therefore have every right to be considered for promotion to the next higher scale/post.

It is, therefore, prayed that on acceptance of this representation the letter dated 08.01.2016, may kindly be set aside and I being the senior most of the Sub Accountants and fit and eligible may be considered for promotion to the post Assistant Accountant BPS-16 from the year 2012, i.e when I was deferred from promotion for the first time due to incomplete ACRS and be allowed back/consequential benefits. Furthermore the Adverse Remarks recorded in the ACR of the undersigned for the year 2008, may also be declared as illegal and may be expunged.

Yours obediently,

 22/1/16

HAZRAT YOUNAS
Assistant Accountant (OPS)
Office of the Agency Accounts Officer
Bajor Agency.

Dated: 22/ 01/2016



ANNEX E

18



Directorate of
Treasuries & Accounts
Khyber Pakhtunkhwa

No. 1-55/DT&A/16/ACR/243
Dated Peshawar the 09-05-2016

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

To

Mr. Hazrat Younas,
Sub Accountant,
O/O Agency Accounts Officer, Bajaur.

Subject: INTIMATION ABOUT OF ACR 2008.

Please refer to your application on the subject noted above and to state that adverse remarks recorded by countersigning officer in your ACR for the year 2008 i.e. "not fit for promotion forever" has been expunged and converted by the competent authority as "may be promoted on his due turn".


Deputy Director
Treasuries & Accounts
Khyber Pakhtunkhwa





ANNEX F
19
Directorate of
Treasuries & Accounts
Khyber Pakhtunkhwa

No. 1-55/DT&A/16/MoM/ 381
Dated Peshawar the 09-06-2016

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

To

Mr. Hazrat Younas,
Sub Accountant,
O/O Agency Accounts Officer, Bajaur.

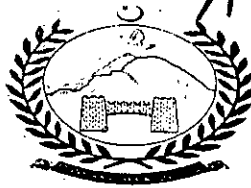
Subject: D.P.C MINUTES HELD ON 27-04-2016.

Please refer to your application dated 03-06-2016 on the subject noted above and to enclose herewith a copy of D.P.C minutes held on 27/04/2016 under the chairmanship of worthy Secretary Finance regarding promotion of Sub Accountant to the post of Assistant Accountant.


Deputy Director
Treasuries & Accounts
Khyber Pakhtunkhwa

E:\1-55\Intimation MoM fwd to Hazrat Younas 08.06.2016.doc


amongst the holders of the posts of Sub-Accountant.



Annex "G"

19
20

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Subject: MINUTES OF THE MEETING REGARDING PROMOTION OF SUE ACCOUNTANT (BPS-15) TO THE POST OF ASSISTANT ACCOUNTANT (BPS-16)

The Departmental Promotion Committee meeting was held on 27-04-2015 at 02.00 P.M. under the chairmanship of Secretary Finance in the Committee Room of Finance Department. The following attended:-

- (i) Mr. Ali Raza Bhutta, Secretary Finance. In Chair
- (ii) Mr. Muhammad Naseem, Dy:Secretary (Admn), Finance Department.
- (iii) Mr. Nasrullah Khan, Director, Treasuries & Accounts.
- (iv) Mr. Saifullah Khan, Section Officer (Reg-VI) Establishment Department.
- (v) Mr. Hidayatullah, Section Officer (FR), Finance Department.

2. The chair welcomed the participants and invited Director Treasuries & Accounts to brief the meeting about the proposed promotions. Director T&A apprised the meeting that 02 posts of Assistant Accountants (BS-16) are lying vacant due to deferment of promotion of the following two Assistant Accountant by the Departmental Promotion Committee in its meeting held on 09-12-2015, for the reasons noted against their names:

Sl. #	Name of officers	Recommendation of Departmental Promotion Committee
1	Hazrat Younas	He was deferred from promotion due to adverse remarks in his PER for the year 2008. As the said adverse remarks was not communicated to the official concerned therefore, DPC recommended that Director Treasuries & Accounts may communicate adverse remarks to the official & give him a chance of representation and then proceed further.
2	Ghousur Rehman	He was deferred from promotion due to the reason that he was not obtained one complete annual PER after return from EOL on 01-11-2014, therefore, committee recommended that he will be considered for promotion after earning of PER for one complete year.

According to Khyber Pakhtunkhwa Treasuries (Recruitment & Appointment) Rules, 1981, amended upto 2011, the method of recruitment to the post of Assistant Accountant is as under:

"By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Sub-Accountant."

3. In the light of the prescribed method of recruitment, a panel of candidates from the notified seniority list of Sub-Accountants was placed for consideration before the Departmental Promotion Committee. After proper scrutiny of the service record, synopsis of PER etc of the officials proposed in the panel, the committee recommended as under:-

Sl. #	Name	Recommendation of Departmental Promotion Committee
1.	Hazrat Younas	Deferred from promotion for one year for the reason that he was awarded major penalty of reversion to lower scale due to his involvement in embezzlement case in 2008. However he will be considered for promotion after earning of good report for the year 2016.
2	Ghousur Rehman	Recommended for promotion to the post of Assistant Accountant (BS-16) on regular basis.

Meeting ended with vote of thanks to and from the chair.

(Hidayatullah)
Section Officer (FR)

(Saifullah Khan)
Section Officer (R-VI)

(Nasrullah Khan)
Director T&A

(Muhammad Naseem)
Dy. Secretary (B-III)

(Ali Raza Bhutta)
Secretary Finance



Directorate of
Treasuries & Accounts
Khyber Pakhtunkhwa

22

Dated Peshawar the 02-02-2015

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

NOTIFICATION

No: 1-55/DT&A/15/DPC/2015/⁶⁹⁸⁻⁰⁵ On the recommendation of Departmental Promotion Committee, the competent authority has been pleased to promote / appoint the following officials/ officers of Khyber Pakhtunkhwa, Treasury Establishment from the posts of Sub Accountants (BPS-14) to the post of Assistant Accountant (BPS-16), on regular basis, with immediate effect. They will be on probation for a period of one year extendable for another year.

S. No	Name of Officer	
01	Muhammad Jamil	On regular basis
02	Raees Khan	On regular basis

Consequent upon the above, the following posting / transfer are made hence forth:

S.No	NAME & DESIGNATION	FROM	TO	REMARKS
01	Muhammad Jamil Assistant Accountant (B-16)	District Comptroller of Accounts Swat		Against the vacant post of Assistant Accountant.
02	Raees Khan Assistant Accountant (B-16)	District Accounts Office, Swabi		Against the post of Assistant Accountant.

Director
Treasuries & Accounts
Khyber Pakhtunkhwa

Endst No & Date Even

Copy for information is forwarded to:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The District Comptroller of Accounts, Swat.
3. The District Accounts Officer, Swabi.
4. The Manager, Khyber Pakhtunkhwa Printing Press, Peshawar for publication in the next issue of official gazette.
5. PS to Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
6. PA to Director, Treasuries & Accounts, Khyber Pakhtunkhwa, Peshawar.
7. Section Officer (Estt) Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
8. Officers concerned.
9. Office order file.

D. No 260
15

SAA
[Signature]
Deputy Director
Treasuries & Accounts
Khyber Pakhtunkhwa

POWER OF ATTORNEY

In the Court of Khyber Pakhtunkhwa Bench Sesssion Tribunal
Muzaffar Yousaf } For
 } Plaintiff
 } Appellant
 } Petitioner
 } Complainant

VERSUS

Govt of Pk and others } Defendant
 } Respondent
 } Accused

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____

Fixed for _____

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

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

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

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

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

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

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

Accepted

Sajid Amin Advocate, Peshawar

Ijaz Anwar

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3 C4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0333-9107225

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 704/2016

Hazrat Younas, Assistant Accountant (OPS)

Office of the Treasuries Bajor Agency

..... **APPELLANT**

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Finance Department, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries & Accounts, Khyber Pakhtunkhwa, Peshawar..... **RESPONDENTS**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 3

RESPECTFULLY SHEWETH

PRELIMINARY OBJECTIONS

1. That without prejudice to the foregoing, the appeal is bad, both in form as well as in substance.
2. That the appellant has tried to twist and bend facts to his own advantage/benefit.
3. That the appellant has got no cause of action.
4. That the appeal is time barred.
5. That the appeal is not maintainable in the present form.
6. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
7. That the appeal is hit by the provision of law.

ON FACTS:

1. Partially correct. The appellant has no meritorious and flawless service at his credit. He was reverted to the lower post due to involvement in case of misappropriation and embezzlement. (Annex-A)
2. Incorrect. He was awarded major penalty of reversion as the case of embezzlement was established against him.
3. Partially Correct. It would be for the promoting authorities to determine such suitability after an assessment of all relevant considerations such as seniority, competence, rectitude and antecedents.

4. Partially correct. The good service record, aptitude and suitability for promotion to the higher post are also pre-requisites. The appellant has not fulfilled the above principles.
5. Pertains to record.
6. Incorrect. The principles i.e. good service record, aptitude and suitability for promotion to higher post are also required to be fulfilled. Secondly, no employee can claim as of right a promotion from one position to another.
7. The ACR is an assessment of the conduct and quality of the work that a Government servant has performed. The competent authority recorded in his ACR that "he is not fit for promotion forever" as such the appellant was differed from promotion to higher post.
8. Pertains to record.
9. Incorrect. The ACR is an important record on the basis of which the suitability of a civil servant for the post held by him and for promotion to a higher post is judged, hence, the appellant shall be considered for promotion after obtaining assessment of good conduct and quality of work during the year 2016.
10. Incorrect. The acts of the respondents are based on law and facts.

Grounds Of Service Appeal:

- A. Incorrect. The appellant has been treated strictly in accordance with relevant laws /rules and without any discrimination. Appellant cannot claim promotion from one position to another as a right.
- B. Incorrect. The good service record, aptitude and suitability for promotion to a higher post are also pre-requisites; hence his case was legally differed.
- C. Incorrect. Reply as per Para "B" above.
- D. Incorrect. Reply as per Para "B" above.
- E. Incorrect. The reporting as well as the countersigning officers are the best judges of the situation. The countersigning officer gave him an adverse report with justification.
- F. Incorrect. Reply as per Para "B" above.

- G. Incorrect. The adverse remarks i.e. "not fit for promotion for ever" are disqualification for promotion.
- H. Incorrect. Reply as per Para "9" of on facts.
- I. Incorrect. The appellant cannot claim promotion from one position to another as a right. The good service record and suitability for promotion to higher post are also mandatory; hence his case was legally differed.
- J. Incorrect. The appellant has no meritorious and flawless service at his credit. The appellant involvement in embezzlement case was established against him. The appellant was also awarded major penalty i.e. reversion to lower grade. Under the law, a civil servant is also required to have good service record and suitability for promotion to higher post; hence the appellant was correctly differed.
- K. Incorrect. The appellant case was correctly differed and in accordance with relevant rules/law.
- L. That the respondents seek permission to raise additional grounds at the time of arguments.

In view of the above, it is earnestly prayed that the appeal may be dismissed with cost.

CHIEF SECRETARY
GOVT: OF KHYBER PAKHTUNKHWA
(Respondents No.1)


SECRETARY FINANCE

GOVT: OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(Respondent No.2)


DIRECTOR

TREASURIES & ACCOUNTS
KHYBER PAKHTUNKHWA
(Respondent No. 3)

33

Enquiry report in case embezzlement of stamps worth Rs.1488241/-
committed by Hazrat Younas Assistant Accountant Malakand Treasury(u/s)

INTRODUCTORY

The Director Treasuries & Accounts NWFP during annual inspection of AAO Malakand on 16/7/2008, unearthed fraudulent issue of stamps valuing Rs.1331695/- from Double Lock of Malakand Treasury during span of 03 years.

Mr.Nasrullah Khan Ex:DCA Swat conducted enquiry on 16/7/2008, to go through the record until clean slate appears & fix responsibility of the irregularity resulting the embezzlement. He worked out the total embezzlement/theft of stamps as Rs.1488241/-.

Hazrat Younas Assistant Accountant Malakand Treasury & Mr.Sher Muhammad Assistant Treasurer, the Sub Agent of Govt. Contracting Treasurer, admitted the offence & returned the whole money embezzled by them in connivance with each other.

The services of Mr.Sher Muhammad being Sub Agent of Contracting Treasurer & not a Govt.Servant within meaning of NWFP Civil Servant Act 1973, were dispensed with, while Hazrat Younas Assistant Accountant, a Provincial Civil Servant, was charge sheeted under S-03 of NWFP (Removal from service) special Power Ordinance 2000.

The undersigned was appointed as Enquiry Officer vide Director Treasuries & Accounts NWFP order No.Spl-07/Malakand/Stamps dt:18/11/2008, received on 26/11/2008, with the direction to submit enquiry report with in 25 days showing detailed recommendation as to punishment in line with rules or other wise is appropriate action against the accused.

Hazrat Younas accused having been born on 20/03/1959, had joined Treasury & A/Cs Service on 24/12/1984 as Sub Accountant B-14. He was promoted to the post of Assistant Accountant B-15 on 15-11-1997 and is presently placed under suspension.

The Enquiry proceeding was held in Office of AAO Malakand on already appointed date of 13th to 15th December 2008. Hazrat Younas accused had joined the proceeding & was also heard in person.


District Comptroller of Accounts
Bannu

FACTS.

1. According to statements of both accused furnished during preliminary Enquiry, they used to distribute the amount recovered through sale of stamps stolen from Double lock of Treasury Strong room in the ratio of 60:40% i.e. Hazrat Younas 60% and Sher Muhammad 40% (copies of such statements placed at A&B).
2. **Modus operandi**
 - (i) Hazrat Younas incharge receipt A/C used to transfer receipts under head arms licence fee etc to stamps receipts in the A/Cs, and then signal the figure of amount so transferred, to Mr. Sher Muhammad who used to steal stamps of equivalent amount from Double Lock of Treasury Strong Room and sell them illegally to stamp vendors & other needy people of Malakand and adjoining areas at cheaper rates.
 - ii) Besides, they also used to steal/issue stamps of high value denomination from double lock against receipt of TMOs/C&W/PHE Deptt: recovered from contractors on a/c of stamp duty against which no stamps can be issued at all to any body, under the rules.
 - iii) By alteration in the genuine challans of receipt of stamps.
3. Through above means they managed to steal high value stamps amounting to Rs.1488241/- during period 01/07/2005 to 31/05/2008, from the Double Lock of Treasury Strong Room, sold them in illegal manner and distributed among themselves, the amount received from illegal sale in aforesaid ratio.
A chart illustrating the said distribution and its recovery is annexed as "C".


District Comptroller of Accounts
Bannu

FINDINGS

35

In the backgrounds of above admitted facts, normally there was no need to enquire further. But it was wisdom of the Authority to afford opportunity to the accused civil servant to show cause against quantum of punishment. For that very reason the present enquiry was instituted.

2. Charge sheet was served on accused on 26/11/2008 (copy duly received is annexed as "D & E") to which he submitted reply on 05/12/2008. The reply is annexed as "F". He has once again tendered confession of his guilt and shown readiness to minimum punishment as well.

3. A questionnaire was served on accused to which he replied. That is placed at "G". Similarly, a questionnaire was served on sitting AAO on certain points to which he replied. The same is placed at "H".

4. Where accused civil servant has thrown himself at the mercy of competent authority through admission of guilt and deposited the loss back, the only question left to be determined is quantum of punishment.

5. To help arrive at a just conclusion, I had to travel in straight furrow to assess the relative degree of responsibilities in the matter. I would fail my bounden duty of up-holding ends of natural Justice and maintaining public faith in state's enquiries, if I do not resort to and spell out matters and procedural flaws which facilitated theft of stamps out of Treasury strong room in order to high light that to what extent fictitious transfer entries in A/Cs made by Hazrat Younas played the role in fraudulent drawls of stamps from double lock and their subsequent illegal sales.

6. In that, it is simply a case of theft of stamps of high value denominations from the Treasury strong room the keys of which are jointly held by Treasury Officer and Head Treasurer as Agent of Govt: contracting Treasurer (Treasury Rule 114 (v)).

7. Under the rules, stamps are kept and secured in the strong room which is guarded round the clock by a contingent of police or levy and can only be removed on a demand in presence of Treasury Officer.

8. Stock so transferred to the charge of Head Treasurer is entered by him in single lock Register from where sale of stamps to public and vendors are made on receipt challans after proper check by A.T.O.(Rule 29A of appendix H to Treasury Rules read with TR 99 &100). **Rule 29A** further lays down that receipts from Double Lock & the daily sales with balance in single lock be struck at the end of day, the correctness of which should be verified daily by Treasury Officer under his initials.


District Comptroller of Accounts
BARRU

36

9. As a matter of fact, in AAO Malakand the practice of maintenance of single lock/sale Register was dispensed with. To a query from Director Treasuries & A/Cs it was argued that sale registers were discontinued for some 4-years ago, so that the stamps could be issued directly to the vendors in presence of DAO/ATO vide item No. 1. of AAO Malakand letter No. AAO/MKD/Insp (DT&A)/162 dated: 21.06.2008 to the address of Director Treasuries (copy annexed here to marked "I"). Contention appears to be incorrect, for had the stamps issued in presence of DAO/ATO, the fraud which lasted for last 03-years would have been detected at the very out set.

10. In present case stamps have been taken out of strong room by Assistant Treasurer hood winking his Head Treasurer, ATO and the Treasury Officer.


11. Moreover, under the rules, double lock Registers can never be removed from Double lock (Rule 26 of appendix H to Treasury Rules read with Treasury Rule 119). But in this case these have been left with Assistant Treasurer in single lock which provided him ample opportunity to make desired forged entries.

12. Had the rules & procedure properly observed, the Assistant Treasurer would have failed to steal out stamps from double lock. In that case fictitious transfer entries in A/Cs and consequential defrauding would have been foiled at the initial stage, automatically.

13. The above persistent serious irregularities, no matter in good faith, had facilitated the theft and miss appropriation of stock of stamps.

14. In this regard, provision of Para-23 of GFR and instructions issued there under for disposal of cases of losses etc as embodied in appendix 2 to GFR Vol-I have also been ignored altogether except a portion of note under sub section (ii) to section 5 ibid which deals with recovery of loss and it is appreciable that loss has been recovered.

15. Similarly, contrary to provision of Para 20 of GFR Vol-I the case has not been reported to AG NWFP which was mandatory even when loss has been made good.


Director Treasuries & A/Cs
Peshawar

CONCLUSION.

From perusal of record, confessional statement of the accused and findings of the case it can be concluded that Mr.Sher Muhammad Sub Agent of Govt.Contracting Treasurer and Hazrat Younas Assistant Accountant in Office of Agency Accounts Officer Malakand are the main & sole culprits of the offence.

The fraud occurred /committed in the Treasurer's branch. The fraudulent practice continued for long period of 03 years which was possible only because Hazrat Younas of A/C branch had joined hands with culprit Sher Muhammad Asstt:Treasurer of Govt.Contracting Treasurer.

The Govt.Contracting Treasurer has failed in obligation of his contract. It is therefore recommended that after due notice his contract may be cancelled as per provision of contract deed, forfeiting his security Deposits. The case of his delegate/Agent Mr.Sher Muhammad may be dealt with under law of land.

Recommendations in respect of Hazrat Younas Assistant Accountant (u/s) Office of Agency Accounts Officer Malakand are that although, admitting his guilt he has returned the embezzled money and as such Govt. exchequer sustaining no loss, yet charge of gross misconduct, having ingredient of criminal breach of trust stands proved against him. However, in consideration of his long service of 24 years, it is proposed that major penalty of compulsory retirement from service under amended section 03 of NWFP (Removal from service) special Powers Ordinance 2000 may be imposed on him after service of show cause notice by the authority, under sub section (e) (2) ibid.

Dated. 18-12-2008



(SHAH JEHAN)
District Comptroller of Accounts
Bannu
Enquiry Officer

میں سے صرف وہی اسٹیٹ اکاؤنٹس کے افراد کو منظور کیا گیا ہے۔

یہ سب جو عملی طور پر جوڈیشل سٹامپ / 545 میں ہو گیا ہے۔

اس میں بیمارے اکاؤنٹس ایسے فردا محمد بانگل شامل ہیں۔ وہ بے تصور

ہیں۔ یہ عملی طور سے اور شہید محمد سے میرا دور ہو گیا ہے۔

باقی تمام دفاتر کے عملے اس سے بے خبر ہیں۔

میں توسیع کے Recovery لئے تیار ہیں۔

حضرت یونس اکاؤنٹس

کے کام کے سب سے متعلق ہے۔

اس لئے میں Recovery کے ذمہ داری قبول کرتا ہوں۔

حضرت یونس اکاؤنٹس

ملائیہ اکاؤنٹس آفیس

Attached

18/4/08
Asst. Treasury Officer
Agency Accounts
Malakwal

Treasury Officer
Malakwal

Assit. Accounts Officer
Agency Accounts Office
Malakwal
Malakwal
18/6/08

District Comptroller of Accounts
Bannu

حلفی بیان

میں سہمی سیر محمد ولد عادل محمد ساکن ملاپنڈ محبت اسٹیٹ ٹریزر
 خزانہ دفتر ملاپنڈ تعاقبی پوسٹ دیہی واس، بلا ہیر واکراہ روڈ
 گواہان افراز کر کے ایک دہائیوں کے عرصہ فراڈ ثابت نال وڈنٹیل
 سٹامپ سیریز اور Special Adhesive stamps میں حضرت پوسٹس
 Receipt سٹ اور کمپیوٹر Fi پر کام کرتا ہے
 60 ساہ پر سٹ کا حصہ دار ہے مدد پر کم کمپیوٹر
 Receipt اکاؤنٹس اور Reconciliation لعی دفتری
 ریکارڈ کو درست رکھتا حضرت پوسٹس کی ذمہ داری تھی جگہ جلاہ
 اور ڈپل لاک ریکارڈ اکاؤنٹس آفیسر کے دستخط کے چند روز بعد
 درستگی اور رد و بدل کرنا میری ذمہ داری تھی اور ہم دونوں کی ملی
 کھلتے ہیں فراڈ چلتا رہا۔ یہاں اس فراڈ کی کسی کو کان وگا
 خبر ہوئی اور نہ ہی دفتر کا کوئی اور اہلکار یہاں ساہ اس
 فراڈ میں ملوث ہے اور نہ ہی باہر کا کوئی فرد اس فراڈ میں
 شامل ہے۔

بہ چند حروف لکھے تاکہ سدر ہے۔

17/16
08/08

گواہ سید

محمد عثمان

Sub - Acctt.
AAO office
Malakand.

محمد عثمان
 سیر محمد ولد عادل محمد
 ملاپنڈ
 ۲۱۱
 محمد عثمان
 اکاؤنٹس آفیسر ملاپنڈ

گواہ سید

ATO
Malakand


"C" 40

TOTAL LIABILITIES Rs.1488241

HAZRAT YOUNAS	SHER MUHAMMAD	TOTAL
195,000	93,500	288,500
200,000	17,000	217,000
0	20,000	20,000
0	50,000	50,000
0	100,000	100,000
18,500	20,000	38,500
200,000	130,000	330,000
220,000	0	220,000
97,695	0	97,695
38,805	87,741	126,546
970,000	518,241	1,488,241

DEPOSITED THROUGH CHALLAN INTO GOVT. TREASURY

YEAR	N.J	SAS	TOTAL	REMARKS
2007-08	515690	198155	713845	Ch:No.20-21dt 24.06.2008
2006-07	146400	183600	330000	Ch:No.22-23dt 27.06.2008
2005-06	0	67695	67695	Ch:No.24 dt 28.06.2008
2005-06	95280	124875	220155	Ch:No.25-26 dt 28.06.2008
2005-06	55312	0	55312	Ch:No.17 dt 21.06.2008
2005-06	0	101234	101234	Ch:No.01 dt 22.06.2008
Total	812682	675559	1488241	


 [Illegible Stamp]
 [Illegible Text]

P. P. P. P. P.

(3)

(This portion to be transmitted by the Bank Agent to the Treasury Officer in support of the credit in his daily account)

ORIGINAL

To

THE MANAGER, NATIONAL BANK OF PAKISTAN. 22

- 1) Sher Muhammad Asst. Treasurer
- 2) Hazrat Younis Asst. Accountant

Dated the 27/06/2008 20

Received from the bearer the sum of Rs 183600/- (Rupee One hundred and Eighty three thousand & Six hundred only) to be Credited to Government account under the head 302730 SAS on account of Special Adhans Staffs.

Agency Account Officer Malakand

Signature and full official designation of the Officer ordering the money to be paid in.

P. P. P. P. P.

(4)

(This portion to be transmitted by the Bank Agent to the Treasury Officer in support of the credit in his daily account)

ORIGINAL

To

THE MANAGER, NATIONAL BANK OF PAKISTAN.

- 1) Sher Muhammad Asst. Treasurer
- 2) Hazrat Younis Asst. Accountant

Dated the 27/06/2008 20

Received from the bearer the sum of Rs 146400/- (Rupee One hundred and Forty six thousand and four hundred only) to be Credited to Government account under the head 302704 N-J on account of Judicial Stamps.

Agency Account Officer Malakand

Signature and full official designation of the Officer ordering the money to be paid in.

JCA P. P. P.

118

(This portion to be transmitted by the Bank Agent to the Treasury Officer in support of the credit in his daily account)

To THE BANK OF PAKISTAN
22 JUL 2008
Received from

THE MANAGER, NATIONAL BANK OF PAKISTAN.

Dated the 22/7/2008 of 20

Received from the bearer the sum of Rs. 10,1234/-
to be Credited to Government account under the head
on account of *Spal Mhesin stamps*
Agency Accounts of PCC
Malik

Signature and full official name of the Officer ordering the money to be paid in

117

(This portion to be transmitted by the Bank Agent to the Treasury Officer in support of the credit in his daily account)

To

THE MANAGER, NATIONAL BANK OF PAKISTAN.

1) *Hozrat Younas Assistant Accountant* Dated the 21/07/2008 20
2) *Sheh Muhammed Assistant Treasury*

Received from the bearer the sum of Rs. 55312/-
to be Credited to Government account under the head
on account of *Non-Federal Stamps*
Agency Accounts of PCC
Malik

Signature and full official name of the Officer ordering the money to be paid in

Handwritten signature
DARON

STATE BANK OF PAKISTAN

Provincial (61)

43

Dated the 28/05/2008

Received from the Mr. Sher Muhammad Assistant Treasurer
the sum of Rs 95280/- (Rupees Ninety Five thousand Two hundred & Eighty only)
to be credited to Government account under the head B.02704 NJ
on account of Non-Judicial Stamps

This portion to be returned to the payee received by the Agent
Agency Accounts Officer
Note: The bank agent is instructed not to receive money unless

both portions of the invoice are carefully and clearly filled in
N.W.F.P.A. & T.3 b

Signature

STATE BANK OF PAKISTAN

Provincial (62)

Dated the 28/05/2008

Received from the Mr. Sher Muhammad Assistant Treasurer
the sum of Rs 124875/- (Rupees One hundred Twenty Four thousand Eight hundred & Seventy Five only)
to be credited to Government account under the head B.02730- SAS
on account of Educational Stamps

This portion to be returned to the payee received by the Agent
Agency Accounts Officer
Note: The bank agent is instructed not to receive money unless both

portions of the invoice are carefully and clearly filled in.

N.W.F.P.A. & T.3 b

Signature

(This portion to be transmitted by the Bank Agent to the
Treasury Officer in support of the credit in his daily account)

To

THE MANAGER, NATIONAL BANK OF PAKISTAN.

Mr. Sher Muhammad Assistant Treasurer

Mr. Hazrat Yousaf Assistant Treasurer

Dated the 16/05/2008

Received from the bearer the sum of Rs 107635/- (Rupees One Lakh Seven thousand Six hundred & Thirty Five only)
to be Credited to Government account under the head B.02730. SAS
on account of Educational Stamps

Signature and full official designation of the
Officer ordering the money to be paid in.

(This portion to be transmitted by the Bank Agent to the Treasury Officer in support of the credit in his daily account)

To

THE MANAGER, NATIONAL BANK OF PAKISTAN

1) Sher Muhammad
2) Hazrat younas

19855 Dated the 24/6/08 20

Received from the bearer the sum of Rs. 19855/-
to be Credited to Government account under the head 1302730
on account of Special Cash

[Handwritten signature]

Signature and full official designation of the Officer ordering the money to be paid in.

(This portion to be transmitted by the Bank Agent to the Treasury Officer in support of the credit in his daily account)

To

THE MANAGER, NATIONAL BANK OF PAKISTAN

1) Sher Muhammad
2) Hazrat younas

Dated the 24/6/08 20

Received from the bearer the sum of Rs. 515690/-
to be Credited to Government account under the head 1302704 N-3
on account of Special Cash

[Handwritten signature]

Signature and full official designation of the Officer ordering the money to be paid in.

DAA

Bo

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STATEMENT OF ALLEGATION

I, Mohammad Bashir Khan, Director, as competent authority, am of the opinion that Mr. Hazrat Younis, Assistant Accountant of Treasury Establishment, Finance Department has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of section-3 of the NWFP-Removal of Service (Special Powers) Ordinance, 2000:

- i. Mr. Hazrat Younis while posted as Assistant Accountant at Agency Accounts Office, Malakand is alleged to have committed an embezzlement by drawing fraudulently Rs.1,488,241/- from Malakand Treasury through altered challans/bogus entries in the accounts registers.
- ii. He has admitted the said embezzlement.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of following is constituted / appointed under section-5 of the Ordinance:-

Mr. SHAH JEHAN DCA Baramulla

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

Recd

Ar

m. Bashir Khan

(MOHAMMAD BASHIR KHAN)
DIRECTOR
TREASURIES & ACCOUNTS, NWFP
(Competent Authority)
Dated:14-11-2008

CHARGE SHEET

I, Muhammad Bashir Khan, Director as competent authority, hereby charge you Mr. Hazrat Younis, Assistant Accountant office Treasury Establishment, Finance Department, as follows:

That you while posted as Assistant Accountant at Agency Accounts Office, Malakand committed the following irregularities:-

- i. You have fraudulently drawn a huge amount from Malakand Treasury through altered challans/bogus entries in the accounts registers, and thus committed an embezzlement of Rs.1,488,241/-.
- ii. You have admitted the embezzled amount in writing.

2. By reasons of the above, you appear to be guilty of misconduct under section-3 of the NWFP (Removal from Service) Special Powers Ordinance, 2000 and have rendered yourself liable to all or any of the penalties specified in section-03 of the ordinance ibid.

3. You are, therefore, required to submit your written defence within seven days of receipt of this Charge Sheet to the Enquiry Officer.


4. Your written defence, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case exparte action shall follow against you.

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

6. A statement of allegations is enclosed.

Read

3


(MOHAMMAD BASHIR KHAN)
DIRECTOR
TREASURIES & ACCOUNTS, NWFP
(Competent Authority)

OFFICE OF THE DISTRICT COMPTROLLER OF ACCOUNTS BANNU.
NO.DCA/BU/Enquiry/2008-2009/ 1673-75

Dated: 26/11/2008.

To

Mr. Hazrat Younis
Assistant Accountant
C/O Agency Accounts Officer Malakand.

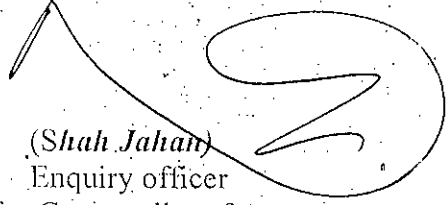
Subject: **Enquiry in case of embezzlement of an Amount Rs.1488241/- from Malakand Treasury through altered challans/bogus entries in the Accounts Registers.**

Memo:

The undersigned has been appointed as Enquiry officer in the subject case by the Director Treasuries and Accounts NWFP vide their office order NO.Special-07/MKD/Stamps dated 18/11/2008.

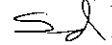
The charge sheet together with statement of allegation framed by the competent authority is enclosed here with in original. You are here by called upon to submit to the undersigned your written reply to the charge sheet with in the period of 07 days of its receipt, failing which it will be presumed that you have nothing to say in your defence and ex-part proceeding will be carried out accordingly.

You may also indicate whether you wish to be heard in person.

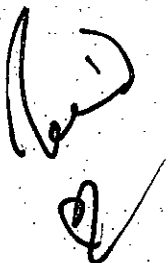

(Shah Jahan)
Enquiry officer
District Comptroller of Accounts
Bannu

Copy to:

1. Director Treasuries and Accounts NWFP
2. AAO Malakand with request to serve on the accused the above mentioned charge sheet against proper receipt pleas.


(Shah Jahan)
Enquiry officer
District Comptroller of Accounts
Bannu

Recd



FCS

48

OFFICE OF THE DISTRICT COMPTROLLER OF ACCOUNTS BANNU

NO.DCA/BU/Enquiry/2008-09/ 1690-91

Dated. 02/12/2008

To

The Agency Accounts Officer,
Malakand.

Subject: - ENQUIRY IN EMBEZZLEMENT CASE OF SUM OF RS.1488241/- IN MALAKAND TREASURY THROUGH ALTERED CHALLANS/BOGUS ENTRIES IN THE ACCOUNTS REGISTERS.

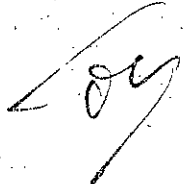
Memo:

Kindly with reference to this office memo No.DCA/BU/Enquiry /2008-09/1673-75 dt: 26/11/2008, on the subject matter.

It is to inform you ^{that} the undersigned shall visit your office to conduct enquiry in the subject case "In Shah Allah" on 13-12-2008 (F.N)

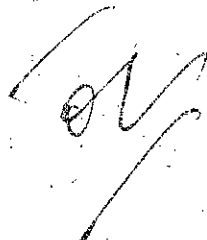
As a senior officer at the station you are requested to: -

- 1). Enforce attendance of the accused and of a well conversant representative of the office/Deptt: who is not personally concerned with the irregularity / embezzlement on the appointed date to associate in the proceedings.
- 2). Ensure availability of record, documents and material connected with the case.
- 3). Ensure presence of witnesses "for and against" the accused.
- 4). Put in any other information relevant to the judicious assessment of personal liabilities in the case.



12
District Comptroller of Accounts
Bannu

Copy to Director Treasuries & Accounts NWFP Peshawar for information with reference to above please.



12
District Comptroller of Accounts
Bannu

12
2/12

Questioner for Hazrat Younas Asst. Acct. (u/s)
o/o the Agency A/c's officer Malakand.

6
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میں صرف جلال اکاؤنٹ میں درج کیے گئے

1۔ فراڈ کیلئے عموماً کیا طریقہ کار اختیار کیا جاتا تھا۔

بہ ذمہ داری ASSIST Frame کی تھی۔

2۔ ڈبل لاک میں لوگس انٹریز کس نے کی اور کس کی ذمہ داری تھی۔

ASSIST Frame سے پاس

3۔ ڈبل لاک رجسٹر کس کے قبضے میں ہوتے تھے۔

مجھے اس کا کوئی علم نہیں

4۔ سرورقہ شامب کس کو فروخت کیے جاتے تھے اور کون فروخت کرتا تھا

20/5/2007 بلکہ کنسٹیبل کے وقت سے اس کا انتقال ہو رہا تھا۔

5۔ آپ کی اہلیہ کا انتقال کب ہوا۔

970000/-

6۔ آپ نے کتنی رقم واپس کی۔

13/12/08
حقیقت پوچھیں

13/12/08
شاہ جہاں ڈی کے اے بنوں
انکوائری آفیسر

اور عملہ کام نہیں کرونگا۔

ذبان والا

آجکی خبریں میں مودبانہ گزارش ہے کہ سائنس
کے موجودہ حالات اور اس کے حصوں کے حصوں کو دیکھ
کر سائنس پر ہم فرماویں۔ اور سائنس کو
کم سے کم سزا دی جائے۔

حضرت لوئیس

المرقوم 5-12-08

(Suspended)
اسائنڈ اکاؤنٹنٹ
ایجنسی اکاؤنٹنٹ آفس ملائش

District Comptroller of Accounts
Bannu

گرم زبان اخلاقی آنیئر صاحب ڈسٹرکٹ کمپیٹر ولز
آف اکاڈمیسی ضلع نبول -

عنوان :- چارج شیٹ بوجہ خرید و بیع :- (۱۹۸۸۲۴۱) سٹ

زبان عالی

آپ ارشاد ہے کہ مجھے چارج شیٹ بحوالہ آپ صاحب کی چھیٹ

نمبر ۱۱۰۸/۲۰۰۸ dt ۶۵-۶۳/۱۶۷۳-۰۹/۰۸-۲۰۰۸/BU/Faqirya/DEA - BU ملا -

زبان والد

مردمانہ الناس ہے کہ میری بیوی کو لینے کا فرض لاحق
تھا۔ اور یہ کہ سائل کے پاس اس کے علاج کیلئے کچھ بھی
نہیں تھا۔ کوئی بھی دوسری رشتہ دار قرض دینے کیلئے تیار نہیں
تھا۔ کہ میں اپنی بیمار بیوی کا علاج کرسکتا۔ اپنی بیوی کی زندگی
بچانے کیلئے سائل اس غلطی پر مجبور ہوا ہے۔ اور اب وہ
بھی زندہ نہ رہی۔

زبان والد

سائل نے مذکورہ غلطی کے ازالے کیلئے اپنا سب کچھ
دیا کہ اپنا اور اپنے چھوٹے چھوٹے بچوں کے سر چھبانے کا
آسرا اپنا گھر بھی بیچ کر حکومت کا نقصان پورا کر لیا
اور اب سائل کے پاس کچھ بھی نہیں ہے۔ سائل کے
ساتھ چھوٹے چھوٹے بچے ہیں۔ اور سارے سکولوں میں
پڑھتے ہیں۔ اور یہ کہ کسی قسم کی نوکری اور مزدوری کے
قابل نہیں ہیں۔ اور یہ کہ سائل بھی اب اس قابل
نہیں ہے کہ نوکری کے علاوہ کوئی اور کام کرسکے۔

زبان والد

میں نے صریح دل سے توبہ کر لی ہے۔ اور اپنے اللہ
سے وعزہ کیا ہے۔ کہ اسٹارہ کیلئے کسی قسم کی ایماں

"H" 52

**Question^{er} for Agency Accounts Officer Malakand on
embezzlement case in stamps transaction.**

1. Whether the Fraud/Embezzlement/defalcation has been reported to AG NWFP? If so kindly provide copy of such reports.

No

2. It has been reported that the embezzled amount used to be made available to stamps Receipt through T.Es from amongst other receipt heads of Accounts. Had cases of such T.Es taken up with A.G.NWFP, to reverse their amount to original Head of Accounts? If so, Provide copies of such Correction, showing month of correction in A/Cs

TEs were made during 2007-08 in 6/2008 accounts (while amount relating to previous year have now been re-deposited in their proper head of Accounts.)

3. Where the double lock Register used to be kept/ deposited after the double lock transaction?

Single Lock

4. What action was taken against contracting Treasurer?

Assistant Treasurer has been removed from Service

5. Whether any FIR was lodged?

No.

6. Who was entrusted to verify/ pass the challans?

Hazrat Younis Asstt Accountant

7. Who was entrusted to verify receipt statement? and Plus Mines memoranda in r/o stamps? Did the job done/entrusted to ATO?

* Hazrat Younis Asstt Accountant
* By the Accounts Officer

Remarks for supply against the NO2
It was verified that all the receipts were made under Head stamps i.e TE of 2007-08 & other deposit since the A/c of yr 2005-06 & 2006-07 had been closed & no TE could be made as such there is double reporting of A/c under stamp head

13/12/08
(SHAH JEHAN KHAN)
ENQUIRY OFFICER
DISTRICT COMPTROLLER OF ACCOUNTS
BANU

19/12/08

" 9 "

53

OFFICE OF THE
AGENCY ACCOUNTS OFFICER
MALAKAND

No. AAO/MKD/ADMN/INSP(D&TA) / 160-01
To

DATED 21.06.2008

The Deputy Director
Treasuries & Accounts
NWFP, Peshawar.

Subject: - DOUBTFUL ENTRIES IN STAMPS REGISTERS.

Memo:

Please refer to your memo No. Special-01/MKD/Stampa dated 18.06.2008, on the above noted subject, and Para wise reply to the observations raised in your Memo: under reference are submitted as under:

1. The sales registers were discontinued some 4 years ago, so that the stamps could be issued directly to the vendors in presence of the DAO/ATO, however the same again will be restarted in pursuance of your findings.
2. The stamps were physically rechecked by the undersigned and it was revealed that a stamp paper of Rs.10/- denomination was available in the lot of Rs.6/- now the same removed there from and placed in the lot of Rs.10/- stamps.
3. An explanation for making entries in the afterwards dates has been issued to the treasurer, and was directed to avoid such practice in future.
4. The registers of double lock were rechecked and the entries were found in the desired format, however the point noted for future guidance.
5. The cuttings and over writings made in the stamp registers will be attested by the undersigned.
6. A committee comprising the members whose names already intimated to you vide this office Memo: No.AAO/MKD/ADMN/160-01 dated 18.06.2008 (Copy attached) has been constituted under the supervision of which detailed checking of the credit challans have been started and remarkable progress has been achieved so far, however due to rush of work in the month of June, the complete checking can not be made in the stipulated time, it is therefore requested to let us have some time for arriving at the actual position please.


District Comptroller of Accounts
MALAKAND


(FIDA MUHAMMAD)
AGENCY ACCOUNTS OFFICER
MALAKAND

DIRECTORATE OF TREASURIES & ACCOUNTS**NWFP PESHAWAR**

House No. 21, Street No. 13, Mahfooz Road, Defence Officers
Colonv. Khvber Road. Peshawar



No: Special-08/MKD/Stamps
Dated Peshawar the 14-02-2009

To

Mr. Hazrat Younas,
Assistant Accountant,
O/o the Agency Accounts Officer,
Malakand

Subject: **DISCIPLINARY PROCEEDINGS UNDER REMOVAL FROM
SERVICE (SPECIAL POWERS) ORDINANCE, 2000**

During Inspection of Agency Accounts Office, Malakand by the Director and Deputy Director, Treasuries & Accounts, NWFP, some doubtful challans on A/c of Stamps Receipts were noticed and the matter was reported to the Finance Department for further necessary action.


Accordingly, Mr. Nasrullah Khan, the then District Comptroller of Accounts, Swat now Deputy Secretary (PAC), Finance Department was appointed as enquiry officer by the Finance Department to ascertain the exact embezzled amount, who after examining all the relevant record reported fraudulent withdrawal of stamps worth Rs.1,488,241/- and nominated 2 persons of Agency Accounts Office, Malakand i.e. M/s Hazrat Younas, Assistant Accountant and Sher Muhammad, Assistant Treasurer, alleged in the embezzlement.

After receipt of the enquiry report by Mr. Nasrullah Khan, you were served with charge sheet and statement of allegations and District Comptroller of Accounts, Bannu was appointed Inquiry Officer to conduct enquiry against you.

The enquiry officer has submitted his enquiry report and has recommended major penalty of Compulsory Retirement from service under Removal from Service (Special Powers) Ordinance, 2000.

Although, you have been recommended for compulsory retirement, yet the competent authority, keeping in view, your long service of over 24 years, has given one last chance of hearing your statement in person.


You are therefore, directed to appear before the Director, Treasuries & Accounts, NWFP, in his office, on 19-02-2009, to be heard in person in connection with your case.


DEPUTY DIRECTOR
TREASURIES & ACCOUNTS
N.W.F.P., PESHAWAR

Endst: No. & date even

Copy to the:

1. Agency Accounts Officer, Malakand for information with the request that the official may be directed to appear before the Director, Treasuries & Accounts, NWFP on the date and venue mentioned above.
2. P. A. to Director, Treasuries & Accounts, NWFP, Peshawar.


DEPUTY DIRECTOR
TREASURIES & ACCOUNTS
N.W.F.P., PESHAWAR

DIRECTORATE OF TREASURIES & ACCOUNTS**NWFP PESHAWAR**

House No. 21, Street No. 13, Mahfooz Road, Defence Officers
Colony, Khyber Road, Peshawar



Dated Peshawar the 17-03-2009

ORDER**NO: SPECIAL-10/MKD/STAMPS**

Whereas, Mr. Hazrat Younas, Assistant Accountant, Agency Accounts Office, Malakand was alleged in embezzlement/fraudulent withdrawal of Stamps case from the Double Lock of Malakand Treasury.

2. AND whereas, a fact finding enquiry was conducted and the enquiry officer reported Rs.1,488,241/- stamps embezzled from the Malakand Treasury.

3. AND whereas, the accused official was suspended from service on the above mentioned charge vide Government of NWFP, Finance Department office order No. SO(ESTT)FD/6-6/08/MKD dated 06-09-2009.

4. AND whereas, the above named official was proceeded under the N.W.F.P. Removal from service (Special Power) Ordinance-2000, for the charges mentioned in the Charge Sheet and Statement of allegations dated 18-11-2008.

5. AND whereas, the District Comptroller of Accounts, Bannu was appointed as enquiry officer. He recommended that it has been established that the charges levelled against the accused official have been proved and that major penalty of Compulsory Retirement from Service may be imposed on him forthwith.

6. AND whereas, the accused official was given a chance to be heard in person on 19-02-2009, and he submitted his statement (available on record) defended his case and pleaded that he may be forgiven for his mistake and that he would remain a disciplined and well behaved Government servant.

7. And whereas, a final show cause notice was served to the accused official with the direction to give his willingness, if he wishes to be heard in person again. The official submitted his written reply, and requested for taking his case compassionately, but did not turn to be heard in person.

8. NOW therefore, I, the Director, Treasuries & Accounts, NWFP, as competent authority, after having considered the charges, evidence on record, recommendations of enquiry officer and statement of accused official, in exercise of the powers under section-3 of NWFP Removal from Service (Special Powers) Ordinance, 2000, do hereby impose the major penalty of "Reversion from the post of Assistant Accountant (BPS-16) to the post of Sub Accountant (BPS-14)" upon the accused Mr. Hazrat Younas, Assistant Accountant, Agency Accounts Office, Malakand and re-instate him on service, with immediate effect.

**DIRECTOR
TREASURIES & ACCOUNTS
NWFP, PESHAWAR**

Endst: No. & date even

Copy forwarded to the:

1. Section Officer (Estt-I), Finance Department, NWFP, Peshawar.
2. Agency Accounts Officer, Malakand.
3. P. S. to Secretary to Government of NWFP, Finance Department, Peshawar.
4. P. S. to Special Secretary, Government of NWFP, Finance Department, Peshawar.
5. Official concerned.
6. Personal file.
7. Office order file.

o/c

**DEPUTY DIRECTOR
TREASURIES & ACCOUNTS
NWFP, PESHAWAR**

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 704/2016

Hazrat Younus, Assistant Accountant (OPS) office of the
Treasuries Bajour Agency

(Appellant)

VERSUS

Government of Khyber Pakhtukhwa through Secretary
Health & others.

(Respondents)

<p><u>REJOINDER TO THE PARA WISE REPLY ON</u> <u>BEHALF OF THE APPELLANT</u></p>
--

Respectfully submitted:

The appellant submits his rejoinder as under:

ON PRELIMINARY OBJECTIONS:

1. Contents incorrect and misleading, the appeal being filed well in accordance with the prescribed rule and procedure hence maintainable and competent in its present form and also in the present circumstances of the case.
2. Contents incorrect and misleading, all facts necessary for the disposal of appeal are brought before this honorable court and nothing has been concealed.
3. Contents incorrect and misleading, the appellant has been illegally denied promotion to the post Assistant Accountant, hence being an aggrieved civil servant he has got the necessary cause of action and locus standi to file the instant appeal.
4. Contents incorrect and misleading, the instant appeal has been filed well within the prescribed period of limitation.
5. As stated in reply to Para No.1:
6. Incorrect and misleading, all necessary parties are arrayed in the appeal.
7. Contents incorrect and misleading, the appeal is well accordance with the prescribed law and rules.

ON FACTS

1. Need no comments. However Contents of Para 1 of the appeal are correct.
2. Contents of Para No. 2 is correct to the extent of reversion. However contents of Para 2 of the appeal are also correct.
3. Need no comments. However Contents of Para 3 of the appeal are correct.
4. No comments to the extent of admission, rest of the Para is incorrect.
5. No comments.
6. Contents of Para 6 of the appeal are correct, the reply submitted to the Para is totally incorrect and misleading hence denied.
7. Need no comments. However Contents of Para 7 of the appeal are correct.
8. No comments.
9. Contents of Para 9 of the appeal are correct, the reply submitted to the Para is totally incorrect and misleading hence denied.
10. Contents of Para 10 of the appeal are correct, the reply submitted to the Para is totally incorrect and misleading hence denied.

GROUND

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

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



Through

[Signature]
Appellant

[Signature]
YASIR SALEEM
Advocate, Peshawar.

AFFIDAVIT

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

[Signature]
Deponent