

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**SERVICE APPEAL NO. 911/2016**

Date of institution ... 19.08.2016

Date of judgment ... 10.10.2017

Syed Tahir Ahmad Bukhari S/O Syed Zaki Ud Din Shah
R/O House No. 7 Mohallah Madina Colony,
Umarzai Tehsil & District Charsadda.

... (Appellant)

VERSUS

1. Secretary Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department, Khyber Pakhtunkhwa Peshawar.
2. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3. Additional Secretary, Forestry, Environment and Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
4. Section Officer-II, Social Welfare, Special Education and Woman Empowerment Department Khyber Pakhtunkhwa, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED WITHHOLDING OF ONE INCREMENT ORDER DATED 22.03.2016.

Mr. Javed Ali, Advocate.

.. For appellant.

Mr. Muhammad Jan, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

JUDGMENTMUHAMMAD AMIN KHAN KUNDI, MEMBER: -

This appeal has

been filed under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 22.03.2016 passed by the competent authority whereby minor penalty of withholding of one increment for one year was imposed on the appellant due to his negligence as Mst. Baby inmate of the Half Way House Peshawar was ill since long time and was not taken to the Hospital for treatment and ultimately died in the

Half Way House Peshawar on 12.10.2014. The appellant also filed departmental appeal but the same was also rejected hence, the present service appeal.

2. The respondents were summoned who contested the appeal by filing written reply/comments.

3. Learned counsel for the appellant contended that a facts finding inquiry was conducted by the inquiry committee regarding the demise of Mst. Baby inside the Half Way House Peshawar but the appellant was not recommended for any departmental proceedings and in the facts finding report, only Mst. Rubina Riaz the then incharge of defunct Halfway House Peshawar and Miss Nadia Shah, Manager Women Crises Center, Peshawar were nominated by the inquiry committee. It was further contended that later on a departmental inquiry was conducted against the aforesaid Mst. Rubina Riaz the then incharge of defunct Halfway House Peshawar and Miss Nadia Shah, Manager Women Crises Center, Social Welfare, Peshawar, then the appellant was also malafidely drag in the said inquiry. It was further contended that the said Mst. Baby was died on 12.10.2014 but the letter regarding the physical condition of the inmate Mst. Baby issued by Miss Nadia Shah, Manager Women Crises Center, Peshawar was received by the appellant on 14.10.2014. It was further contended that the said letter was in the custody of Naib Qasid Rahat Shah since 03.10.2014 till 14.10.2014 and he put the said letter in official dock of the appellant on 14.10.2014 and to this effect entry in the daily register at serial no. 6639 by the diary clerk has also been entered. It was further contended that the appellant was informed when the Mst. Baby was already died. It was further contended that neither any charge sheet nor statement of allegation was served nor proper inquiry was conducted against the appellant therefore, the impugned order is illegal and liable to be set-aside.

4. On the other hand, learned Deputy District Attorney Mr. Muhammad Jan for the respondents opposed the contention of learned counsel for the appellant and contended that initially a facts finding inquiry was initiated by the inquiry committee wherein Mst. Rubina Riaz the then incharge of defunct Halfway House Peshawar and Miss Nadia Shah, Manager Women Crises Center, Peshawar were nominated for their poor performance and inefficiency. It was further contended that thereafter a proper inquiry was conducted

M. Jan
10.10.2017

against them and the inquiry officer after recording evidence of some material witnesses also came to the conclusion that beside Mst. Rubina Riaz the then incharge of defunct Halfway House Peshawar and Miss Nadia Shah, Manager Women Crises Center, Peshawar the appellant is also responsible for his negligence. It was further contended that the Manager of Women Crises Center Peshawar had issued a letter No. 2952 dated 03.10.2014 to the appellant about the physical condition of the inmate of Mst. Baby who was inmate of defunct Halfway House Peshawar for shifting to her at suitable place and the said letter was hand over to the appellant by Naib Qasid Rahat Shah. It was further contended that the inquiry officer has also recorded the statement of said Naib Qasid Rahat Shah in the inquiry wherein he clearly stated that the said letter issued on 03.10.2014 on behalf of Women Crises Center Peshawar about the physical condition of Mst. Baby by Shazia Kiran, Nurse was took by him on 03.10.2014 at 3:40 hours and also put the same in the Dock of District Officer on the said date. It was further contended that the appellant was informed but due to his negligence the inmate was not taken/shifted to any hospital for treatment and ultimately she was died inside the said Women Crises Center therefore, a proper show-cause notice was issued to the appellant by the competent authority wherein the competent authority has specifically mentioned in Para-2 that he being competent authority dispensed with the inquiry and served the appellant with a show-cause notice. It was further contended that the appellant did not satisfy in reply to the show-cause notice the competent authority Therefore, the competent authority has rightly imposed penalty.

*M. Anam
10.10.2017*

5. We have heard the arguments on both side and gone through the record available on file.

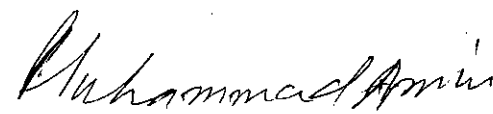
6. Perusal of the record reveals that Mst. Baby was inmate of the Half Way House Peshawar. The record further reveals that Mst. Baby became ill and died in the said Half Way House Peshawar on 12.10.2014. The record further reveals that later on facts finding inquiry committee was constituted regarding the demise of Mst. Baby. The record further reveals that the inquiry committee nominated Mst. Rubina Riaz the then incharge of defunct Halfway House Peshawar and Miss Nadia Shah, Manager Women Crises Center, Peshawar for negligence. The record further reveals that later on a proper inquiry was

conducted against them and the inquiry officer after recording material evidence also came to the conclusion that beside Mst. Rubina Riaz the then incharge of defunct Halfway House Peshawar and Miss Nadia Shah, Manager Women Crises Center Peshawar, the appellant is also responsible for not shifting the said Mst. Baby to hospital for treatment. The record further reveals that though the appellant has taken plea that he was not informed by the Women Crises Center in time and the later dated 03.10.2014 issued by the Women Crises Center regarding physical condition of Mst. Baby inmate of the Halfway House Peshawar was received to him on 14.10.2014. However, the record reveals that manager Women Crises Center Peshawar has issued a letter to the appellant on 03.10.2014 about the physical condition of the inmate Mst. Baby inmate of Halfway House Peshawar for shifting her to suitable place and the same was handed over to Naib Qasid Rahat Shah for taking the same to District Officer Social Welfare Office Peshawar. The record further reveals that the inquiry officer has also recorded the statement of the said Naib Qasid Rahat Shah beside the other witness wherein he clearly stated that the letter dated 03.10.2014 on behalf of Women Crises Center Peshawar about the physical condition of Mst. Baby was handed over to him on 03.10.2014 at 3:40 hours and he put the same in the Dock of the District Officer on the same date meaning thereby the appellant was informed in timely but he did not make any efforts to shift her to hospital for treatment or clinical examination in any recognized doctor. Furthermore the statement of other witnesses recorded by the inquiry officer also reveals that the said inmate was ill since long and she died in the said Halfway House Peshawar, therefore, the appellant being District Officer of Social Welfare is responsible for his negligence. As such, the competent authority has rightly imposed minor penalty of withholding of one increment for one year hence, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.10.2017



(MUHAMMAD HAMID MUGHAL)
MEMBER

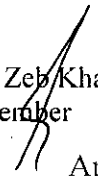


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

3. 06.07.2017 Counsel for the appellant and Mr. Zia Ullah, Deputy District Attorney for the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 10.10.2017 before D.B.



(Muhammad Hamid Mughal)
Member

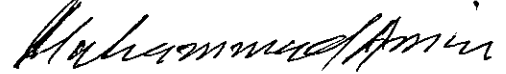


(Gul Zeb Khan)
Member

10.10.2017 Appellant with counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.10.2017



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER



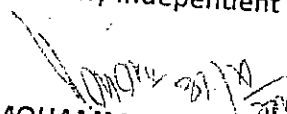
(MUHAMMAD HAMID MUGHAL)
MEMBER


FACT & FINDING REPORT OF THE INQUIRY COMMITTEE ORDERD BY THE DIRECTOR
(SWSE&WE) ON 20/10/2014 REARDING THE SAD DEMISE OF INMATE OF WOMEN CRISES
CENTER, PESHAWAR

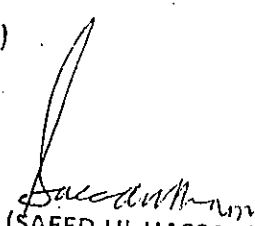
The members of the Inquiry Committee visited the Women Crises Center on 31/10/2014 to enquire the sad demise of "Mst. Babay" an inmate of the Center who expired on 12/10/2014. A questionnaire in Urdu version containing some preliminary information directly or indirectly related to the sad incident was given to the concerned staff including Manager and inmates for completion.

2. During discussion with the Manager (Miss. Nadia Shah) it was observed that the Women Crises Center provides free of cost shelter which include boarding & lodging, foods, medical care and counseling to those female who are referred by the court. The center prior to shifting at Special Eudcation Cnoplex, Hayatabad was functioning in a rented building at Charsada Road. The present premises were taken over as result of closing of developmental project named "Half Way House" . The Manager disclosed that the died inmate was actually belonging to Half Way House which was found alone in a room on the first floor when they arrived with luggage and inmates there. She added that neither the said inmate was formally handed over to her nor the stock/store/ equipment/record etc of the closed project till now. The Manager further revealed that the inmate in question was in fact mentally distressed and lying on bed and even not in a position to move. When the nurse reported her illness in writing on 02/10/2014 she informed the whole situation to DO (SW) Peshawar on 03/10/2014. The nurse added that Mst Bibi does not eat something only juices were given being liquid diet. At last she expired on 12/10/2014.

3. The whole story reveals that no serious efforts has been made by the Manager Half Way House and Women Crises Center to admit the inmate in hospital or consult any recognized doctor for treatment or clinical examination etc. This act tantamount to poor performance and inefficiency on the part of Mrs. Robina Riaz & Miss. Nadia Shah. This in un-justice and quite immoral to left the life of someone on procedural technicalities and then highlight the natural death in a mysterious way in print media due to departmental & professional jealousy. We therefore unanimously recommend that in future these officers should not be entrusted with the charge of any independent entity.


(MOHAMMAD RAUF)
Assistant Director (Estab)


(TAHIRA NAWEED)
Manager Darul Kafala


(SAEED UL HASSAN)
Assistant Director (B&A)

25.01.2017

Appellant in person and Mr. Muhammad Qasim, SO
alongwith Addl. AG for respondents present. Written reply submitted.
The appeal is assigned to D.B for rejoinder and final hearing on
21.03.2017.


(MUHAMMAD AAMIR NAZIR)
MEMBER

21.03.2017

Appellant in person and Addl: AG for respondents
present. Rejoinder submitted. To come up for arguments on
06.07.2017 before D.B.


(AHMAD HASSAN)
MEMBER

04.10.2016

Counsel for the appellant present. Learned counsel for the appellant submitted that minor penalty of stoppage of one increment was imposed on the appellant vide order dated 22nd March 2016 against which his departmental appeal was also rejected vide order dated 22.07.2016. He submitted that no charge sheet was issued nor any statement of allegations was provided to the appellant and the appellant did not know about any regular inquiry against him. He stated that no opportunity of defense was provided to the appellant and that the appellant was totally innocent in the incident of death of Mst. Baby. He submitted that at the relevant time the appellant was District Officer Peshawar and therefore, he was unlawfully penalized in the said case. He further argued that the appeal is within time.

Points urged at the bar need further consideration. Admit. Subject to deposit of security and process fee within 10 days where-after notices be issued to the respondents for written reply/comments for 15.12.2016 before S.B.


(PIR BAKHSH SHAH)
MEMBER

15.12.2016



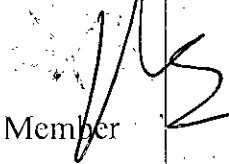
Appellant in person and Addl. AG for respondents present. Security and process fee not deposited. Appellant is directed to deposit security and process fee within seven(7) days, thereafter notices be issued to the respondents for written reply/comments on 25.01.2017 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 911/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	29/08/2016	<p>The appeal of Syed Tahir Ahmad Bukhari resubmitted today by Mr. Javed Ali Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	31-08-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>06-09-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	06.09.2016	<p>Counsel for the appellant present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 04.10.2016 before S.B.</p> <p style="text-align: right;"> Member</p>

The appeal of Syed Ahmad Bukhari son of Zaki-ud-Din Shah Distt. Charsadda received today i.e. on 19.08.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexure- I of the appeal is incomplete which may be completed.
- 2- Index of the appeal is incomplete which may be completed.
- 3- Spare copies submitted with the appeal are incomplete which may be completed.
- 4- Two more copies/sets of the appeal along annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1379 /S.T,

Di. 21/8 /2016

Muhammad
REGISTRAR
for SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Javed Ali Adv. Pesh.

Respected Sir,

The above objections have

Properly been completed as

- ① Annexure I is completed.
- ② Index has been completed.
- ③ Spare copies are attached properly.
- ④ Two more copies are attached.

It is therefore humbly prayed
that Appeal may kindly be
for warded.
M
Muhammad Arsalan Afroz

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 911 /2016

Syed Tahir Ahmed Bukhari Versus Secretary Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department, Khyber Pakhtunkhwa Peshawar & Others

INDEX

Description of Documents		Page
Memo of Service Appeal		1-3
Affidavit		4
Address Sheet		5
Application for Interim Relief		6
Affidavit		6
Annexure "A"	Pay Slip reflecting present posting of the Appellant	7
Annexure "B"	Inquiry Report by Inquiry Officer	8-13
Annexure "C"	Letter dated 03/10/2014	14
Annexure "D"	Statement of Naib Qasid Social Welfare Department, Peshawar	15
Annexure "E"	official mail record	16-17
Annexure "F" "F-1"	Show Cause Notice	18-19
Annexure "G"	Reply of the Appellant to Show Cause Notice	21-24
Annexure "H"	Notification of Minor Penalty	25
Annexure "I"	Departmental Appeal against the Penalty	26-27
Annexure "J"	Letter of withholding 01 year increment	29
Wakalat Nama		


Appellant

Through


JAVED ALI


M. ARSALAN AFRIDI


ANNID KHAN

ADVOCATES, PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 911 /2016

Diary No. 865

Dated 19-8-16

Syed Talib Ahmad Bukhari
M. M. M.

Syed Ahmed Bukhari S/O Syed Zaki Ud Din Shah R/O House No.7 Mohallah
Madina Colony, Umarzai Tehsil and District Charsadda.

.....Appellant

Versus

1. Secretary Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department, Khyber Pakhtunkhwa Peshawar.
2. Chief Secretary, Khyber Pakhtunkhwa, Peshawar
3. Additional Secretary, Forestry, Environment and Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
4. Section Officer-II, Social Welfare, Special Education and Women Empowerment Department Khyber Pakhtunkhwa, Peshawar.

.....Respondents

Appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned Withholding of One Increment order dated 22/07/2016

Filed today
19/8/16
Registrar

Prayer in Appeal:

On the acceptance of this Appeal, the impugned withholding of One Increment order dated 22/07/2016 may please be set aside.

Respectfully Sheweth:

FACTS:

1. That the Appellant is a Law abiding citizen and is permanent resident of District Charsadda.
2. That the Appellant is presently serving as District Officer, Social Welfare at District Charsadda.
(Copy of Pay Slip reflecting present posting is attached as Annexure "A")

Re-submitted to-day and filed.
19/8/16
Registrar

3. That prior to the present posting, the Appellant served as District Officer, Social Welfare, Peshawar.
4. That during the period of posting of the Appellant at Peshawar as District Officer Social Welfare, an unfortunate incident of demise of one Mst. Baby residing at Halfway House took place on 12/10/2014 which was not under the charge of the Appellant.
5. That initially an inquiry regarding the demise of Mst. Baby was conducted against the then Incharge Halfway House and Incharge Women Crisis Centre, Peshawar in which neither the name the Appellant was included nor he was issued with any charge sheet.
6. That after conducting the first inquiry, another Departmental inquiry was held in which the Inquiry Officer after recording statements of all concerns, malafidely dragged the Appellant in the said inquiry as neither the name of the Appellant was included in the Departmental Inquiry nor he was issued any Charge Sheet in this regard.
(Copy of the Inquiry Report is attached as Annexure "B")
7. That the malafide of the Inquiry Officer against the Appellant is clearly reflected from the fact that he in his report held the appellant responsible on the sole allegation of Letter dated 03/10/2014 which was received by the Naib Qasid Social Welfare, Peshawar.
(Copy of the Letter dated 03/10/2014 is attached as Annexure "C")
8. That the Naib Qasid in his statement before the Inquiry Officer has admitted that the said Letter was received by him and not by the Appellant.
(Copy of the statement is attached as Annexure "D")
9. That the Letter dated 03/10/2014 was not only received by Naib Qasid Mr. Rahat Shah on 03/10/2014 but also it was officially put in the official mail on 14/10/2014 for the perusal of the Appellant.
(Copy reflecting official mail record is attached as Annexure "E")
10. That the inquiry report illegally held the Appellant responsible for an act which was not done by the Appellant and was issued with Show Cause Notice regarding imposition of Penalty against the Appellant.
(Copy of Show Cause Notice is attached as Annexure "F" and "F-1")
11. That in pursuance of the Show Cause Notice, the Appellant submitted its reply vide Letter No.DO/SW/5856-59 dated 23/11/2015.
(Copy of Reply is attached as Annexure as "G").
12. That after submission of the Reply by the Appellant, the Competent Authority imposed minor penalty of withholding 01 year increment upon the Appellant.
(Copy of Notification is attached as Annexure "H")
13. That being aggrieved from the order mentioned above, the Appellant preferred a Departmental Appeal against the imposition of the penalty.
(Copy of Departmental Appeal is attached as Annexure "I").
14. That the competent authority after considering the Appeal, awarded minor penalty by withholding 01 year increment of the Appellant.
(Copy of Letter is attached as Annexure "J").
15. That being aggrieved by the order of imposition of instant penalty, the Appellant file this service appeal on the following grounds:

Grounds:


- a- That the impugned withholding of 01 year increment order is against the principles of Natural Justice.
- b- That the impugned order is unjust, against the ground realities and is liable to be set aside.
- c- That the impugned order is against the service rules therefore, not tenable in the eyes of law.
- d- That the Appellant has been malafidely held responsible for the act which does not fall within his domain of work.
- e- That the Inquiry Officer has not considered the actual facts and has not collected the material evidence pertaining to the allegations against the Appellant.
- f- That the order of imposition of penalty in light of ambiguous and incomplete inquiry report is against the norms of justice and is liable to be set aside.
- g- That the Inquiry Officer has not at all considered the substantive evidence submitted by the Appellant hence violated the rules of justice.
- h- That this impugned order of the Respondents is absolutely against the principles of fair justice and equity.
- i- That this impugned order is not a judicious order hence is void and ineffective upon the rights of the Appellant.

It is therefore, most humbly prayed that the Appeal may kindly be accepted as prayed for.




Appellant

Through



JAVED ALI

M. ARSALAN AFRIDI



AMJID KHAN

ADVOCATES, PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____ /2016

Syed Tahir Ahmed Bukhari Versus Secretary Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department, Khyber Pakhtunkhwa Peshawar & Others

AFFIDAVIT

I, **Syed Tahir Ahmed Bukhari** S/O Syed Zaki Ud Din Shah R/O House No.7 Mohallah Madina Colony, Umarzai Tehsil and District Charsadda, Appellant do hereby on oath Affirm and Declare that the contents of this Service Appeal are True and Correct to the best of my knowledge and belief and nothing has been kept concealed.




Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2016

Syed Tahir Ahmed Bukhari Versus Secretary Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department, Khyber Pakhtunkhwa Peshawar & Others

ADDRESSES OF PARTIES

Appellant

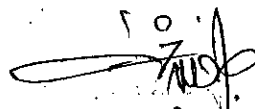
Syed Tahir Ahmed Bukhari S/O Syed Zaki Ud Din Shah R/O House No.7 Mohallah Madina Colony, Umarzai Tehsil and District Charsadda

Respondents

1. Secretary Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department, Khyber Pakhtunkhwa Peshawar.
2. Chief Secretary, Khyber Pakhtunkhwa, Peshawar
3. Additional Secretary, Forestry, Environment and Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
4. Section Officer-II, Social Welfare, Special Education and Women Empowerment Department Khyber Pakhtunkhwa, Peshawar.


Appellant

Through


JAVED ALI


M. ARSALAN AFRIDI


AMJID KHAN

ADVOCATES, PESHAWAR

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2016

Syed Tahir Ahmed Bukhari Versus Secretary Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department, Khyber Pakhtunkhwa Peshawar & Others

Application for the grant of an Interim Relief to the effect that the impugned withholding of 01 year increment order be suspended till final disposal of this Appeal

Respectfully Sheweth,

1. That the subject Appeal has been filed by the Appellant/Applicant before this Hon'ble Tribunal in which no date has been fixed yet.
2. That the contents of the main appeal may please be considered as an integral part of this application.
3. That the applicant has got a good prima facie case in his favor.
4. That the balance of convenience also lies in favor of the applicant.
5. That in case the impugned order of the Respondents is acted upon and the injunction is not granted, the applicant will suffer an irreparable loss.

It is therefore most humbly prayed that the impugned posting/transfer order may kindly be suspended till the final disposal of the main appeal.

Through


Appellant


JAVED ALI


M. ARSALAN AFRIDI


AMJID KHAN
ADVOCATES, PESHAWAR

AFFIDAVIT

I, **Syed Tahir Ahmed Bukhari** S/O Syed Zaki Ud Din Shah R/O House No.7 Mohallah Madina Colony, Umarzai Tehsil and District Charsadda, Appellant do hereby on oath Affirm and Declare that the contents of this Service Appeal are True and Correct to the best of my knowledge and belief and nothing has been kept concealed.


Deponent

Dist. Govt. NWFP-Provincial
District Accounts Office Charsadda
Monthly Salary Statement (July-2016)

Ammezuwe
CAJ



Personal Information of Mr SYED TAHIR AHMED BUKHARI d/w/s of SYED ZAKI UDDIN

Personnel Number: 00131483 CNIC: 1710103097583 NTN:
Date of Birth: 02.11.1958 Entry into Govt. Service: 23.04.1976 Length of Service: 40 Years 03 Months 010 Days

Employment Category: Active Permanent

Designation: District Officer/Social W 80001038-DISTRICT GOVERNMENT KHYBE

DDO Code: CAG114-DISTRICT OFFICER SOCIAL WELFARE CHA

Payroll Section: 001 GPF Section: 001 Cash Center:

GPF A/C No. GA 910280 Interest Applied: Yes GPF Balance: 700,598.00

Vendor Number: 70264687 - SYED TAHIR AHMED BUKHARI DISTT:OFFICE CHARSADDA

Pay and Allowances: Pay scale: BPS For - 2016 Pay Scale Type: Civil BPS: 18 Pay Stage: 16

Wage type		Amount	Wage type		Amount
0001	Basic Pay	70,290.00	1000	House Rent Allowance	3,873.00
1210	Convey Allowance 2005	5,000.00	1947	Medical Allow 15% (16-22)	4,344.00
1948	Adhoc Allowance 2010@ 50%	11,585.00	2148	15% Adhoc Relief All-2013	2,125.00
2199	Adhoc Relief Allow @ 10%	1,429.00	2211	Adhoc Relief All 2016 10%	7,029.00

Deductions - General

Wage type		Amount	Wage type		Amount
3018	GPF Subscription - Rs3635	-3,635.00	3501	Benevolent Fund	-250.00
3511	Adh. Group Insurance	-36.00	3604	Group Insurance	-335.00
3609	Income Tax	-5,226.00	3917	Social Welfare(ROP)	-7,126.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Deductions - Income Tax

Payable: 66,309.90 Recovered till July-2016: 5,526.00 Exempted: 0.23- Recoverable: 60,784.13

Gross Pay (Rs.): 105,675.00 Deductions: (Rs.): -16,908.00 Net Pay: (Rs.): 88,767.00

Payee Name: SYED TAHIR AHMED BUKHARI

Account Number: PLS 818

Bank Details: THE BANK OF KHYBER, 080020 MAIN BAZAR CHARSADDA MAIN BAZAR CHARSADDA, Charsadda

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: VILL AND PO UMAR ZAICHARSADDA

City: MAFDAN

Domicile: W - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: tahirs350@gmail.com

Attest
M

Annexure (B)

8

INQUIRY REGARDING THE SAD DEMISE OF A LADY INMATE IN HALF WAY HOUSE/WOMEN CRISIS CENTER, HAYATABAD PESHAWAR.

Background

The Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department, Government of Khyber Pakhtunkhwa vide their letter No: GS-I (SWD) Darul Aman/Crisis Center/2013-14/624-30 dated 12/2/2015 has intimated that the Competent Authority has nominated the undersigned as Inquiry Officer to conduct inquiry against Mst. Rubina Riaz, (BPS-18) the then In Charge of defunct Halfway House Peshawar and Miss Nadia Shah (BPS-17) Manager, Women Crises Center, Social Welfare, Special Education & Women Empowerment Department regarding the sad demise of Ms. Baby a lady inmate of defunct Halfway House Peshawar.

Inquiry proceedings

2 In pursuance of the afore mentioned letter of Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department, Government of Khyber Pakhtunkhwa, the accused officers were called on 24/2/2015 through this Department's letter dated 18/2/2015 to appear before the undersigned alongwith their written statements in defence of the charge sheets/statement of allegations already communicated to them through Social Welfare, Special Education & Women Empowerment Department letter referred above. Similarly copy of the letter was endorsed to Secretary, Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department, Government of Khyber Pakhtunkhwa to depute a well conversant officer with the facts of the case to assist the inquiry proceedings.

3 The charge sheet against the accused officers mainly contained the following allegations:-

- OX
- a. That she (Mst. Rubina Riaz) did not properly hand over the inmates actually belonging to Halfway House as a result of closing of Development Project namely Halfway House.
 - b. That she while informed in writing by the concerned nurse on 3/10/2014 about the illness of inmate "Mst. Baby" that she is not eating anything, but she failed to admit the inmate in Hospital or consult any recognized Doctor for treatment or clinical examination.
 - c. That she did not inform the high ups well in time, and did not take any steps/ measures for saving her life which ultimately result in her death.
 - d. That she highlighted the natural death in a mysterious way in print media due to departmental and professional jealousy.
 - e. That this negligence of poor performance and in-efficiency on her part is liable to be proceeded under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

4. Mrs. Rubina Riaz, the In-charge officer of the defunct Halfway House Peshawar submitted her one page reply alongwith enclosures which is placed at Annex-A. Her reply was examined and she was again summoned for personal hearing on 02/03/2015 at 11:00 A.M. Mr. Rauf Khattak, Assistant Director (Establishment) Directorate of Social Welfare assisted

Attested
M

the inquiry proceedings as Departmental nominee. She was heard in person. A questionnaire was also handed over to her to which she replied which is attached with her reply. (9)

5. Ms. Nadia Shah, Manager, Women Crisis Centre appeared on 4/3/2015 alongwith her written statement which is placed at Annex-B. She was also heard in person. A similar questionnaire was also put to her which she filled and attached with her reply.

6. It is pertinent to give a brief resume of the defunct Halfway House and Women Crisis Centre, Peshawar, as under:-

Halfway House

7. The concept of Establishment of Halfway House was perceived in line with the objective of National Action Plan to give shelter to the distressed women persecuted through the social and domestic torture. During the year 2010-11, a PC-1 form for the purpose at a total cost of Rs. 14.460 million, was approved through the competent forum. The Halfway House established in the magnificent building of Special Education Complex, Hayatabad, Peshawar was supposed to give shelter, food, counseling, etc to the run-away women as a result of domestic violence and threat to their lives. The scheme was continued till 30/6/2014 however because of poor administrative and management performance, it was closed on 30/6/2014. Consequently all the inmates left the Halfway House only two namely Mst. Surrya Jabeen and Mst. Baby stayed in the same building at the mercy of the Manager, Women Crisis Centre, Peshawar.

Women Crisis Center Peshawar

8. Women Crisis Center a similar scheme of the Social Welfare Department is running on regular budget. The objective of the Women Crisis Center is to give relief to the neglected women, mostly beggars and those referred by the various courts. Beside provision of food and residential facilities, skill training in various trades are being imparted to make them self reliant. Till August 2014, it was functioning in a rented building, however, after closure of the Half Way House, the Women Crisis Centre was shifted to Hayatabad in September, 2014 and accommodated in the building vacated by the Half Way House in pursuance of Director Social, Special Education & Women Empowerment Department letter No: 2358-63, dated 19th August, 2014 (Annex-C).

Procedure followed by the In-charge defunct Half Way House on closure of the Project in September, 2014

9. For proper vacation of the building of Half Way House, the In-Charge Officer (Mrs. Rubina Riaz) was supposed to prepare proper inventory of all items such as machinery, equipment, furniture, utensils and most important names and particulars of inmates and arrange its proper handing/taking over to the Manager, Women Crisis Centre, Peshawar. Contrary to this, the In-Charge Officer haphazardly left the building. Though she reported that the inmates were left at the charge of the Manager (WCC) verbally, as no formal orders from the Director Social Welfare regarding the closure of the Half Way House were issued to her.

A. Usteeen
M

The two inmates namely Mst. Baby and Mst. Surryia were left as such. This shows so grave inefficiency on the part of a Senior Officer who was given to look after the helpless ladies of the Society

Analysis

Reply of Mrs. Rubina Riaz, In-Charge of the defunct Half Way House, Peshawar

10. The examination of reply of Mrs. Rubina Riaz indicates that she has produced order No: DSW/2566-72, dated 05/9/2013 issued by the Director, Social Welfare, Special Education and Women Empowerment regarding entrustment of additional charge of Half Way House, Peshawar and her subsequent assumption of the charge of the Half Way House on 05/9/2013. In her reply she has stated that after closure of the Half Way House, the two inmates i.e., Mst. Surryia Jabeen and Mst. Baby were living in the said premises which were taken over by the In-Charge Women Crisis Centre. The condition of deceased Baby was brought in notice of Manager Women Crisis Centre, Peshawar. She has further denied that she was not In-Charge of Half Way House on 02/10/2014. She stated that she had been working as Deputy Director in the Directorate of Social Welfare, Special Education and Women Empowerment. She was not supposed to inform the high ups as she was not performing duty in the Half Way House, Peshawar. She has also denied publication of the incident through print media. However, she has not produced any copy of charge relinquishment of the post of In-Charge Half Way House or any letter addressed to the Manager Women Crisis Centre, Peshawar regarding her departure from the building of the Half Way House. She has also produced a copy of letter No: DSW/2358-63, dated 19/8/2014 of Director Social Welfare, Special Education and Women Empowerment Department, addressed to District Officer, Social Welfare Peshawar regarding shifting of the WCC to the building of defunct Halfway House Peshawar. In the letter of the Director Social Welfare, Peshawar it was specifically highlighted that the District Officer Social Welfare, Peshawar and his team shall be personally responsible for the smooth shifting of the WCC.

Reply of Mrs. Nadia Shah, Manager (WCC)

11. Mrs. Nadia Shah, Manager (WCC), Peshawar in her statement submitted that the Women Crises Centre was shifted to the portion of Half Way House Peshawar on 27th September, 2014 in compliance with the letter No.DSW.2358-63 dated 19-08-2014, with 31 inmates. However, the charge of assets and liabilities of the defunct Half Way House was neither handed over to her nor the competent authority issued any direction to her. Deceased Baby Mst. was still in the lawful custody of the in charge Miss Rubina Riaz.

12. When Miss Shazia Kiran, In-Charge Nurse reported the precarious condition of deceased Mst. Baby on 03-10-2014, in presence of Tahira Naveed In-Charge Darul Kafala and Mr. Arif, In-Charge Drug Addict Centre Mrs. Rubina Riaz In-Charge of Half Way House told us that it was her habit and it should not be taken seriously. Despite the fact she initiated action and sent the report of the Nurse to the District Officer Social Welfare Peshawar through letter

Assessed
M

first floor of the building. The room still presents a gloomy picture as a torn bed with a piece of mattress full of dust was lying on the floor topsy-turvy. The statements of the inmates Mrs. Irtiaza, Noreen and most important of the Mrs. Suriya Jabeen, inmate of the defunct Halfway House were accorded. The Chowkdar, Mr. Javed Gul who was present at the Centre on 12/10/2014 was also called upon to record his statement.

18. The gist of their statements as recorded in Urdu are as under:-

بیان حلفی مسز امتیازہ ان میٹ ویمن کرائسز سنٹر پشاور

میں مسماۃ امتیازہ ان میٹ ویمن کرائسز سنٹر پشاور بخوش دحواس مقرر ہوں کہ ہم نے تقریباً 15 دن مرحومہ بی بی کے ساتھ گزارے۔ جب سے ہم نے ہاف وے بلڈنگ کو اپنا سامان شفٹ کیا تو مرحومہ کی رات بہت اترتی تھی۔ ہم نے اسے نہایا اور کپڑے تبدیل کیے۔ دو دن کے روز یعنی 12/10/2014 کو میں 8 بجے صبح مرحومہ کے کمرے گئی۔ اور اس کو پانی پلایا۔ اور اس نے ٹھہر سب دینے کے لیے کہا۔ چونکہ اس روز چھٹی تھی۔ میں نے کوشش کی کہ اس کے لیے سب ڈبہ دست کروں بد قسمتی سے جب 9 بجے ہم نے دیکھا تو وہ چھٹی تھی۔ یہ درست ہے کہ اسٹی مٹ لاپرواہی سے واقع ہوئی۔

بیان حلفی مسز نورین ان میٹ ویمن کرائسز سنٹر پشاور

میں مسماۃ نورین بخوش دحواس مقرر ہوں کہ جب سے ہم نے ہاف وے بلڈنگ کو اپنا سامان شفٹ کیا تو مجھے باور چکی خانہ کی ذمہ داری سونپی گئی تھی۔ میں وقتاً فوقتاً مرحومہ بی بی کو کھانا لے جایا کرتی تھی چونکہ وہ بیمار تھی۔ اور کبھی کبھی کھانا کا ایک لقمہ کھا کر ہاتی کھانا ویسا پرا رہتا تھا۔ یعنی 11/10/2014 کو رات کا کھانا میں نے اس کے کمرے لے گئی۔ اور اس سے کہا کہ کھانا کھاؤ اس نے جواب دیا۔ کہ میرا دل نمی چاہتا ہے۔ جو دل چاہے کھا لوں گی۔ میں نے کھانا رکھ دیا اور باہر گئی۔

بیان حلفی مسز ثریا جمین ان میٹ سابقہ ہاف وے ہاؤس حال ویمن کرائسز سنٹر پشاور

میں مسماۃ ثریا جمین 19 اپریل 2012 سے سابقہ ہاف وے ہاؤس پشاور میں رہائش پذیر ہوں۔ مسماۃ بی بی مرحومہ تقریباً 2012 سے میرے ساتھ سابقہ ہاف وے ہاؤس میں رہائش پذیر تھی ویمن کرائسز سنٹر کی شفٹنگ سے تقریباً دو تین مہینے پہلے مرحومہ کو اوپر والی منزل پر لے جانے سے دو تہائی کا شکار ہو گئی یہ درست ہے کہ اوپر منزل پر شفٹنگ سے پہلے وہ ٹھیک معلوم ہوتی تھی وہ اتنی بھی کرتی تھی اور کپڑے بھی دھوتی تھی۔

بیان حلفی جاوید گل جو کیدار سابقہ ہاف وے ہاؤس حال دائر الکفالہ پشاور

میں سسی جاوید گل جو کیدار حال دائر الکفالہ پشاور بخوش دحواس مقرر ہوں کہ مورخہ 12/10/2014 کو میں نیچے گیٹ کے ساتھ اپنی ڈیوٹی پر موجود تھا کہ اوپر منزل سے خواتین نے مجھ سے بازو دی کہ سب بی وفات پا چکی ہے میں جب اوپر گیا اور دیکھا تو ہر دو سالات میں پرہی تھی میں ہاسٹل کے خواتین سے سنا کرتا تھا کہ وہ کچھ نہیں کھاتی تھی صرف پانی سے کافی دنوں سے گزارہ کرتی تھی یہ درست ہے کہ سب غموری اور لاپرواہی سے مرحومہ کی میت واقع ہوئی ہے۔

A. M. M.

Findings

(12)

The above discussion indicates that both Mrs. Rubina Riaz, the then In-Charge of the defunct Halfway House, Peshawar and Mrs. Nadia Shah, Manager, Women Crisis Centre Peshawar were in clear knowledge that deceased Mst. Baby was in insane condition and still she was made a rolling ball. Mrs. Rubina Riaz cannot absolve her responsibility that the deceased was placed at the disposal of the Manager, WCC verbally and that her staggering condition was brought into the notice of Ms. Nadia Shah, Manager, WCC before her departure from the building. The record shows that the deceased Baby inmates was never taken to hospital nor she bothered to manage her medical examination even from a medical officer. The statement of her fellow inmate, Mrs. Suriya Jabeen is worth perusal. Prior to shifting to the room of the first floor, she was not so bad as she was washing her clothes and giving iron to it.

20. On the other hand, the pretext of Ms. Nadia Shah, Manager, WCC that the deceased Baby was not formally shifted to the WCC by the Officer In-Charge of the defunct Halfway House is also ridiculous. Shazia Kiran, the Incharge Nurse very categorically put a written application on 03/10/2014, reporting the bad condition of deceased Baby but still a luke warm action by Nadia Shah, Manager, WCC has delayed the shifting of the deceased inmate to the nearest Hospital located at a distance of a few kilometers. Had she managed proper medical care, her life might have been saved. The issue involved saving and survival of a human life, instead of falling prey in "To be or not to be".

21. As regards highlighting the death in a mysterious way in print media, both the officers negated the charge. However, it can safely be said that Rubina Riaz, Deputy Director is believed to have managed the publication.

22. Syed Muhammad Tahir, District Officer Peshawar has also committed serious negligence. His pretention that the letter No: WCC/DSW/2952 dated 03/10/2014 alongwith report of Shazia Kiran Nurse of WCC was received to him on 14/10/2014 when the lady inmate was already expired, is not believable at all. Mr. Rahat Shah, Naib Qasid of his Office has explicitly stated that the letter was received by him on 03/10/2014 at 03:40 P.M and placed in the fresh dak of the D.O Peshawar. Therefore his contention is not correct.

Recommendations

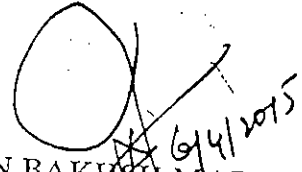
23. I would therefore recommend that both the officers i.e Mrs. Rubina Riaz, the then officer Incharge of the defunct Halfway House & Ms. Nadia Shah, Manager, Women Crisis Centre, Peshawar are equally responsible for their negligence.

24. Syed Muhammad Tahir, District Officer, Social Welfare Peshawar is also

Attested
Man

19

25. I would also recommend security measures for the Women Crisis Centre as the lady inmates have taken shelter to save their lives from gross domestic and social dissensions. The existing state of the building is vulnerable to any intruder.



(KHAN BAKISH MARWAT),
Additional Secretary (PCS EG BS-19)
Forestry, Environment & Wildlife Department
Khyber Pakhtunkhwa/
Inquiry Officer

A. Mastoor

Mun

Annexure (C)



GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE PROJECT MANAGER
WOMEN CRISIS CENTRE
SOCIAL WELFARE DEPARTMENT
PESHAWAR

No. WCC/DSW/ 2952

Dated at Peshawar 03/10/2014

To,

✓ The District Officer,
Social Welfare Department,
Peshawar.

Subject: APPLICATION ABOUT THE PHYSICAL/MENTAL CONDITION OF MST: BABY.

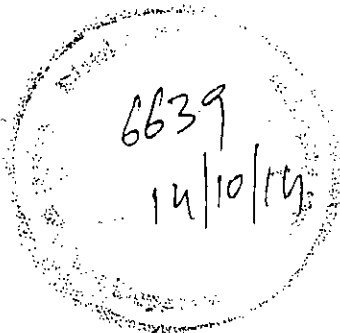
Enclosed find herewith an application from Shazia Kieran, Nurse about the physical condition of the inmate Mst: Baby, whose admitted in Half Way House Peshawar. She requested that shift to some suitable place.

It is submitted for information and further necessary action.

Enclose: As Above.

Nadia
Khan

Manager
Women Crisis Centre
Peshawar



JA
VQ
14/10/14

WCC File
She has died on 12/10/2014
at 10-00 AM. She was
sent to rest in HA on the
same day. All
arrangements were made by
Miss Akhbar on behalf of
this Dept. *AK*
12.10.2014
Ayesha
M...

Annexure (D)
No. WCC/DSW/2952 dated 03-10-2014 and sought advice for further course of action (Annex-D). (15)

13. Regarding publication of the incident, she has stated that she has neither contacted nor given any statement in the media.

Statement of District Officer, Social Welfare, Peshawar

14. Statement of Syed Muhammad Tahir, District Officer, Social Welfare Peshawar is placed at (Annex-E). In his statement he has intimated that the defunct Halfway House Peshawar was not under his charge as the Director Social Welfare, Special Education & Women Empowerment was directly supervising the defunct Halfway House. However he produced copy of letter No: DO/SW/4521 dated 15/10/2014 written to Director Social Welfare about the publication of the incident through press media. The letter depicts the poor performance of Mrs. Nadia Shah and her involvement in the charge of propagation of the incident in the press.

15. When asked about the letter No: WCC/DSW/2952 dated 03/10/2014 of the Manager, WCC regarding the serious condition of deceased Mst. Baby, he produced a photocopy of the said letter and told that he had received the letter on 14/10/2014 when the lady inmate was already expired on 12/10/2014 and laid to rest in Hayatabad Graveyard. The letter was received by Mr. Rahat Shah, Naib Qasid of the office of DO Social Welfare Peshawar on 3/10/2014 at 03:40 P.M therefore he was called on 02/03/2015 for his statement.

Statement of Mr. Rahat Shah, Naib Qasid Office of DO Social Welfare Peshawar.

16. Mr. Rahat Shah in his statement before the undersigned stated as under (Annex-F).

05/03/2015 سوری

بیان حافی سہمی راحت شاہ نائب قاصد دفتر سوشل ویلفیئر پشاور

میں سہمی راحت شاہ نائب قاصد دفتر ڈسٹرکٹ سوشل ویلفیئر پشاور بحوش و حواس بیان کرتا ہوں کہ خط نمبر WCC/DSW/2952 سوری 03/10/2014 منجانب دیکھ کر اس سرسٹریکچر پشاور بیچ رپورٹ شادیہ کرن ہنوں بابت بی بی نامی سوری 03/10/2014 کو بوقت 3:40 منٹ پر وصول کر کے ڈسٹرکٹ آفسر کے ڈاک میں اس راز رکھ دیا۔

17. In order to corroborate the whole situation, the Women Crisis Centre, Hayatabad Peshawar was visited on 30/3/2015. The room where the deceased Mst. Baby breath her last was also checked. The room where she was placed in solitary is situated in the

Approved.
M. W.

6647 ✓	2	3606-1	Service Planning	Per-1/DCES App Scheme (98-19089) - 4000 Construction of Donald Ruffin and and drug activities Caduce Park	4000
66		47402-7855			
66119 ✓	4	109402-7	Amplified Abundant assets, M.H. - Per A.	Chicago Assembly House Report.	2000
6649 ✓	4	47405			
6650 ✓	16/10/14	N.D.	15/10 App. for review	D.O.S. Debarment order 2/19/21 signed	4000 4000
6651	20/10/14	2445-5	3/10 insurance review	partially blocked. A. Brownberg	4000
6652	4	2558-59	15/10 P. cl.	proper handling / processing over a half way there	4000
6653	4	N.D.	15/10 review	See review	4000
6654	4	4506-58	14/10 ASSET OR ESTABLISHMENT	Documentation. A ASSETS held and Acquired by GNF company	4000
6655	4	4531-32	14/10 OSIO case	Per the year regime 2014. by Registrar. Teyra Pearce and William G. J. Collins	4000
6656 ✓	16/10/14	N.D.	16/10 510 for review		4000
6657 ✓	4	N.D.	16/10 insurance review		4000

117

Attorney
M W

1000

1000
1000

A-mexorc (F)

LB

SHOW CAUSE NOTICE

I Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Syed Tahir Ahmad, Ex-District Officer (BPS-18 personal), Social Welfare Peshawar presently posted as District Officer (BPS-18 personal), Social Welfare Charsadda as follows:

- i) that consequent upon the completion of inquiry conducted by the inquiry officer/inquiry committee for which you appeared and recorded written statement before the inquiry officer on 4.03.2015;
- ii) on going through the findings and recommendations of the inquiry officer / inquiry committee, the material on record and other connected papers including your defence before the inquiry officer/inquiry committee,

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

- (a) You have also committed serious negligence. Your pretention that letter No; WCC/DSW/2952 dated 03.10.2014 alongwith report of Shazia Kiran Nurse of WCC was received to you on 14.10.2014 when the lady inmate was already expired, is not believable at all. Mr. Rahat Shah, Naib Qasid of your office has explicitly stated that the letter was received by you on 03.10.2014 at 03:40 FM and placed in the fresh dak of the D.O Peshawar. Therefore your contention is incorrect.

2. In term of Rule-5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, I, as Competent Authority, dispense with the inquiry and serve you with a show cause notice under Rule-7 of the ibid Rules.

A. Ullah
M. Ullah

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of withholding of three increments for three years under rule 4 of the said rules.

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

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

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

Pervez Khattak

(PERVEZ KHATTAK)

CHIEF MINISTER, KHYBER PAKHTUNKHWA

5/11/15

A. Ullstein
M



T.C.S. Annexure (FI) 20

GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
& WOMEN EMPOWERMENT DEPARTMENT

No. GS-I/SWDarul Aman, Crises Centre/2013-14/KC/1563-68
Dated Peshawar the 12-11-2015

To

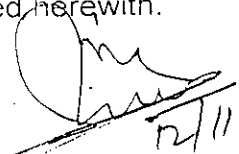
1. Syed Muhammad Tahir,
District Officer, Social Welfare, Charsadda.
2. Mrs. Robeena Riaz,
Deputy Director (Women),
Directorate of Social Welfare.
3. Miss. Nadia Shah,
Assistant Director (Women),
Directorate of Social Welfare.

Subject: - **REPORT REGARDING THE SAID DEMISE OF A LADY INMATE IN
WOMEN CRISES CENTRE HAYATABAD, PESHAWAR.**

I am directed to enclose herewith a copy of Show Cause Notice wherein the Competent Authority has tentatively imposed upon you the minor penalty of "with holding of Three increments for Three years".

2. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desired to be heard in person.
3. If no reply to this notice is received within seven (07) days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.
4. Besides the above, copy of inquiry report is also submitted herewith.

Encls: As Above


Section Officer-II

Endst: of Even No. & Date:-

Copy is forwarded to :-

1. The Director, Social Welfare, Special Education & Women Empowerment.
2. PSO to Chief Secretary, Khyber Pakhtunkhwa.
3. PS to Secretary to Government of Khyber Pakhtunkhwa, Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department.

Section Officer-II

Amir
Munir

Annexure (G)

213

Subject:- REPLY TO SHOW CAUSE NOTICE
Sir,

I, Syed Tahir Ahmad, Ex-District Officer, Social Welfare Deptt, Peshawar, presently posted as District Officer (SW), Charsadda have received a show cause Notice signed by the Competent Authority under Rule, 7 of the E&D Rules, 2011 which was issued to me vide letter No.GS-1/1563-68 dated 12-11-2015 of the Section Officer-11, Zakat Ushr, Social Welfare, Special Education and Women Empowerment Deptt, Govt of Khyber Pakhtunkhwa.
(Annex-A)

2). I have minutely studied the show cause notice and found that there is no reality in the allegation leveled against me by the inquiry officer under Para No.22 of the inquiry report annexed to the show cause notice, because he has relied upon the false statement of only one person i.e. Mr Rahat Shah, Naib Qasid, who is actually on fault himself. Moreover the inquiry officer has, even not strived to check the record of this office, which would definitely give him a right direction towards fixing responsibility upon the official on fault. I would therefore like to illustrate some of the ground realities which would help to clear the factual position, whatsoever:-

i). That the letter bearing No. WCC/SW/2952 was not received by me on 3-10-2014, on the other hand it was received by Mr Rahat Shah, Naib Qasid of my office on 3-10-2014 at 3-40 PM along with three (3) other letters listed below.

- | | |
|--|---------------------------------|
| 1. Letter No.2944-46/WCC dated 2-10-2014:- | Diary No. 6634 dated 14-10-2014 |
| 2. Letter No.2951/WCC dated 3-10-2014:- | Diary No. 6636 dated 14-10-2014 |
| 3. Letter No.2947/WCC dated 2-10-2014:- | Diary No. 6638 dated 14-10-2014 |
| 4. Letter No.2952/WCC dated 3-10-2014:- | Diary No. 6639 dated 14-10-2014 |

ii). That all of the above letters referred vide Para No.2(i) above were lying in the custody of Mr Rahat Shah, Naib Qasid since 03-10-2014 up-till 14-10-2014, either owing to omission on his part or otherwise he willfully did so.

iii). That the letter in question was actually put in the fresh doc on 14-10-2014 before me which was already entered in the Diary Register vide serial No.6639 on the same day by the Diary Clerk and soon the same was marked to the Office Assistant by me with the remarks recorded on the body of the letter which are reproduced hereunder. These remarks indicates my action taken for the funeral of the deceased inmate, because the day of occurrence (12-10-2014) was Sunday being closed holiday and so-far I could assign the responsibility to one of my subordinate officer, namely Mr Younis Afridi along-with some other officials to carry out all of the necessary arrangements for funeral as well as to get postmortem of the deceased lady through the police station Hayat Abad, Peshawar and they did so on behalf of the department as well.

A. Afridi
M

22

also put his signature in the diary register against the letter in question on 14-10-2014. Sir, the inquiry officer did not check the original record of my office, nor he took botheration to pay a visit to my office for fact finding.

4. It is also pertinent to note that my name was not included in the departmental inquiry conducted by the officers of this deptt, nor I was issued any charge sheet by the inquiry committee, but the inquiry officer (Mr. Khan Bakhsh) unnecessarily dragged me in the list of accused officers owing to his personal motives and the detailed reasons so-far have already been intimated to the authorized officer during the course of my personal hearing held on 23-2-2016.

5. Sir, I being a District Head of the Department (working in BPS-18) may not be held responsible for the Diary/Dispatch of letters which is actually the job of a Diary Clerk and other subordinate officials. Hence the Para No.22 of the inquiry report is biased, unjustified and does not correspond to the ground realities.

6. In view of the above clarification, it is humbly prayed that I being totally innocent in the subject case deserve to be exonerated from the charges leveled against me and humbly request to set aside the Order/Notification bearing No.GS-1/SWD/Darul Aman/Crisis Center/13-14/1613-22 dated 22-3-2016. Sir it is also brought to your kind notice that I have completed more than 40 years meritorious service with honesty and devotion and now I am going to be retired in the next year i.e. 2017 on Superannuation.

The following documents are enclosed for perusal please.

1. Copy of Notification bearing No.GS-1/SWD/Darul Aman/Crisis Center/13-14/1613-22 dated 22-3-2016.
2. Copy of letter No.DSW(B&A)4-24/2027/32 dated 19-4-2016.
3. Copy of Page No.71 of the Diary Register of the office of the District officer, Social Welfare Deptt, Peshawar.
4. Copy of inquiry report with special focus on Para No.22.

(SYED TAHIR AHMAD)
DISTRICT OFFICER
SOCIAL WELFARE DEPARTMENT
CHARSADDA

A. U. Khan
M. Khan

My remarks:-

WCC-File

23

"She has died on 12-10-2014 at 10.00 AM. She was laid to rest in Hayat Abad on the same day at 5.00 PM. All arrangements were made by Mr Younis Afridi on behalf of this department." Signed on 14-10-2014 bearing Diary No.6639 dated 14-10-2014. (Annex-"B").

iv) That Mr Rahat Shah, Naib Qasid could not describe the factual position in his statement recorded on 5-3-2015 before the inquiry officer due to the reason explained vide Para No.2(ii) above. On the other hand he put the blame upon me in order to safeguard his own position. (Please see Para No.16 of the inquiry Report).

3). Now I would like to describe the complete back ground of the letter in question which will help in clearing my own position as well.

i). That the letter bearing No.WCC/SW/2952 along-with three other letters were received by Mr.Rahat Shah, Naib Qasid on 3-10-2014 at closing hours i.e. 3-40 PM. May be the Diary Clerk would have left office at that time due to weekend day (being Friday on 3rd October, 2014), that is why the Naib Qasid concerned kept all of the four (4) letters in his own custody. The next two days were weekly holidays (Saturday and Sunday) and further three days were declared as Eid-ul-Adha Holidays and so-far the offices remained closed w.e.f 4-10-2014 to 8-10-2014 for five consecutive days. (Copy of the Attendance Register is annexed on "C").

ii). On 9-10-2014 the offices were re-opened and I could see & sign the fresh doc containing 25 letters which were entered in the Diary Register by the Diary Clerk from Serial No.6603 to 6627 and subsequently marked to the concerned sections of my office and signatures of the concerned officials shown to have been taken from each recipient in the diary register. (Photo copies of Page No. 69 & 70 of the Diary Register is annexed on "D & E"). Now the question arises, as to how all of the four letters mentioned in Para No.3(i) above could be ignored by me, if these were available in the fresh doc, I would definitely get it signed. In fact these four letters were not available in the Fresh Doc on 9-10-2014, otherwise it would have been entered by the Diary Clerk in the relevant Register as per his routine duty.

iii) In fact these four (4) letters were lying in the custody of Mr Rahat Shah, Naib Qasid and when he kept them in the Fresh Doc on 14-10-2014, then the Office Clerk could enter them in the Diary Register alongwith other Fifteen(15) letters. (Photo copies of page No. 70 & 71 of the Diary Register are annexed on "E&F"). These photo copies of the diary register illustrate the clear picture of 16 letters received on 14-10-2014 out of which the four letters of WCC have been specifically shown.

Attested
M

59

~~Handwritten scribble~~

4). From the above explanation, my position is very much clear and so-far I would humbly request that I may very kindly be exonerated from the allegation leveled against me by the inquiry officer under Para No.22 of the inquiry report.

5). I shall be highly obliged if I am given a chance to be heard in person please.

Handwritten signature
24/11/2015
(SYED TAHIR AHMAD)
(ACCUSED)
DISTRICT OFFICER, BPS-18
SOCIAL WELFARE DEPARTMENT
CHARSADDA

Page-3 of 3

Handwritten signature
Handwritten signature



25
Annexure (H) (J)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
& WOMEN EMPOWERMENT DEPARTMENT**

Dated Peshawar the, 22nd March, 2016

NOTIFICATION

1613-22

NO. GS-1/SWD/Darul Aman/Crises Centre/13-14. WHEREAS Mr. Syed Tahir Ahmad, District Officer Social Welfare Department was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rule, 2011.

2. AND WHEREAS Mr. Khan Bukhsh, Additional Secretary (PCS EG BS-19), Forestry, Environment and Wildlife Department, Khyber Pakhtunkhwa was appointed as Enquiry Officer to conduct inquiry into the matter.

3. AND WHEREAS the Enquiry Officer after having examined the evidence on record and reply of the officer, submitted his report.

4. AND WHEREAS the officer was awarded tentative penalty of "withholding of three increments for three years".

5. AND WHEREAS the show cause notice was issued to the officer concerned.

6. AND WHEREAS the competent authority also afforded the opportunity of personal hearing to the officer;

7. NOW THEREFORE, the competent authority after having considered the charges, evidence on record, explanation of the officer, defense offered by the accused officer during personal hearing and exercising his power under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rule, 2011, has been pleased to reduce tentative minor penalty of "withholding of three increments for three years" and impose minor penalty of "Withholding Of One Increments For One Year" upon Mr. Syed Tahir Ahmad, District Officer Social Welfare Department with immediate effect.

**Chief Minister
Government of Khyber
Pakhtunkhwa**

Endst: of Even No. & Date:-

Copy is forwarded for information and further necessary action to: -

1. The Accountant General, Khyber Pakhtunkhwa.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department.
3. District Account Officer, Peshawar.
4. Director, Social Welfare, Special Education & Women Empowerment.
5. District Officer, Social Welfare, Peshawar.
6. PS to Chief Minister Khyber Pakhtunkhwa.
7. PS to Chief Secretary Khyber Pakhtunkhwa.
8. PS to Senior Minister for SW, SE & WE, Khyber Pakhtunkhwa.
9. PS to Secretary, SW, SE & WE, Department Khyber Pakhtunkhwa.
10. PA to Deputy Secretary, SW, SE & WE, Department Khyber Pakhtunkhwa.


22/3/16
Section Officer-II

A. Nester
m

26

Annexure (1)



GOVERNMENT OF KHYBER PAKHTUN KHW
OFFICE OF THE DISTRICT OFFICER
SOCIAL WELFARE, SPECIAL EDUCATION &
WOMEN EMPOWERMENT DEPARTMENT CHARSAJDA

NO/DO/SW _____

Dated Charsajda the:- 9th May, 2016.

To,

The Honorable Chief Minister,
Government of Khyber Pakhtunkhwa.

Subject :- DEPARTMENTAL APPEAL UNDER RULE 17 OF THE E&D RULES, 2011.

Through :- Proper Channel.

Honorable Sir,

Your kind attention is invited to the subject as cited above and to submit my departmental appeal versus the Order/Notification bearing No.GS-1/SWD/Darul Aman/Crisis Center/13-14/1613-22 dated 22-3-2016 which was conveyed to my office vide letter No.DSW(B&A)4-24/2027-32 dated 19-4-2016 and the same was received by me vide diary No.661 dated 25-4-2016 (Copies enclosed).

2. Whereas minor penalty of withholding one increment for one year has been imposed on me vide order referred to above, therefore I, (Syed Tahir Ahmad) Ex-District Officer, Social Welfare Deptt, Peshawar, presently working as District Officer (BPS-18), Social Welfare Deptt, Charsajda, under the provisions of Rules 17 of the E&D Rules, 2011 hereby submit my departmental appeal to your good-self with the request to please review the case.

3. Sir, I have been penalized for such a matter which does not come under my domain, but the inquiry officer owing to his personal motives held me responsible instead the one of my office Naib Qasid, namely Mr Rahat Shah, who actually committed the omission and withheld the letter in question in his custody until the demise of Mst Baby, an inmate of women crisis center, Peshawar and so far he should have been held responsible and penalized for the omission but the inquiry officer has failed to do so

3. Sir, it is the laid down procedure in all government offices, that the fresh doc is received by the subordinate officials and after being entered in the Diary Register by the Diary Clerk, the same is presented in Doc Folder to the officers for perusal. In the instant case, the letter bearing No. WCC/2952 was firstly received by the office Naib Qasid, namely, Mr Rahat Shah on 3-10-2014 at 3.40 PM (at Closing Hours), that is why he kept the letter in his cupboard, and could not passed it to the Diary Clerk due to Eid-ul-Adha Holidays w.e.f. 4-10-2014 to 8-10-2014. He could not, even, hand over the letter in question to the Diary Clerk before 14th October, 2014 owing to omission on his part and after listening about the demise of Mst Baby he took out the letter from his cupboard alongwith three other letters and handed over to the diary clerk who entered all of them and in particular the letter in question was entered vide Serial No.6639 dated 14-10-2014 on page No.71 of the Diary Register. The Diary Register clearly shows the entry of letter in question in the handwriting of office Clerk, namely, Mr Shamsur Rahman and its onward recipient is Mr Khan Sher, Junior Clerk who has

Amended

[Handwritten signature]

also put his signature in the diary register against the letter in question on 14-10-2014. Sir, the inquiry officer did not check the original record of my office, nor he took botheration to pay a visit to my office for fact finding.

4. It is also pertinent to note that my name was not included in the departmental inquiry conducted by the officers of this deptt, nor I was issued any charge sheet by the inquiry committee, but the inquiry officer (Mr. Khan Bakhsh) unnecessarily dragged me in the list of accused officers owing to his personal motives and the detailed reasons so-far have already been intimated to the authorized officer during the course of my personal hearing held on 23-2-2016.

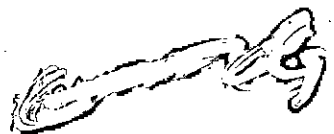
5. Sir, I being a District Head of the Department (working in BPS-18) may not be held responsible for the Diary/Dispatch of letters which is actually the job of a Diary Clerk and other subordinate officials. Hence the Para No.22 of the inquiry report is biased, unjustified and does not correspond to the ground realities.

6. In view of the above clarification, it is humbly prayed that I being totally innocent in the subject case deserve to be exonerated from the charges leveled against me and humbly request to set aside the Order/Notification bearing No.GS-1 SWD/Darul Aman/Crisis Center/13-14/1613-22 dated 22-3-2016. Sir it is also brought to your kind notice that I have completed more than 40 years meritorious service with honesty and devotion and now I am going to be retired in the next year i.e. 2017 on Superannuation.

The following documents are enclosed for perusal please.

1. Copy of Notification bearing No.GS-1/SWU/Darul Aman/Crisis Center/13-14/1613-22 dated 22-3-2016.
2. Copy of letter No.DSW(BSA)4-24/2027-32 dated 19-4-2016.
3. Copy of Page No.71 of the Diary Register of the office of the District officer, Social Welfare Deptt, Peshawar.
4. Copy of inquiry report with special focus on Para No.22

(SYED TAHIR AHMAD)
 DISTRICT OFFICER
 SOCIAL WELFARE DEPARTMENT
 CHARSADDA



Registered Post
GOVERNMENT OF KHYBER PAKHTUN KHW
OFFICE OF THE DISTRICT OFFICER, SOCIAL WELFARE, SPECIAL
EDUCATION & WOMEN EMP: DEPARTMENT CHARSADDA

NO/DO/SWI 6368-75 Dated Charsadda the :- May 9, 2016.

To,

The Section Officer-11,
Social Welfare, Special Education &
Women Empowerment Department Khyber Pakhtunkhwa

Subject:- DEPARTMENTAL APPEAL UNDER RULE 17 OF THE E&D RULES, 2011.

Your kind attention is invited to Notification endorsed by your goodself vide No.GS-1/SWD/Darul Aman/Crisis Center/13-14/1613-22 dated 22-3-2016 which was conveyed to me vide letter No.DSW(B&A)4-24/2027-32 dated 19-4-2016 issued by the Assistant Director (B&A), Directorate of Social Welfare, Khyber Pakhtunkhwa and the same was received by me vide office diary No.661 dated 25-4-2016.

Under the provision of Rule 17 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, I am enclosing my departmental appeal containing two pages along with supporting documents with the request to forward the same to the honorable Chief Minister, Government of Khyber Pakhtunkhwa at earliest please.

Encls:- As above.

(SYED TAHIR AHMAD)
DISTRICT OFFICER
SOCIAL WELFARE DEPARTMENT
CHARSADDA

Copy to :-

1. The Special Secretary to Chief Minister, Govt of Khyber Pakhtunkhwa.
2. The PSO to Chief Secretary, Government of Khyber Pakhtunkhwa.
3. The Accountant General Khyber Pakhtunkhwa with the request to wait till the appeal is decided by the honorable Chief Minister.
4. The PS to Secretary Zakat Ushr, Social Welfare, Special Education & Women Empowerment Department, Govt of Khyber Pakhtunkhwa.
5. The Director, Social Welfare, Special Education & Women Empowerment Department, Govt of Khyber Pakhtunkhwa.
6. The Deputy Commissioner, Charsadda.
7. The District Accounts Officer, Charsadda with the request to wait till the appeal is decided by the honorable Chief Minister.

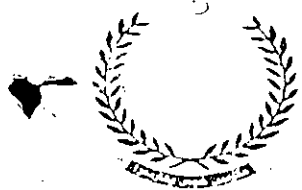
DISTRICT OFFICER
SOCIAL WELFARE DEPARTMENT
CHARSADDA

Handwritten signature



Handwritten signature

Annexure "J"



GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
& WOMEN EMPOWERMENT DEPARTMENT

No GS-I/SWDarul Aman, Crises Centre/2013-14/KC
Dated Peshawar the 22-07-2016

To

The Director,
Social Welfare, Special Education &
Women Empowerment, Khyber Pakhtunkhwa.

Subject: - DEPARTMENTAL APPEALS UNDER RULE-17 OF THE E&D RULES, 2011

1637-44

Dear Sir,

I am directed to refer to the subject noted above and to state that Departmental appeals submitted by Mst. Robina Riaz, Ex-Incharge of defunct Half Way House. Mst Nadia Shah, Ex-Manager Women Crises Centre Hayatabad Peshawar and Mr. Syed Tahir Ahmad, Ex- District Office Social Welfare Peshawar against the minor penalties of Withholding of two increments for two years and Withholding of one increment for one year respectively. imposed upon them by the competent authority have been regretted by the appellate authority. It is requested that further action regarding imposition of aforementioned penalties may kindly be taken accordingly.

Yours Faithfully,

Handwritten signature

Section Officer-II

Endst: of Even No. & Date:-



Copy is forwarded to:-

1. Mst. Robina Riaz, Deputy Director (WE) Directorate of Social Welfare Peshawar
2. Mst. Nadia Shah, Assistant Director (WE) Directorate of Social Welfare Peshawar
3. Mr. Tahir Ahmad, District Officer Social Welfare Tank.
4. PS to Senior Minister for Social Welfare Govt. of Khyber Pakhtunkhwa.
5. PS to Secretary to Government of Khyber Pakhtunkhwa, Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department.
6. PA to Additional Secretary (Social Welfare) Social Welfare Department

Handwritten signature

Section Officer-II

Handwritten signature

 <p>پشاور بار ایسوسی ایشن</p>	 <p>62796</p>
<p>ایڈووکیٹ/دستخط: _____</p> <p>بارنول ابار ایسوسی ایشن نمبر: 30-47-14-24</p> <p>رابطہ نمبر: 0344-9583411</p>	<p>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</p>

بعدالت جناب: سروس ٹریبونل کنٹری

<p>منجانب: ایملانٹ</p> <p>سید طاہر احمد بخاری</p> <p>بنام</p> <p>سیکرٹری اور منیجر</p>	<p>دعویٰ:</p> <p>علت نمبر:</p> <p>موردہ:</p> <p>جرم:</p> <p>تھانہ:</p>
--	--

بابت تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ سروس ٹریبونل کے آگے درج ذیل کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر حالت و فیصلہ برحق دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں مدد دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ ساتھ مدعا ذمہ منظور و قبول ہو گا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہو گا وہ وکیل موصوف وصول کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 19-8-2016

العبد _____ واہ شد _____ العبد _____

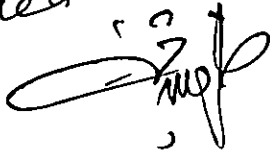
مقام کنٹری کے لئے منظور ہے۔

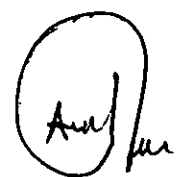
Accepted
10/8/16

سید طاہر احمد بخاری وکیل فیصلہ دہی کاروائی کنٹری
سائن عمر بنی تحصیل و صلح علی سہ ماہیہ

نوٹ: اس وکالت نامہ کی فونڈ کاپی باقاعدگی سے قبول ہوگی۔

Accepted





BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR

Service Appeal No.911/2016

Syed Tahir Ahmed Bukhari -----(Appellant)

Versus

Government of Khyber Pakhtunkhwa

Respondents

INDEX

S. No.	Detail of Documents	Page No.
1.	Affidavit	1
2.	Para-wise Reply	2-5
3.	Annex-A	6-7
4.	Annex-B	8-9
5	Annex-C	10-13
6	Annex-D	14
7	Annex-E	15-24
8	Annex-F	25-29


DEPONENTS
Cell# 0344-9078144

BEFORE THE PESHAWAR SERVICE TRIBUNAL PESHAWAR

Service Appeal NO.911/2016

Syed Tahir Ahmed Bukhari (Appellant)

Versus

Government of Khyber Pakhtunkhwa

AFFIDAVIT

I, Muhammad Qasim, Section Officer-(Lit) Social Welfare, Special Education & Women Empowerment Department, do hereby solemnly affirm and declare on oath that the comments on behalf of Respondent No.1,2, 3 & 4 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able, Court.


DEPONENT
Cell# 0344-9078144

Identified by
Government Pleader
Khyber Pakhtunkhwa,
Service Tribunal, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 911/2016

1. Syed Tahir Ahmad Bukhari S/o Syed Zaki Ud Din Shah R/o House No. 07 Mohallah Madina Colony, Umarzai Tehsil & District Mardan

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary
2. Secretary to Govt. of Khyber Pakhtunkhwa Zakat, Ushar, Social Welfare, Special Education & Women Empowerment Department
3. Additional Secretary Forestry, Environment and Wild Life Department
4. Section Officer-II, Social Welfare, Special Education & Women Empowerment Department

JOINT PARA WISE COMMENTS FOR/ON BEHALF OF RESPONDENTS NO. 01,02,03& 04

RESPECTFULLY SHEWETH

PRILIMINARY OBJECTIONS:

1. That the appellant has no cause of action to file the instant Service Appeal.
2. That appellant has not come to this Hon'ble court with clean hands.
3. That the appellant deliberately concealed material facts from this Hon'ble Court and has not come to this court with Clean Hands hence disentitled for any relief whatsoever.
4. The appellant is stopped by his conduct and deed.

PARA-01:-

Correct. As per the National Identity Card and domicile of the appellant available in his Service File, he is the bonafide resident of District Charsadda Khyber Pakhtunkhwa.

PARA- 02:-

Not Correct. The appellant is trying to mislead the court by frivolous statement. The instant appeal was filed on 19th August 2016, whereas the appellant was transferred and posted as District Officer Social Welfare Tank on 1st July 2016. **(Annex-A)**

PARA- 03:-

Correct with the clarification that before posting of appellant as District Officer Social Welfare Charsadda where he served w.e.f 13th July 2015 to 1st July 2016, he was posted as District Officer Social Welfare Peshawar. **(Annex-B)**.

PARA- 04:-

Not Correct. As per Second Schedule of the District Govt. Rules of Business 2013 **(Annex-C)**, it is included in the responsibilities of the District Officer Social Welfare to promote public sector facilitation and support for the protection, rehabilitation and look after of the deprived, marginalized and vulnerable individuals, groups, extend and enhance coordination amongst government and non-government partners in the area of social welfare services, develop linkages with organizations engaged in community development, co-ordinate with public and private sector, bodies and institutions for showcasing issues in human rights and take measures to create an environment of respect for human rights. To sum up, the District Officer Social Welfare is responsible to supervise all the institutions of social welfare in his district of posting.

PARA- 05:-

Not Correct. The Initial fact finding inquiry clearly mention that the illness of the deceased inmate namely Mst. Baby was reported by the Nurse on 2nd October 2014 and the same was communicated to the then District Officer Social Welfare Peshawar (Appellant) on 3rd October 2014. **(Annex-D)** However the appellant did not take any initiative to shift the ailing inmate to a proper health centre and she expired on 12th October 2014. The Inquiry Report conducted under the Govt. of Khyber Pakhtunkhwa Efficiency & Discipline Rules 2011 also holds the appellant responsible for negligence in

his duties in his supervisory capacity which caused a human loss **(Annex-E)**, and for which the appellant was awarded minor punishment of **"Withholding of increment for one year"** after fulfilment of all codal formalities.

PARA- 06:-

As per 2nd Schedule of the District Govt. Rules of Business 2013 **(Annex-C)** and well established norms, The District Officer Social Welfare Peshawar is responsible to supervise all the institutions of social welfare based in Peshawar. The contention of the appellant that he was malafidely dragged into the Inquiry by respondent No. 03 is, therefore, baseless. The Inquiry Officer has no conflict of interest whatsoever with the appellant, as such, no malafidy may be proved. It was the responsibility of the Inquiry Officer to dig out the facts and fix responsibility. As such, in his findings, he has found the appellant responsible for negligence in his duties, which resulted into the sad demise of a lady inmate. As per the written statement of Mr. Rahat Sha, Naib Qasid in the office of District Officer Social Welfare Peshawar, the letter intimating the miserable condition of late inmate, was received in the office of District Officer Social Welfare Peshawar on 3rd January 2014 whereas the inmate expired on 12th January 2014. It is indicative of negligence on part of the appellant who was then posted as District Officer Social Welfare Peshawar. The appellant was not issued charge sheet or statement of allegation, but was served upon show cause notice directly by the competent authority in exercise of powers conferred upon him under Section of 07 of the Efficiency & Discipline Rules 2011 **(Annex-F)**. The said rule empower the competent authority to dispense with formal Inquiry against an officer/official about whom it is believed that he/she has committed anything wrong in terms of Section 03 the said Rules. The challenging of the penalty inflicted in pursuance of Section 07 of the Efficiency & Discipline Rules 2011 on the ground that the appellant was not issued Charge Sheet or Statement of Allegation, therefore, does not hold water in the eye of law.

PARA- 07:-

Incorrect. As explained in the preceding Para. It is an established practice that when fresh communication is received in an office, it is either received by a Naib Qasid or Diary/Dispatch Clerk and then duly entered into the Diary/Dispatch Register. The appellant has himself admitted that the letter was received by him on 14th January 2014 which shows weak internal control on part of the appellant to look after the affairs of his office efficiently.

PARA-08:-

The Naib Qasid works under the supervision and directions of an office head. The letter was and is being received by the Naib Qasid. However the Naib Qasid is not supposed to take action on any correspondence so received.

PARA -09:-

The contention of the appellant that the letter was received by him on 14th January 2014 does not exempt him from disciplinary action under the Govt. of Khyber Pakhtunkhwa Efficiency & Discipline Rules 2011 for his negligence in his supervisory role at his office and towards the institutions of social welfare in District Peshawar as were entrusted to him under the District Govt. Rules of Business 2013. Furthermore the Dairy/Dispatch Register, which was under the control of appellant officer, and which has been provided by the Appellant as a proof that he had received the correspondence intimating the ailing condition of the deceased inmate on 14th January 2014, may not be taken as proof to establish that the letter was received by him on 14th January 2014.

PARA-10:- Incorrect. As explained in Para 06 above.

PARA-11:- Correct

PARA-12:- Correct

PARA-13:- Correct

PARA-14:- Correct

PARA-15:- The appellant has got no cause of action to file instant appeal.

GROUNDS

- a. Incorrect. The impugned order of Withholding of 01 year increment for negligence in the duties as has been assigned to the appellant under the District Govt. Rules of Business 2013, is in conformity with the end of Natural Justice.
- b. Incorrect that the impugned order is justified based on ground realities.
- c. Incorrect. The impugned order of withholding 01 year increment has been issued in compliance of the Efficiency & Discipline Rules 2011 and for violation of the second schedule of District Govt. Rules of Business 2013.
- d. Incorrect. No malafidy is involved on part of any respondent and it was the responsibility of the appellant to maintain effective co-ordination with all the institutions of social welfare in District Peshawar when he was posted as District Officer Social Welfare Peshawar.
- e. Incorrect. The Inquiry Officer has concluded his findings after proper perusal of the record and examination of the witnesses.
- f. Incorrect. The penalty of withholding of 01 year increment was awarded on the basis of an unambiguous and complete inquiry and is liable to be maintained.
- g. Incorrect. The Inquiry Officer has completed the inquiry in compliance of the rules.
- h. Incorrect. That the impugned order of the respondent is in consistency with the principal of fair justice and equity.
- i. Incorrect. That the impugned order is perfectly judicious, hence in conformity with the negligence committed by the appellant when he was posted as District Officer Social Welfare, Peshawar

PRAYER:-

It is, therefore, most humbly prayed that the appeal may kindly be dismissed.

Shams
**SECTION OFFICER-II,
SOCIAL WELFARE, SPECIAL
EDUCATION & WOMEN
EMPOWERMENT DEPARTMENT
(Respondent No. 04)**

**ADDITIONAL SECRETARY,
FORESTRY, ENVIRONMENT AND
WILD LIFE DEPARTMENT
(Respondent No. 03)**

**SECRETARY,
TO GOVT. OF KHYBER
PAKHTUNKHWA ZAKAT, USHR,
SOCIAL WELFARE, SPECIAL
EDUCATION & WOMEN
EMPOWERMENT DEPARTMENT
(Respondent No. 02)**
**Secretary To Govt: of
Khyber Pakhtunkhwa
Zakat, Ushr, Social Welfare,
Special Education &
Women Empowerment Deptt:**

**CHIEF SECRETARY,
KHYBER PAKHTUNKHWA
(Respondent No. 01)**
**Secretary To Govt: of
Khyber Pakhtunkhwa
Zakat, Ushr, Social Welfare,
Special Education &
Women Empowerment Deptt:**



TO BE SUBSTITUTED ON THE SAME NO. & DATE

GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
& WOMEN EMPOWERMENT DEPARTMENT

Dated Peshawar the 1st July, 2016.

NOTIFICATION:

No. SOII (SW) II-52 / 2011/

The following posting/transfer of the officer of Social Welfare, Special Education & Women Empowerment are hereby ordered in the best public interest with immediate effect.

S. No.	Name of Officer	From	To
1	Ms. Robina Riaz Khan, (BS-18 Personal Grade)	Deputy Director (WE)	She will also hold the additional charge of Incharge Working Women Hostel, Peshawar.
2.	Miss. Salma Nasrullah (BS-18 Personal Grade).	Manager, Child Beggars Home, Peshawar.	Manager, Women Crisis Centre. Hayatabad Peshawar
3.	Mr. Shamroz Khan, (BS-18 Personal Grade).	Deputy Director, VTCD, Special Education Complex, Hayatabad, Peshawar.	Manager, Child Beggars Home, Peshawar.
4.	Syed Mohammad Tahir, (BS-18 Personal Grade).	District Officer, Social Welfare, Charsadda.	District Officer, Social Welfare, Tank.
5.	Mr. Hamid Shinwari (BS-16)	District Officer, Social Welfare, Kohistan.	District Officer, Social Welfare, Tor Ghar (in his own pay and scale).
6.	Mr. Shakil Iqbal, (BS-17).	District Officer, Social Welfare, Tank.	District Officer, Social Welfare, District Malakand.
7.	Mr. Fahad Ashraf, Social Welfare (BPS-17).	District Officer, Social Welfare Shangla.	District Officer, Social Welfare, Kohistan.
8.	Mr. Fazal Wahid, (BS-18 Personal Grade).	District Officer, Social Welfare, District Malakand.	Social Welfare Officer, Shangla.
9.	Mr. Younas Afridi, (BS-18 Personal Grade).	Superintendent, Government Institute for Blind (Male), Peshawar.	Social Welfare Officer, Peshawar.
10.	Mr. Mohammad Arif, (BS-17).	Social Welfare Officer, Peshawar.	Superintendent, Govt Institute for Blind (Male), Peshawar.
11.	Mr. Bilal Khan, Promoted as Assistant Director (BS-17).	Superintendent, Welfare Home, Kohat (Peshawar).	District Officer, Social Welfare, Charsadda.
12	Ms. Shazia Raza Khattak, (BS-18 Grade)	Deputy Director, Nishtar Special Education Centre, Kohat.	She will look after the affairs of Superintendent, Welfare Home, Kohat in addition to her own duty.

S. No.	Name of Officer	From	To
13.	Miss. Touheed Rashheed (BS-17).	Principal, Institute for the Blind, Mingora (Swat).	Superintendent, Darul Aman, Swat.
14	Mr. Mohammad Zeb, (BS-17).	District Officer, Social Welfare Dir (Lower).	He will look after the work of Principal, Govt: School for Deaf Children, Munda Dir (Lower).
15.	Mr. Sharifullah (BS-17).	Principal, Govt School for Deaf Children, Munda Dir (Lower).	Superintendent, Govt Institute for the Blind, Mingora (Swat).
16.	Mr. Rahid Khan, (BS-17).	Senior Teacher, Special Education, Complex, Hayatabad, Peshawar.	Senior Teacher, Special Education, Complex, Mardan.
17.	Mst: Fauzia Aziz, Superintendent (BS-17).	Darul Aman, Mardan.	Welfare Home for Orphan Children Charsadda against the vacant post.
18.	Mr, Bahadar Ali, Social Welfare Officer (BS-17).	Darul Kafala, Mardan.	He will hold the additional charge of Superintendent Darul Aman, Mardan till the availability of female competent officer.

**Secretary to Govt: of Khyber Pakhtunkhwa
Zakat, Ushr, Social Welfare, Special Education &
Women Empowerment Department.**

Endst: of Even No & Date:

Copy forwarded for information and further necessary action to: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director, Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa.
3. Director, Special Education, Complex, Hayatabad, Peshawar.
4. District Account Officer Malakand, Mardan, Tor Ghar, Charsadda, Tank, Kohistan, Shangla, Kohat, Swat and Dir (Lower).
5. District Officers Social Welfare Malakand, Mardan, Tor Ghar, Charsadda, Tank, Kohistan, Shangla, Kohat, Swat and Dir (Lower).
6. PS to Senior Minister for Social Welfare, Khyber Pakhtunkhwa.
7. PS to Secretary, Zakat, Ushr, Social Welfare & Women Empowerment Department.
8. PA to Deputy Secretary (Admin), Social Welfare, Special Education & Women Empowerment Department.
9. Officers concerned.
10. Personal files.


Section Officer-II



GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION AND
WOMEN EMPOWERMENT DEPARTMENT

26/3/14
2014

NOTIFICATION:

Dated Peshawar the 21st March, 2014.

No. SOH (SWD)2-52/2014/220/10-43 The following postings/ transfers of officers of Social Welfare, Special Education & Women Empowerment Department, Khyber Pakhtunkhwa are hereby ordered in the best public interest with immediate effect:-

Sr#	Name of Officer	From	To	Remarks
1.	Syed Sikandar Jalal Qasim, Deputy Director (BPS-18)	Special Education Complex, Mardan	Director Special Education Complex, Hayatabad Peshawar in his own pay and scale.	Relieving Mr. Javed Yousaf Ali, Vice Principal (BPS-18), VTCD, Peshawar of the additional charge
2.	Syed Riaz-Ur-Rehman, Principal (BPS-19) (Personal) Special Education Complex, Mardan	Principal Special Education, Mardan	Deputy Director, Special Education Complex, Mardan in his own pay scale	Vice Sr. No. 1
3.	Mr. Tahir Khan, Social Welfare Officer (BPS-18)	Social Welfare Officer (BPS-18), Charsadda	District Officer Social Welfare (BPS-18), Peshawar	Relieving Mr. Muhammad Younas Afridi, Superintendent (BPS-17), Government Institute for the Blind Peshawar of the additional charge.
4.	Dr. Fazl-e-Mehmood, Social Welfare Officer (BPS-18)	District Officer Social Welfare, Haripur	District Officer Social Welfare, Torghar	Against vacant post
5.	Mr. Muhammad Adil Khan, Social Welfare Officer (BPS-17)	Social Welfare Officer (BPS-17), Abbottabad	District Officer Social Welfare, Haripur	Vice Sr. No.4
6.	Mr. Muhammad Jamshed Khan, Social Welfare Officer (BPS-17)	Social Welfare Officer (BPS-17), Peshawar	Superintendent, Welfare Home Bannu.	Vice Sr. No. 8
7.	Mr. Qayyum Khan, Social Welfare Officer (BPS-17)	On repatriation from BISP,	District Officer Social Welfare, Haripur	Reliving Mr. Akhtar Munir, Assistant Director (LG & RD) of the additional charge.
8.	Mr. Shafiqat Amin, Social Welfare Officer (BPS-17)	Superintendent (BPS-17), Child Welfare Home, Bannu	District Officer Social Welfare, Karak	-do-
9.	Mr. Gul Zarif Khan, Senior Special Education Teacher (BPS-17)	Manager (BPS-17), Centre for Mentally Retarded & Physically Handicapped Children, Bannu	Principal (BPS-17), Government Institute for the Blinds, DI Khan	Against Vacant Post. Mr. Noman Ali Qureshi, Principal Deaf School Bannu will hold the additional charge of Manager MR&PH Bannu in addition to his own duties.
10.	Mr. Muhammad Kaleem, Social Welfare Officer (BPS-17)	Social Welfare Officer (BPS-17), Malakand	Social Welfare Officer (BPS-17), Community Development Centre, Chakdara. He will also hold additional charge of Social Services Medical Centre, Chakdara, Dir Lower.	Against vacant post

11.	Mr. Mir Afzal Khan, Principal (BPS-17)	Principal (BPS-17), Government School for Deaf Children, Kohat, also holding the additional charge of the post of Superintendent Welfare Home Kohat.	Principal (BPS-17), Government School for Deaf Children, DI Khan	1. Mst Shazia Raza Dy: Director SEC (VHC) Kohat will hold the additional charge of Principal Deaf School Kohat in addition to her own duties. 2. Mr. Khalid Khan, RO, Drug Addicts Centre, Kohat will hold the additional charge of Supdt; Welfare Home, Kohat in addition to his own duties.
12.	Mr. Liaqat Ali, Senior Teacher (BPS-17)	Senior Teacher (BPS- 17), Special Education Complex, Mardan	Report to Directorate of Social Welfare, Peshawar for further posting.	---
13.	Mr. Sohail Nadir, Social Case Worker (BPS-16)	Social Case Worker (BPS-16), Centre for Mentally Retarded & Physically Handicapped Children, Nowshera	Social Welfare Officer, Charsadda in his own pay and scale.	Vice Sr. No. 3
14.	Mr. Alamgir Khan, Social Case Worker (BPS-16)	Social Case Worker (BPS-16), Centre for Mentally Retarded & Physically Handicapped Children, Haripur	Social Case Worker (BPS- 16), Centre for Mentally Retarded & Physically Handicapped Children, Nowshera	Vice Sr. No. 13
15.	Mr. Hamid Khan, Field Officer (BPS-16)	Field Officer (BPS-16), Directorate of SW, SE & WE	District Officer Social Welfare, Kohistan in his own pay and scale	Against Vacant P

2. No TA/DA is allowed.

Secretary to Govt: of Khyber Pakhtunkhwa
Zakat, Ushr, Social Welfare, Special Education & W
Empowerment Department.

Endst: of Even No & Date:-

Copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director, Social Welfare, Special Education & Women Empowerment, Peshawar.
3. The Director, National Special Education Center, Phase-V Hayatabad, Peshawar.
4. The District Account Officers, Abbottabad, Haripur, Charsadda and Dir (D-I-Khan, Kohistan, Nowshera, Peshawar, Kohat, Tangu, Torghar, Mardan, K
5. PS to Special Assistant Secretary to Government of Khyber Pakhtunkhwa on Social W
Empowerment Department, Peshawar.
6. PS to Secretary to Government of Khyber Pakhtunkhwa, Zakat, Ushr, Social
Empowerment Department.
7. Officers concerned.
8. Personal files of the officers concerned.

(Fah)
Sec

	<p>evaluation in the district</p> <ul style="list-style-type: none"> vi) Improvement of water management methods vii) Installation of tube-wells and research in the sector <p><u>Social and Farm Forestry</u></p> <ul style="list-style-type: none"> i) Raising and promotion of roadside plantations of local and district significance ii) Promotion of social/farm forestry in private lands, iii) Raising of Forest Nurseries iv) Establishment of amenity forests and recreational parks. v) Education of the public for tree planting and provisions of technical and advisory services on matters of afforestation. vi) Mass-media, publicity, conservation of ecosystem, enforcement and planning. vii) Promotion of Social, Urban, Agro and Farm Forestry viii) Aforestation through public-private partnership ix) Training and Research on floriculture seed farms and green belts. <p><u>Soil Conservation and Soil Fertility</u></p> <ul style="list-style-type: none"> i) Enforcement of soil conservation laws and rules. ii) Surveys of eroded areas and preparation of projects and plans for water harvesting, reclamation and conservation to control soil and water erosion. iii) Construction of water disposal outlets and permanent structures to allow controlled water run-off iv) Construction of check dams, water ponds and mini dams for conservation of soil and water. v) Afforestation and range management to control soil erosion through provision of advisory, technical, institutional support for soil conservation and water harvesting. vi) Evaluation of soil fertility status in the district and preparation of site specific fertilizer recommendations. vii) Diagnosis of salinity-sodicity hazards of soil and their reclamation. viii) Soil Survey, preparation of comprehensive inventory of soil resources of the District and their proper utilization. ix) Reclamation of land
<p>Community Development & Social Welfare</p>	<p><u>Community Development</u></p> <ul style="list-style-type: none"> i) Creation of enabling environment for communities to discharge their due role in national life ii) Preparation and implementation of project, plans and

12

	<p>programmes for organizing communities around collective issues through proactive advocacy, awareness, knowledge management and capacity building</p> <ul style="list-style-type: none"> iii) Commissioning research and surveys on issues obstructing community development and community participation iv) Developing Linkages with organizations engaged in community development v) Public awareness regarding human rights, tolerance, mutual respect and rights of minorities vi) Coordination with public and private sector, bodies and institutions for showcasing issues in human rights and measures to create an environment of respect for human rights vii) Obtaining information, documents and reports on complaints and allegations of human rights violations and positioning resources for protecting the rights of weak and marginalized segments of society viii) Minorities affairs including safeguarding their rights and interests, ensuring their welfare and protection against discrimination ix) Constitution of advisory and conciliatory committees for resolution of disputes and differences x) Addressing gender disparity by promoting gender equality, affirmative action and empowerment of women xi) Eliminating gender and ethnic disparities by promoting universal access to education and health services <p>Culture</p> <ul style="list-style-type: none"> i) Promotional activities of Art and Culture, Language and Literature ii) Promotion of folk music and local cultural heritage iii) Promoting national integration iv) Financial and institutional assistance to cultural and literary bodies. <p>Social Welfare</p> <ul style="list-style-type: none"> i) Registration, technical assistance, capacity building and monitoring of social welfare organizations ii) Ensuring that no child below the age of fourteen is engaged in any factory or mine or any other hazardous employment iii) Capacity building of the vulnerable groups by imparting skills to make them contributory members of the society and earn their own livelihood iv) Build safety nets through service chains for welfare of the poorest v) Provide healthy living facilities for most vulnerable groups including women, children and destitute senior age group citizens vi) Assistance in relief and rescue services
--	--

	<ul style="list-style-type: none"> vii) Coordination of social welfare interventions and investments viii) Establishment of welfare homes, working women hostels and assistance centers ix) Eradication of drug menace and rehabilitation of drug addicts x) Social protection including institutional care, skill development and rehabilitation of poor, marginalized and disadvantaged groups xi) Registration, assessment, training, employment and rehabilitation of disabled persons. xii) Eradication of social evils. <p><u>Sports</u></p> <ul style="list-style-type: none"> i) Promotion of sports through infrastructure development ii) Talent scouting and building district sports teams iii) Annual sports competition and sports event management iv) Welfare of the Sportsmen <p><u>Women Development</u></p> <ul style="list-style-type: none"> i) Transformation of the local governments into organizations that actively practices and promotes gender equality and women empowerment ii) Implementation of administrative and institutional reforms for promoting gender equality iii) Promotion, co-ordination and monitoring execution of government policies and commitments on gender reforms and women development iv) Provision of technical support for gender mainstreaming in district offices v) Expansion of investment in women's socio-political and economic development vi) Collection of quantitative and qualitative data and conducting of research on the status of women in the district. vii) Building of partnership with civil society and non governmental organizations to deliver on the rights and entitlements of women viii) Provision of means and measures to increase participation of women in political process and encouragement of their effective representation in political and administrative spheres. ix) Facilitating women's access to formal legal and justice system. x) Compilation and publication of annual report on state of gender equality in the district xi) Transformation of the local governments into organizations that actively practices and promotes gender equality and women empowerment xii) Implementation of administrative and institutional reforms for
--	--

	<p>promoting gender equality</p> <ul style="list-style-type: none"> xiii) Promotion, co-ordination and monitoring execution of government policies and commitments on gender reforms and women development xiv) Provision of technical support for gender mainstreaming in district offices xv) Expansion of investment in women's socio-political and economic development xvi) Collection of quantitative and qualitative data and conducting of research on the status of women in the district. xvii) Building of partnership with civil society and non governmental organizations to deliver on the rights and entitlements of women xviii) Provision of means and measures to increase participation of women in political process and encouragement of their effective representation in political and administrative spheres. xix) Facilitating women's access to formal legal and justice system. xx) Compilation and publication of annual report on state of gender equality in the district <p>Youth Affairs</p> <ul style="list-style-type: none"> i) Coordination of matters relating to youth organizations ii) Provision of resources and institutional linkages for promoting youth exchange programmes iii) Production of documentaries and literature on youth related issues iv) Building youth development as a priority in planning to prepare and enable youth discharge their national and social responsibilities v) Allocate resources to support and steer youth development programmes; vi) Preparation and publication of annual report on youth in the district vii) Associate youth with decision making in projects, programmes and plans for youth development; viii) Encouraging character building and ethical values among youth ix) Developing partnership and networking with civil society, national, regional and international organizations to optimize impact of youth development interventions.
<p>Education</p>	<p><u>PRIMARY AND SECONDARY EDUCATION</u></p> <ul style="list-style-type: none"> i) Provision of compulsory and free education to all children of age five to sixteen years and encouraging completion of primary education by all children in the district ii) Administration and Management of primary, elementary,

Annexure (C)

17 (D) 18
14

GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE PROJECT MANAGER
WOMEN CRISIS CENTRE
SOCIAL WELFARE DEPARTMENT
PESHAWAR

No. WCC/DSW/ 2952

Dated at Peshawar 13/10/2014

To, The District Officer
Social Welfare Department,
Peshawar.

Subject: APPLICATION ABOUT THE PHYSICAL/MENTAL CONDITION OF MST:
BABY.

Enclosed find herewith an application from Shazia Kieran, Nurse
about the physical condition of the inmate Mst. Baby, whose admitted in Half
Way House, Peshawar. She requested that shift to some suitable place.

It is submitted for information and further necessary action.

Enclosure: As Above.

Nadia
Khan

Manager
Women Crisis Centre
Peshawar

6639
14/10/14

OA
14/10/14

WCC File

She has died on 14/10/2014
at 10:00 AM
and to post in HA or in
some day in SA PM. All
arrangements were made by
Miss Afride on behalf of
the Dept. WCC
14.10.14

Affide
M

E 5

50

INQUIRY REGARDING THE SAD DEMISE OF A LADY IN HALF WAY
HOUSE/WOMEN CRISIS CENTER, HAYATABAD PESHAWAR.

Background

The Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department, Government of Khyber Pakhtunkhwa vide their letter No: GS-I (SWD)Darul Aman/Crises Center/2013-14/624-30 dated 12/2/2015 has intimated that the Competent Authority has nominated the undersigned as Inquiry Officer to conduct inquiry against Mst. Rubina Riaz, (BPS-18) the then In-Charge of defunct Halfway House Peshawar and Miss Nadia Shah (BPS-17) Manager, Women Crises Center, Social Welfare, Special Education & Women Empowerment Department regarding the sad demise of Ms. Baby a lady inmate of defunct Halfway House Peshawar.

Inquiry proceedings

2. In pursuance of the afore mentioned letter of Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department, Government of Khyber Pakhtunkhwa, the accused officers were called on 24/2/2015 through this Department's letter dated 18/2/2015 to appear before the undersigned alongwith their written statements in defence of the charge sheets/statement of allegations already communicated to them through Social Welfare, Special Education & Women Empowerment Department letter referred above. Similarly copy of the letter was endorsed to Secretary, Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department, Government of Khyber Pakhtunkhwa to depute a well conversant officer with the facts of the case to assist the inquiry proceedings.

3. The charge sheet against the accused officers mainly contained the following allegations:-

- a. That she (Mst. Rubina Riaz) did not properly hand over the inmates actually belonging to Halfway House as a result of closing of Development Project namely Halfway House.
- b. That she while informed in writing by the concerned nurse on 3/10/2014 about the illness of inmate "Mst. Baby" that she is not eating anything, but she failed to admit the inmate in Hospital or consult any recognized Doctor for treatment or clinical examination.
- c. That she did not inform the high ups well in time, and did not take any steps/ measures for saving her life which ultimately result in her death.
- d. That she highlighted the natural death in a mysterious way in print media due to departmental and professional jealousy.
- e. That this negligence of poor performance and in-efficiency on her part is liable to be proceeded under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

4. Mrs. Rubina Riaz, the Incharge officer of the defunct Halfway House Peshawar submitted her one page reply alongwith enclosures which is placed at Annex-A. Her reply was examined and she was again summoned for personal hearing on 02/03/2015 at 11:00 A.M.

the inquiry proceedings as Departmental nominee. She was heard in person. A questionnaire was also handed over to her to which she replied which is attached with her reply.

5. Ms. Nadia Shah, Manager, Women Crisis Centre appeared on 4/3/2015 alongwith her written statement which is placed at **Annex-B**. She was also heard in person. A similar questionnaire was also put to her which she filled and attached with her reply.

6. It is pertinent to give a brief resume of the defunct Halfway House and Women Crisis Centre, Peshawar, as under:-

Halfway House

7. The concept of Establishment of Halfway House was perceived in line with the objective of National Action Plan to give shelter to the distressed women persecuted through the social and domestic torture. During the year 2010-11, a PC-I form for the purpose at a total cost of Rs. 14.460 million, was approved through the competent forum. The Halfway House established in the magnificent building of Special Education Complex, Hayatabad, Peshawar was supposed to gave shelter, food, counseling etc to the run-away women as a result of domestic violence and threat to their lives. The scheme was continued till 30/6/2014 however because of poor administrative and management performance, it was closed on 30/6/2014. Consequently all the inmates left the Halfway House only two namely Mst. Surrya Jabeen and Mst. Baby stayed in the same building at the mercy of the Manager, Women Crisis Centre, Peshawar.

Women Crisis Center Peshawar

8. Women Crisis Center a similar scheme of the Social Welfare Department is running on regular budget. The objective of the Women Crisis Center is to give relief to the neglected women, mostly beggars and those referred by the various courts. Beside provision of food and residential facilities, skill training in various trades are being imparted to make them self reliant. Till August 2014, it was functioning in a rented building, however, after closure of the Half Way House, the Women Crisis Centre was shifted to Hayatabad in September, 2014 and accommodated in the building vacated by the Half Way House in pursuance of Director Social, Special Education & Women Empowerment Department letter No: 2358-63, dated 19th August, 2014 (**Annex-C**).

Procedure followed by the In-charge defunct Half Way House on closure of the Project in September, 2014 .

9. For proper vacation of the building of Half Way House, the In-Charge Officer (Mrs. Rubina Riaz) was supposed to prepare proper inventory of all items such as machinery, equipment, furniture, utensils and most important names and particulars of inmates and arrange its proper handing/taking over to the Manager, Women Crisis Centre, Peshawar. Contrary to this, the In-Charge Officer haphazardly left the building. Though she reported that the inmates were left at the charge of the Manager (WCC) verbally, as no formal orders from the Director Social Welfare regarding the closure of the Half Way House were issued to her.

9
6/7

17 (52)

The two inmates namely Mst. Baby and Mst. Surryia were left as such. This shows so grave inefficiency on the part of a Senior Officer who was given to look after the helpless ladies of the Society.

Analysis

Reply of Mrs. Rubina Riaz, In-Charge of the defunct Half Way House, Peshawar

10. The examination of reply of Mrs. Rubina Riaz indicates that she has produced order No: DSW/2566-72, dated 05/9/2013 issued by the Director, Social Welfare, Special Education and Women Empowerment regarding entrustment of additional charge of Half Way House, Peshawar and her subsequent assumption of the charge of the Half Way House on 05/9/2013. In her reply she has stated that after closure of the Half Way House, the two inmates i.e., Mst. Surryia Jabeen and Mst. Baby were living in the said premises which were taken over by the In-Charge Women Crisis Centre. The condition of deceased Baby was brought in notice of Manager Women Crisis Centre, Peshawar. She has further denied that she was not In-Charge of Half Way House on 02/10/2014. She stated that she had been working as Deputy Director in the Directorate of Social Welfare, Special Education and Women Empowerment. She was not supposed to inform the high ups as she was not performing duty in the Half Way House, Peshawar. She has also denied publication of the incident through print media. However, she has not produced any copy of charge relinquishment of the post of In-Charge Half Way House or any letter addressed to the Manager Women Crisis Centre, Peshawar regarding her departure from the building of the Half Way House. She has also produced a copy of letter No: DSW/2358-63, dated 19/8/2014 of Director Social Welfare, Special Education and Women Empowerment Department, addressed to District Officer, Social Welfare Peshawar regarding shifting of the WCC to the building of defunct Halfway House Peshawar. In the letter of the Director Social Welfare, Peshawar it was specifically highlighted that the District Officer Social Welfare, Peshawar and his team shall be personally responsible for the smooth shifting of the WCC.

Reply of Mrs. Nadia Shah, Manager (WCC)

11. Mrs. Nadia Shah, Manager (WCC), Peshawar in her statement submitted that the Woman Crises Centre was shifted to the portion of Half Way House Peshawar on 27th September, 2014 in compliance with the letter No.DSW.2358-63 dated 19-08-2014, with 31 inmates. However, the charge of assets and liabilities of the defunct Half Way House was neither handed over to her nor the competent authority issued any direction to her. Deceased Baby Mst. was still in the lawful custody of the in charge Miss Rubina Riaz.

12. When Miss Shazia Kiran, In-Charge Nurse reported the precarious condition of deceased Mst. Baby on 03-10-2014, in presence of Tahira Naveed In-Charge Darul Kafala and Mr. Arif, In-Charge Drug Addict Centre Mrs. Rubina Riaz In-Charge of Half Way House told us that it was her habit and it should not be taken seriously. Despite the fact she initiated action and sent the report of the Nurse to the District Officer Social Welfare Peshawar through letter

No.WCC/DSW/2952 dated 03-10-2014 and sought advice for further course of action (Annex-D).

13. Regarding publication of the incident, she has stated that she has neither contacted nor given any statement in the media. (S3)

Statement of District Officer, Social Welfare, Peshawar

14. Statement of Syed Muhammad Tahir, District Officer, Social Welfare Peshawar is placed at (Annex-E). In his statement he has intimated that the defunct Halfway House Peshawar was not under his charge as the Director Social Welfare, Special Education & Women Empowerment was directly supervising the defunct Halfway House. However he produced copy of letter No: DO/SW/4521 dated 15/10/2014 written to Director Social Welfare about the publication of the incident through press media. The letter depicts the poor performance of Mrs. Nadia Shah and her involvement in the charge of propagation of the incident in the press.

15. When asked about the letter No: WCC/DSW/2952 dated 03/10/2014 of the Manager, WCC regarding the serious condition of deceased Mst. Baby, he produced a photocopy of the said letter and told that he had received the letter on 14/10/2014 when the lady inmate was already expired on 12/10/2014 and laid to rest in Hayatabad Graveyard. The letter was received by Mr. Rahat Shah, Naib Qasid of the office of DO Social Welfare Peshawar on 3/10/2014 at 03.40 P.M therefore he was called on 02/03/2015 for his statement.

Statement of Mr. Rahat Shah, Naib Qasid Office of DO Social Welfare Peshawar.

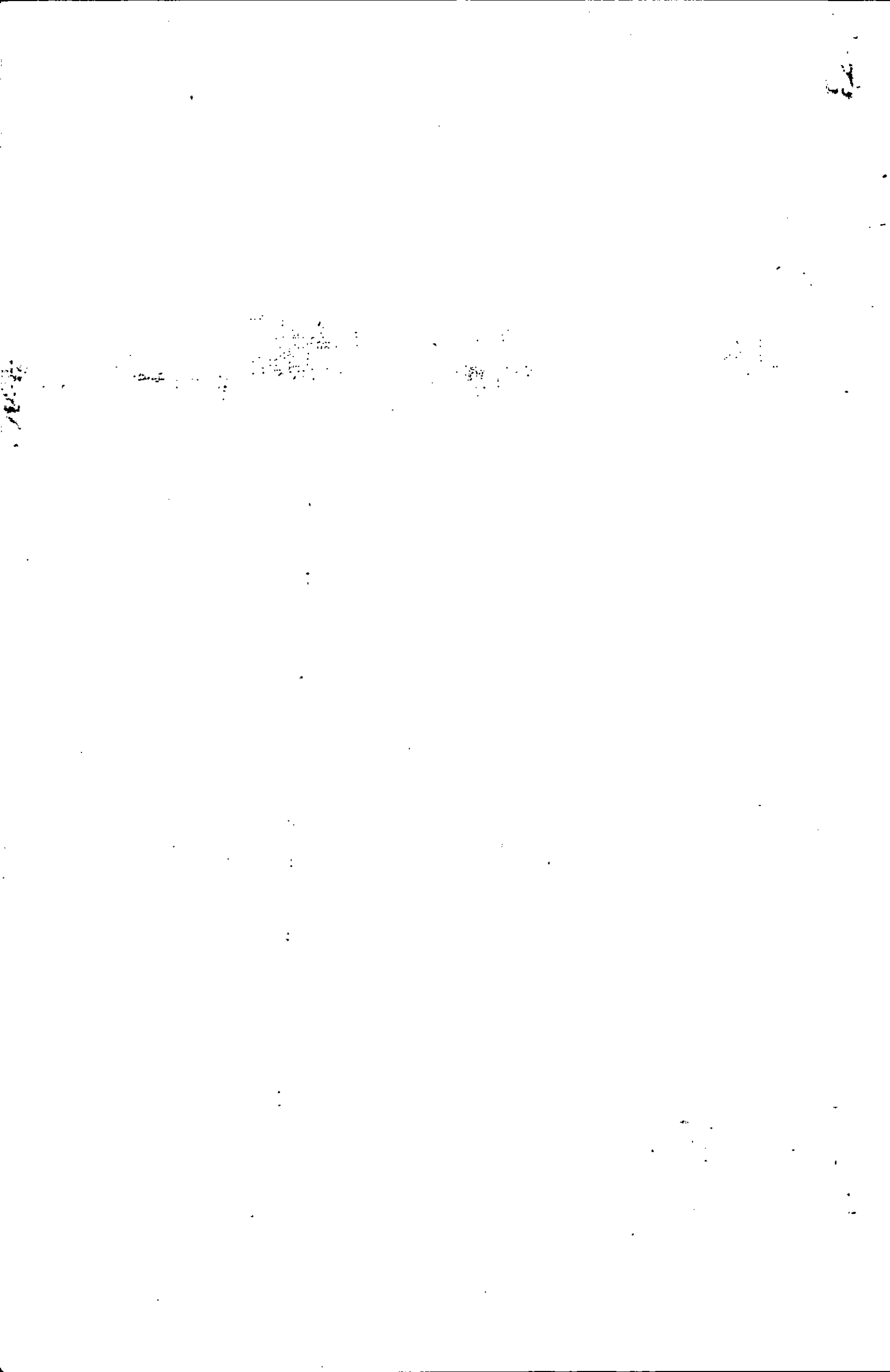
16. Mr. Rahat Shah in his statement before the undersigned stated as under (Annex-F):-

05/03/2015 مورخہ

بیان حافی مسمی راحت شاہ نائب قاصد دفتر سوشل ویلفیئر پشاور

میں مسمی راحت شاہ نائب قاصد دفتر سوشل ویلفیئر پشاور بحوش و حواس بیان کرتا ہوں کہ خط نمبر WCC/DSW/2952 مورخہ 03/10/2014 منجانب ویمن کرائسز سنٹر پشاور بمع رپورٹ شادیہ کرن ٹرس بابت بی بی نامی مورخہ 03/10/2014 کو بوقت 3:40 منٹ پر وصول کر کے دفتر کٹ آفس کے ڈاک میں اسی روز رکھ دیا۔

17. In order to corroborate the whole situation, the Women Crisis Centre, Hayatabad Peshawar was visited on 30/3/2015. The room where the deceased Mst. Baby breath her last was also checked. The room where she was placed in solitary is situated in the



first floor of the building. The room still presents a gloomy picture as a torn bed with a piece of mattress full of dust was lying on the floor topsy-turvy. The statements of the inmates Mrs. Imtiaz, Noreen and most important of the Mrs. Suriya Jabeen, inmate of the defunct Halfway House were accorded. The Chowkidar, Mr. Javed Gul who was present at the Centre on 12/10/2014 was also called upon to record his statement.

18. The gist of their statements as recorded in Urdu are as under:-

بیان حلفی مسز امتیازہ ان میٹ ویمین کرائسز سنٹر پشاور

میں مسماۃ امتیازہ ان میٹ ویمین کرائسز سنٹر پشاور بحوش و عواش مقرر ہوں کہ ہم نے تقریباً 15 دن مرحومہ بے بی کے ساتھ گزارے۔ جب سے ہم نے ہاف وے بلڈنگ کو اپنا سامان شفٹ کیا تو مرحومہ کی حالت بہت ابتر تھی۔ ہم نے اسے نہایا اور کپڑے تبدیل کیے۔ وقوعہ کے روز یعنی 12/10/2014 کو میں 8 بجے صبح مرحومہ کے کمرے گئی۔ اور اس کو پانی پلایا۔ اور اس نے مجھے سب دینے کے لیے کہا۔ چونکہ اس روز چھٹی تھی۔ میں نے کوشش کی کہ اس کے لیے سب کا بندوبست کروں بد قسمتی سے جب 9 بجے ہم نے دیکھا تو وہ ہرچکی تھی۔ یہ درست ہے کہ اسکی موت لا پرواہی سے واقع ہوئی۔

بیان حلفی مسز نورین ان میٹ ویمین کرائسز سنٹر پشاور

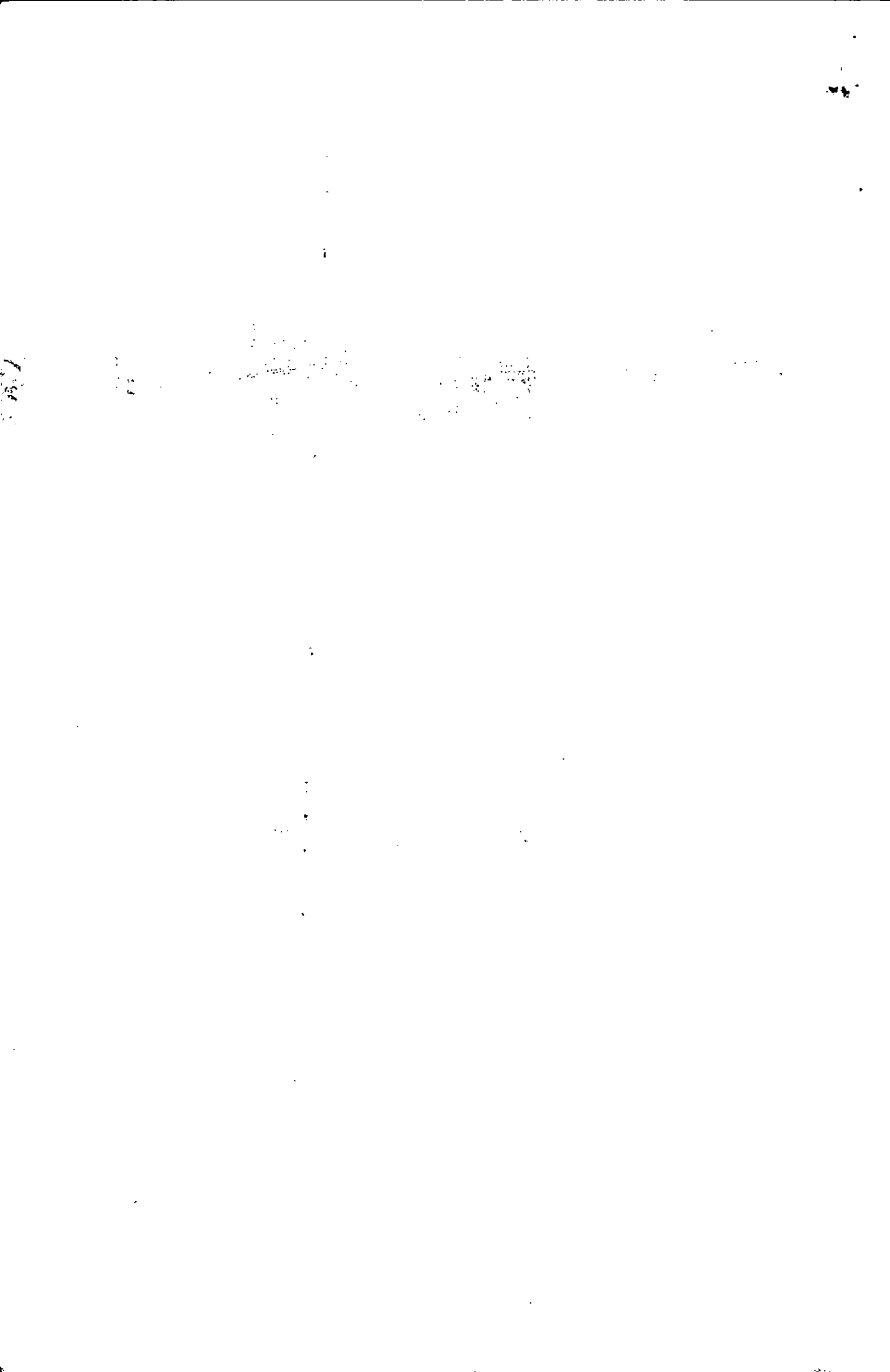
میں مسماۃ نورین بحوش و عواش مقرر ہوں کہ جب سے ہم نے ہاف وے بلڈنگ کو اپنا سامان شفٹ کیا تو مجھے ہاؤس پچی خانہ کی ذمہ داری سونپی گئی تھی۔ میں وقتاً فوقتاً مرحومہ بے بی کو کھانا لے جایا کرتی تھی چونکہ وہ بیمار تھی۔ اور کبھی کبھی کھانا کا ایک لقمہ کھا کر باقی کھانا ویسا پڑا رہتا تھا۔ یعنی 11/10/2014 کو رات کا کھانا میں نے اس کے کمرے لے گئی۔ اور اس سے کہا کہ کھانا کھاؤ اس نے جواب دیا۔ کہ میرا دل نمی چاہتا ہے۔ جو دل چاہے کھا لوں گی۔ میں نے کھانا رکھ دیا اور باہر گئی۔

بیان حلفی مسز ثریا جمین ان میٹ سابقہ ہاف وے ہاؤس پشاور ویمین کرائسز سنٹر پشاور

میں مسماۃ ثریا جمین 9 اپریل 2012 سے سابقہ ہاف وے ہاؤس پشاور میں رہائش پذیر ہوں۔ مسماۃ بے بی مرحومہ تقریباً 2012 سے میرے ساتھ سابقہ ہاف وے ہاؤس میں رہائش پذیر تھی ویمین کرائسز سنٹر کی شفٹنگ سے تقریباً دو تین مہینے پہلے مرحومہ کو اوپر والی منزل پر لے جانے سے وہ تنہائی کا شکار ہو گئی یہ درست ہے کہ اوپر منزل پر شفٹنگ سے پہلے وہ ٹھیک معلوم ہوتی تھی وہ استری بھی کرتی تھی اور کپڑے بھی دھوتی تھی۔

بیان حلفی جاوید گل چوکیدار سابقہ ہاف وے ہاؤس حال دارالکفالہ پشاور

میں مسی جاوید گل چوکیدار حال دارالکفالہ پشاور بحوش و عواش مقرر ہوں کہ مورخہ 12/10/2014 کو میں نیچے گیٹ کے ساتھ اپنی ذیوبٹی پر موجود تھا کہ اوپر منزل سے خواتین نے مجھے آواز دی کہ بے بی وفات پا چکی ہے میں جب اوپر گیا اور دیکھا وہ مردہ حالات میں پڑی تھی میں ہاسٹل کے خواتین سے سنا کرتا تھا کہ وہ کچھ نہیں کھاتی تھی صرف پانی سے کافی دنوں سے گزارہ کرتی تھی یہ درست ہے کہ بے غوری اور لا پرواہی سے مرحومہ کی میت واضح ہوئی ہے۔



Findings

19. The above discussion indicates that both Mrs. Rubina Riaz, the then In-Charge of the defunct Halfway House, Peshawar and Mrs. Nadia Shah, Manager, Women Crisis Centre Peshawar were in clear knowledge that deceased Mst. Baby was in insane condition and still she was made a rolling ball. Mrs. Rubina Riaz cannot absolve her responsibility that the deceased was placed at the disposal of the Manager, WCC verbally and that her staggering condition was brought into the notice of Ms. Nadia Shah, Manager, WCC before her departure from the building. The record shows that the deceased Baby inmates was never took to hospital nor she bothered to manage her medical examination even from a medical officer. The statement of her fellow inmate, Mrs. Suriya Jabeen is worth perusal. Prior to shifting to the room of the first floor, she was not so bad as she was washing her clothes and giving iron to it.

20. On the other hand, the pretext of Ms. Nadia Shah, Manager, WCC that the deceased Baby was not formally shifted to the WCC by the Officer In-Charge of the defunct Halfway House is also ridiculous. Shazia Kiran, the Incharge Nurse very categorically put a written application on 03/10/2014, reporting the bad condition of deceased Baby but still a luke warm action by Nadia Shah, Manager, WCC has delayed the shifting of the deceased inmate to the nearest Hospital located at a distance of a few kilometers. Had she managed proper medical care, her life might have been saved. The issue involved saving and survival of a human life, instead of falling prey in "To be or not to be".

21. As regards highlighting the death in a mysterious way in print media, both the officers negated the charge. However, it can safely be said that Rubina Riaz, Deputy Director is believed to have managed the publication.

22. Syed Muhammad Tahir, District Officer Peshawar has also committed serious negligence. His pretention that the letter No: WCC/DSW/2952 dated 03/10/2014 alongwith report of Shazia Kiran Nurse of WCC was received to him on 14/10/2014 when the lady inmate was already expired, is not believable at all. Mr. Raहत Shah, Naib Qasid of his Office has explicitly stated that the letter was received by him on 03/10/2014 at 03:40 P.M and placed in the fresh dak of the D.O Peshawar. Therefore his contention is not correct.

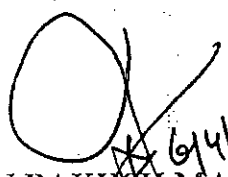
Recommendations

23. I would therefore recommend that both the officers i.e Mrs. Rubina Riaz, the then officer Incharge of the defunct Halfway House & Ms. Nadia Shah, Manager, Women Crisis Centre, Peshawar are equally responsible for their negligence.

24. Syed Muhammad Tahir, District Officer, Social Welfare Peshawar is also responsible to a greater extent.

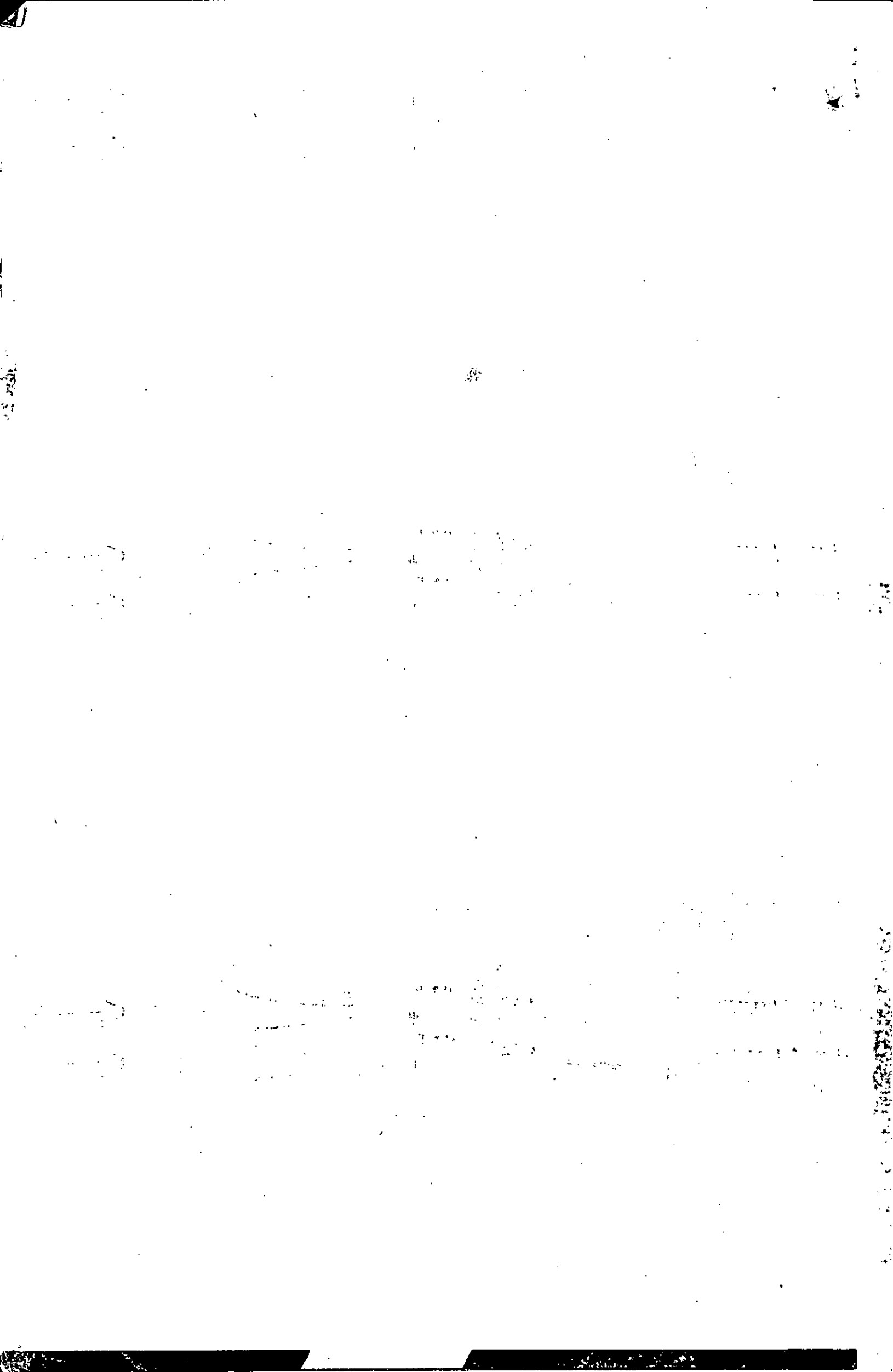
25.

I would also recommend security measures for the Women Crisis Centre as the lady inmates have taken shelter to save their lives from gross domestic and social dissensions. The existing state of the building is vulnerable to any intruder.



6/4/2015

(KHAN BAKHT MARWAT),
Additional Secretary (PCS EG BS-19)
Forestry, Environment & Wildlife Department
Khyber Pakhtunkhwa/
Inquiry Officer



A

F 22

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

NOTIFICATION

Peshawar dated the 16th September, 2011.

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

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

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

(3) These shall come into force at once.

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

(a) "accused" means a person in Government service against whom action is initiated under these rules;

(b) "appellate authority" means the authority next above the competent authority to which an appeal lies against the orders of the competent authority;

(c) "appointing authority" means an authority declared or notified as such by an order of Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder or an authority as notified under the specific laws/rules of Government;

(d) "charges" means allegations framed against the accused pertaining to acts of omission or commission cognizable under these rules;

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

(f) "competent authority" means-

(i) the respective appointing authority;

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

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

(g) "corruption" means-

(i) accepting or obtaining or offering any gratification or valuable thing, directly or indirectly, other than legal remuneration, as a reward for doing or for bearing to do any official act; or

(ii) dishonestly or fraudulently misappropriating, or indulging in embezzlement or misusing Government property or resources; or

(iii) entering into plea bargain under any law for the time being in force and returning the assets or gains acquired through corruption or corrupt practices voluntarily; or

(iv) possession of pecuniary sources or property by a Government servant or any of his dependents or any other person, through his or on his behalf,

which cannot be accounted for and which are disproportionate to his known sources of income; or

- (v) maintaining a standard of living beyond known sources of income; or
- (vi) having a reputation of being corrupt;
- (h) "Governor" means the Governor of the Khyber Pakhtunkhwa;
- (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
- (j) "inquiry committee" means a committee of two or more officers, headed by a convener, as may be appointed by the competent authority under these rules;
- (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
- (l) "misconduct" includes-
 - (i) conduct prejudicial to good order or service discipline; or
 - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
 - (iii) conduct unbecoming of Government servant and a gentleman; or
 - (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
 - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
 - (vi) making appointment or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
 - (vii) conviction for a moral offence by a court of law.
- (2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

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

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

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

- (a) Minor penalties:
 - (i) censure;
 - (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for

promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

(iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b) Major penalties:

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

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

(ii) compulsory retirement;

(iii) removal from service; and

(iv) dismissal from service.

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

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

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

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

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

(i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or

(ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or

(iii) a Government servant is involved in subversive activities; or

(iv) it is not reasonably practicable to give such an opportunity to the accused; or

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

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

(i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or

(ii) a Government servant is or has been absent from duty without prior approval of leave:

Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary

¹ Subs by Notification No. SO(REG-V1)E&AD/2-6/2010. Dated 18th July, 2012.

evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry.

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

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

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

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

- (a) inform the accused by an order in writing, of the grounds for proceeding against him, clearly specifying the charges therein, alongwith apportionment of responsibility and penalty or penalties proposed to be imposed upon him;
- (b) give him a reasonable opportunity of showing cause against the proposed action, within seven days of receipt of the order or within such extended period, as the competent authority may determine;
- (c) on receipt of reply of the accused within the stipulated period or after the expiry thereof, if no reply is received, determine whether the charge or charges have been proved against the accused or not:

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

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

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

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

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

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

Provided that dismissal in these cases shall be with ²[.....] effect from the date of conviction by a court of law; and

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

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

10. **Procedure to be followed by competent authority where inquiry is necessary.**—

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

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

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

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

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

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

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

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

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

(6) If the accused absents himself from the inquiry on medical grounds, he shall be

² Deleted by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18th July, 2012.

deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.

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

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

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

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

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

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

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

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

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

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

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

- (a) inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;
- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him: provided that the accused shall, in his reply to show cause notice, indicate as to whether he

wants to be heard in person or not;

- (c) provide a copy of the inquiry report to the accused; and
- (d) direct the departmental representative to appear, with all the relevant record, on the date of hearing.

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

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

(6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee ³[subject of sub-rule (7) of rule 11].

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

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

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

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

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

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

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

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

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

³ Added by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18th July, 2012.

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

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

(2) The authority empowered under sub-rule (1) shall call for the record of the case and comments on the points raised in the appeal from the concerned department or office, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

- (a) uphold the order of penalty and reject the appeal or review petition; or
- (b) set aside the orders and exonerate the accused; or
- (c) modify the orders or reduce the penalty.

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

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

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

(2) If a decision on a departmental appeal or review petition, as the case may be, filed under rule 17 is not communicated within period of sixty days of filing thereof, the affected Government servant may file an appeal in the Khyber Pakhtunkhwa Province Service Tribunal within a period of ⁴[ninety] days of the expiry of the aforesaid period, whereafter, the authority with whom the departmental appeal or review petition is pending, shall not take any further action.

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

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

⁵[.....]

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

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

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

⁴ Subs. by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18th July, 2012.

⁵ Deleted by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18th July, 2012.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal-No. 911/2016

1. Syed Tahir Ahmad Bukhari S/o Syed Zaki Ud Din Shah R/o House No. 07 Mohallah Madina Colony, Umarzai Tehsil & District Mardan

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary
2. Secretary to Govt. of Khyber Pakhtunkhwa Zakat, Ushar, Social Welfare, Special Education & Women Empowerment Department
3. Additional Secretary Forestry, Environment and Wild Life Department
4. Section Officer-II, Social Welfare, Special Education & Women Empowerment Department

JOINT PARA WISE COMMENTS FOR/ON BEHALF OF RESPONDENTS NO. 01,02,03& 04

RESPECTFULLY SHEWETH

PRILIMINARY OBJECTIONS:

1. That the appellant has no cause of action to file the instant Service Appeal.
2. That appellant has not come to this Hon'ble court with clean hands.
3. That the appellant deliberately concealed material facts from this Hon'ble Court and has not come to this court with Clean Hands hence disentitled for any relief whatsoever.
4. The appellant is estopped by his conduct and deed.

PARA-01:-

Correct. As per the National Identity Card and domicile of the appellant available in his Service File, he is the bonafide resident of District Charsada Khyber Pakhtunkhwa

PARA- 02:-

Not Correct. The appellant is trying to mislead the court by frivolous statement. The instant appeal was filed on 19th August 2016, whereas the appellant was transferred and posted as District Officer Social Welfare Tank on 1st July 2016. **(Annex-A)**

PARA- 03:-

Correct with the clarification that before posting of appellant as District Officer Social Welfare Charsadda where he served w.e.f 13th July 2015 to 1st July 2016, he was posted as District Officer Social Welfare Peshawar. **(Annex-B)**.

PARA- 04:-

Not Correct. As per Second Schedule of the District Govt. Rules of Business 2013 **(Annex-C)**, it is included in the responsibilities of the District Officer Social Welfare to promote public sector facilitation and support for the protection, rehabilitation and look after of the deprived, marginalized and vulnerable individuals, groups, extend and enhance coordination amongst government and non-government partners in the area

of social welfare services, develop linkages with organizations engaged in community development, co-ordinate with public and private sector, bodies and institutions for showcasing issues in human rights and take measures to create an environment of respect for human rights. To sum up, the District Officer Social Welfare is responsible to supervise all the institutions of social welfare in his district of posting.

PARA- 05:-

Not Correct. The Initial fact finding inquiry clearly mention that the illness of the deceased inmate namely Mst. Baby was reported by the Nurse on 2nd October 2014 and the same was communicated to the then District Officer Social Welfare Peshawar (Appellant) on 3rd October 2014. **(Annex-D)** However the appellant did not take any initiative to shift the ailing inmate to a proper health centre and she expired on 12th October 2014. The Inquiry Report conducted under the Govt. of Khyber Pakhtunkhwa Efficiency & Discipline Rules 2011 also holds the appellant responsible for negligence in his duties in his supervisory capacity which caused a human loss **(Annex-E)**, and for which the appellant was awarded minor punishment of **"Withholding of increment for one year"** after fulfilment of all codal formalities.

PARA- 06:-

As per Schedule of the District Govt. Rules of Business 2013 **(Annex-C)** and well established norms, The District Officer Social Welfare Peshawar is responsible to supervise all the institutions of social welfare based in Peshawar. The contention of the appellant that he was malafidely dragged into the Inquiry by respondent No. 03 is, therefore, baseless. The Inquiry Officer has no conflict of interest whatsoever with the appellant, as such, no malafidy may be proved. It was the responsibility of the Inquiry Officer to dig out the facts and fix responsibility. As such, in his findings, he has found the appellant responsible for negligence in his duties, which resulted into the sad demise of a lady inmate. As per the written statement of Mr. Rahat Sha, Naib Qasid in the office of District Officer Social Welfare Peshawar, the letter intimating the miserable condition of late inmate, was received in the office of District Officer Social Welfare Peshawar on 3rd January 2014 whereas the inmate expired on 12th January 2014. It is indicative of negligence on part of the appellant who was then posted as District Officer Social Welfare Peshawar. The appellant was not issued charge sheet or statement of allegation, but was served upon show cause notice directly by the competent authority in exercise of powers conferred upon him under Section of 07 of the Efficiency & Discipline Rules 2011 **(Annex-F)**. The said rule empower the competent authority to dispense with formal Inquiry against an officer/official about whom it is believed that he/she has committed anything wrong in terms of Section 03 the said Rules. The challenging of the penalty inflicted in pursuance of Section 07 of the Efficiency & Discipline Rules 2011 on the ground that the appellant was not issued Charge Sheet or Statement of Allegation, therefore, does not hold water in the eye of law.

PARA- 07:-

~~Incorrect~~. As explained in the preceding Para. It is an established practice that when fresh communication is received in an office, it is either received by a Naib Qasid or Diary/Dispatch Clerk and then duly entered into the Diary/Dispatch Register. The appellant has himself admitted that the letter was received by him on 14th January 2014 which shows weak internal control on part of the appellant to look after the affairs of his office efficiently.

PARA-09:-

The Naib Qasid works under the supervision and directions of an office head. The letter was and is being received by the Naib Qasid. However the Naib Qasid is not supposed to take action on any correspondence so received.

PARA -09:-

The contention of the appellant that the letter was received by him on 14th January 2014 does not exempt him from disciplinary action under the Govt. of Khyber Pakhtunkhwa Efficiency & Discipline Rules 2011 for his negligence in his supervisory role at his office and towards the institutions of social welfare in District Peshawar as were entrusted to him under the District Govt. Rules of Business 2013. Furthermore the Dairy/Dispatch Register, which was under the control of appellant officer, and which has been provided by the Appellant as a proof that he had received the correspondence intimating the ailing condition of the deceased inmate on 14th January 2014, may not be taken as proof to establish that the letter was received by him on 14th January 2014.

PARA-10: *incorrect* As explained in Para 06 above.

PARA-11:- Correct

PARA-12:- Correct

PARA-13:- Correct

PARA-14:- Correct

PARA-15:- No-Comments *The appellant has got no cause of action to file instant appeal.*

GROUNDS

- a. *incorrect* That the impugned order of Withholding of 01 year increment for negligence in the duties as has been assigned to the appellant under the District Govt. Rules of Business 2014, is in conformity with the end of Natural Justice.
- b. *incorrect* That the impugned order is justified based on ground realities.
- c. *incorrect* That the impugned order of withholding 01 year increment has been issued in compliance of the Efficiency & Discipline Rules 2011 and for violation of the second schedule of District Govt. Rules of Business 2013.
- d. *incorrect* That no malafidy is involved on part of any respondent and it was the responsibility of the appellant to maintain effective co-ordination with all the institutions of social welfare in District Peshawar when he was posted as District Officer Social Welfare Peshawar.
- e. *incorrect* That the Inquiry Officer has concluded his findings after proper perusal of the record and examination of the witnesses.
- f. *incorrect* That the penalty of withholding of 01 year increment was awarded on the basis of an unambiguous and complete inquiry and is liable to be maintained.
- g. *incorrect* That the Inquiry Officer has completed the inquiry in compliance of the rules.
- h. *incorrect* That the impugned order of the respondent is in consistency with the principal of fair justice and equity.
- i. *incorrect* That the impugned order is perfectly judicious, hence in conformity with the negligence committed by the appellant when he was posted as District Officer Social Welfare, Peshawar

PRAYER:-

dismissed

It is, therefore, most humbly prayed that the appeal may kindly be rejected.

Hus
SECTION OFFICER-II,
SOCIAL WELFARE, SPECIAL
EDUCATION & WOMEN
EMPOWERMENT DEPARTMENT
(Respondent No. 04)

ADDITIONAL SECRETARY,
FORESTRY, ENVIRONMENT AND WILD
LIFE DEPARTMENT
(Respondent No. 03)

SECRETARY,
TO GOVT. OF KHYBER PAKHTUNKHWA
ZAKAT, USHAR, SOCIAL WELFARE,
SPECIAL EDUCATION & WOMEN
EMPOWERMENT DEPARTMENT
(Respondent No. 02)

CHIEF SECRETARY,
KHYBER PAKHTUNKHWA
(Respondent No. 01)

AGG please ret.
[Signature]
23/1/17

GP-I

*vetted subject to correction, attachment of
annexure, affidavit and approval
of AAG/Asst. AG
(G-1157)*

*Agreed as above
approved.*

[Signature]
KABIR ULLAH KHATTAK
Asstt. Advocate General
Service Tribunal K.P.K.
Peshawar
23/1/17

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.911/2016

Syed Tahir Ahmed Bukhari Versus Govt. of Khyber Pakhtunkhwa & Others

REJOINDER ON BEHALF OF THE APPELLANT

Respectfully Sheweth:

Preliminary Objections:

All Objections (1 to 4) ~~raised~~ by the Respondents are incorrect and baseless. Rather the Respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Para No.1 of the Appeal is admitted as correct by the Respondents.
2. Reply to Para No.2 of the Appeal is incorrect and overlooked by the Respondents as the Posting of the Appellant is clearly mentioned as Charsadda in the official Salary Statement annexed as Annexure "A" hence, no question for misleading or frivolous statement in this behalf.
3. Para No.3 is admitted as correct by the Respondents.
4. Reply to Para No.4 of the Appeal is incorrect as the Rules annexed by the Respondents are the simple computer printed copy and are neither attested by any authority concerned nor any official Notification of Gazette of these Rules is attached with it. In addition to it the Respondents relied on the responsibilities mentioned in the instant Rules however, the Rules do not particularly provide for the responsibilities pertaining to the Appellant. Moreover, in light of the stance of the Respondents regarding supervision of institutions by the Appellant in his district is based on assumptions and hypothesis because the Appellant being a Govt. Servant is also under the supervision of his high ups therefore, by following this rule all the supervisory authorities above the Appellant must also be included in the instant inquiry and must be equally held responsible for the proper administration of justice. It is worth mentioning here that although the Appellant was a District Officer Social Welfare, Peshawar but the particular duties regarding the subject of the case were assigned to the then Incharge Halfway House and Incharge Women Crisis Centre, Peshawar who are already held responsible for their negligence yet the Appellant having no nexus with the matter has been unjustly and malafidely dragged in the instant matter which is unfair and liable to be set aside.

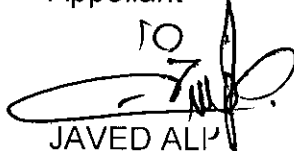


5. Reply to Para No.5 of the Appeal is incorrect. The Appellant has categorically mentioned in his appeal that the instant report was put in the official mail for his perusal on 14/10/2014, however the Appellant had carried out all the necessary arrangements for the burial of the deceased. The official mail register also expressly contains the entry of 14/10/2014 but the inquiry officer has totally ignored the ground realities which indicate the clear malafide on his part against the Appellant hence, rules of justice have been ruined.
6. Reply to the Para No.6 is incorrect. The malafide of the inquiry officer is evident from the fact that the Respondents in their reply of this Para have expressly admitted that **“the Appellant was not issued Charge Sheet or Statement of allegation”** even then the Appellant has been dragged in the matter and has been punished for an uncommitted act. On this sole reason the penalty imposed upon the Appellant have no value and legal standing in the eyes of law hence is liable to be set aside.
7. Reply to the Para No.7 is incorrect. The instant report was put in the official mail for the perusal of Appellant on 14/10/2014 and the official mail register also expressly contains the entry of 14/10/2014 but the inquiry officer has totally ignored the ground realities and has overlooked/not considered the same properly for which the Appellant has been malafidely held responsible.
8. Reply to the Para No.8 is incorrect as the Respondents have expressly admitted the fact that the official mail was and is being received by the Naib Qasid however, the Naib Qasid who has actually himself received the letter on 03/10/2014 and put the same in official mail on 14/10/2014 has not been awarded any punishment whatsoever rather the Appellant has been punished which is beyond the understanding of prudent mind.
9. Reply to Para No.9 is incorrect and the detailed answer to it has been given the preceding paras.
10. Reply to Para No.10 is incorrect. The Appellant has been punished for an act which is neither concerned nor committed by him hence has no standing in the eyes of law.
11. Para No.11 of the Appeal is admitted as correct by the Respondents.
12. Para No.12 of the Appeal is admitted as correct by the Respondents.
13. Para No.13 of the Appeal is admitted as correct by the Respondents.
14. Para No.14 of the Appeal is admitted as correct by the Respondents.
15. Reply to Para No.15 is incorrect. The Appellant has got a genuine and valid cause of action to file the instant appeal.

Grounds:

- a- Incorrect. The penalty imposed upon the Appellant is against the law, facts and norms of justice therefore, not tenable and liable to be set aside.
- b- Incorrect. The penalty imposed upon the Appellant is unjust, against the ground realities and is liable to be set aside.

- c- Incorrect. The penalty imposed upon the Appellant is against the service rules therefore not tenable in the eyes of law.
- d- Incorrect for the reason that the Inquiry Officer has malafidely dragged the Appellant in the instant matter hence have committed violation of good norms of the service.
- e- Incorrect. The Inquiry Officer has ignored and overlooked the ground realities in the instant matter and has not fulfilled the requirements of natural justice.
- f- Incorrect. The Inquiry Officer by not considering the actual facts regarding the receipt and put in official mail of the letter has put an ambiguity upon the whole proceedings conducted by him.
- g- Incorrect. The Inquiry Officer by overlooking and not properly considering the actual facts has violated the rules.
- h- Incorrect. The impugned order is against the principles of fair justice and equity.
- i- Incorrect and sufficiently replied above.

It is therefore, most humbly prayed that the Appeal may kindly be accepted as prayed for.

Appellant
Through 
JAVED ALIP

M. ARSALAN AFRIDI

AMJID KHAN
ADVOCATES, PESHAWAR

AFFIDAVIT

It is affirmed and declared that the contents of Rejoinder and Appeal are True and Correct to the best of my knowledge and belief and nothing has been concealed from the Hon'ble Tribunal.




Deponent