

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CAMP COURT ABBOTTABAD.

Appeal No. 1111/2016

Date of Institution ... 02.11.2016

Date of Decision ... 19.03.2018

Samiullah Khan S/o Chan Mohammad Khan, Junior Scale Stenographer, Security Branch, Deputy Commissioner Office, Haripur.

... (Appellant)

VERSUS

1. Revenue Department Khyber Pakhtunkhwa Peshawar through its Secretary-1 and 2 others. ... (Respondents)

Mr. MOHAMMAD ASLAM TANOLI,
Advocate

--- For appellant.

MR. USMAN GHANI,
District Attorney

--- For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN,

... CHAIRMAN
... MEMBER(Executive)

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN:- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was awarded minor penalty of withholding of two increments with accumulative effect on 07.06.2016 against which he filed departmental appeal on 30.06.2016 which was rejected on 07.10.2016 and thereafter he filed the present service appeal on 02.11.2016.

ARGUMENTS

3. The learned counsel for the appellant argued that in view of rule-4(a)(ii) of the Khyber Pakhtunkhwa government servants (Efficiency and Discipline) Rules

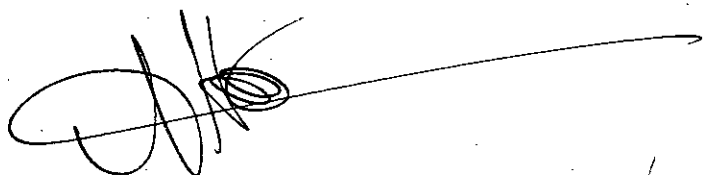
2011 increment cannot be withheld with cumulative effect. He further argued that the very enquiry proceedings are illegal in view of rule-10(3) of the said rules both the enquiries preliminary and formal were conducted by the same officer.

4. On the other hand learned District Attorney argued that all the codal formalities were fulfilled. Charge sheet was issued to the appellant. He was personally heard. The formal enquiry was also conducted.

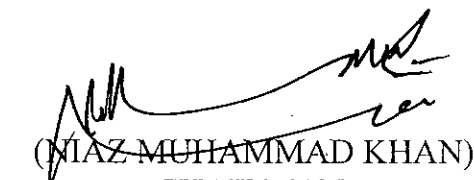
CONCLUSION.

5. According to rule-10(3) of the rules mentioned above any officer conducting preliminary enquiry could not conduct formal enquiry. In this regard this Tribunal has also delivered a judgment in service appeal no. 1169/2015 entitled "*Engineer Bakht Munir-vs- Chief Minister and three others*" decided on 290.11.2017.

6. In view of this legal position the present appeal is accepted and the penalty is set aside. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
MEMBER

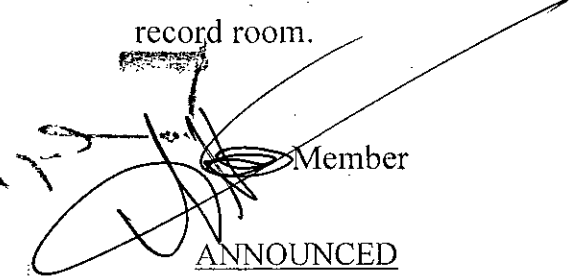

(NIAZ MUHAMMAD KHAN)
CHAIRMAN
CAMP COURT ABBOTTABD.

ANNOUNCED
19.03.2018

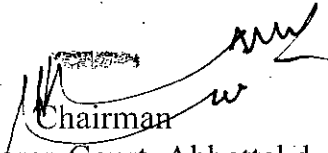
19.03.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Bahadar Khan, Assistant for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.


Member

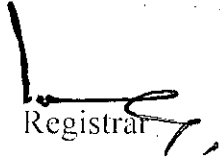
ANNOUNCED
19.03.2018


Chairman
Camp Court, Abbottabd.

1111/16

25.05.2017

Since tour programme to camp court, Abbottabad for the month of May, 2017 has been cancelled by the Worthy Chairman, therefore; case to come up for the same on 22.09.2017 at camp court, Abbottabad. Notices be issued to the parties for the date fixed accordingly


Registrar


25.09.2017

Since 22nd September, 2017 has been declared as public holiday on account of first Muharamul Haram, therefore, to come up for the same on 19.12.2017 before S.B at camp court, Abbottabad. Notices be issued to the parties for the date fixed.


Registrar

19.12.2017

Counsel for the appellant present. Mr. Muhammad Bilal, Deputy District Attorney alongwith Mr. Asif Shehzad, District Auditor for the respondents also present. Written reply on behalf of respondents submitted. Copy of the same also handed over to learned Deputy District Attorney. Adjourned. To come up for rejoinder and arguments on 19.03.2018 before D.B at Camp Court Abbottabad.



(Muhammad Amin Khan Kundi)
Member (Judicial)
Camp Court Abbottabad

22.12.2016

Learned counsel for the appellant argued that the appellant was serving as Junior Scale Stenographer in the office of Deputy Commissioner, Haripur when vide impugned order dated 07.6.2016 appellant was proceeded against on the allegations of professional mis-conduct and awarded penalty in the shape of stoppage of 2 annual increments with cumulative effect where-against he preferred departmental appeal on 30.06.2016 which was also rejected on 07.10.2016 constraining the appellant to prefer the instant service appeal on 2.11.2016.

That the enquiry was not conducted in the mode and manners prescribed by rules. That no opportunity of hearing was afforded to the appellant nor opportunity of cross-examining the witnesses extended to him and, moreover, the enquiry officer who conducted the preliminary enquiry was redesignated as enquiry officer during regular enquiry in violation of sub-section 3 of Section 10 of Government Servants(E&D) Rules, 2011.

Points raised need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents. To come up for written reply/comments on 16.03.2017 before S.B at camp court, Abbottabad.


Chairman
Camp court, A/Abad

Appellant Deposited
Security & Process Fee

9108-61-48
27.12.2016

16.03.2017




Appellant in person, M/S Asif Shahzad, and Bahadur Khan, Assistants alongwith Mr. Muhammad Siddique Sr.GP present and requested for adjournment. To come up for written reply/comments on 18.05.2017 at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1111/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02/11/2016	<p style="text-align: center;">The appeal of Mr. Samiullah Khan presented today by Mr. Muhammad Aslam Tanoli Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	04-11-2016 	<p style="text-align: center;">This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>22-12-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No = 1111/16

Samiullah Khan S/O Chan Mohammad Khan, Junior Scale Stenographer, Security Branch, Deputy Commissioner Office, Haripur.

Appellant

VERSUS

1. Revenue Department, Khyber Pakhtunkhawa, Peshawar through its Secretary-1.
2. Commissioner Hazara Division, Abbottabad.
3. Deputy Commissioner, Haripur.

Respondents

SERVICE APPEAL

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3.	Copy of fact findings report dated 22-02-2016 by AAC-I Haripur.	"B"	11-19
4.	Copies of Charge Sheet alongwith Statement of allegation dated nil and letter dated 26-02-2016 of DC Haripur.	"C&D"	20-22
5.	Copy of reply dated 04-03-2016 to the Charge Sheet.	"E"	23-26
6.	Copy of Inquiry Report dated 15-03-2016 of AAC-I	"F"	27-43
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8.	Copy of punishment order dated 07-06-2017 issued by DC Haripur.	"I"	48-
9.	Copy of departmental appeal dated 30-06-16.	"J"	49-54
10.	Copy of impugned order dated 07-10-2016 of Commissioner Hazara Division Abbottabad.	"K"	55-
11.	Wakalatnama		

Sie
APPELLANT

THROUGH

M. Aslam
(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

Dated: 02-11-2016

①

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Khyber Pakhtukhwa
Service Tribunal

Appeal No-1111

Diary No. 1148

Date 2-11-2016

Samiullah Khan S/O Chan Mohammad Khan, Junior Scale
Stenographer, Security Branch, Deputy Commissioner Office,
Haripur.

Appellant

VERSUS

1. Revenue Department, Khyber Pakhtunkhwa, Peshawar
through its Secretary-1.
2. Commissioner Hazara Division, Abbottabad.
3. Deputy Commissioner, Haripur.

Respondents

**SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT
1974 AGAINST ORDER DATED 07-10-2016 OF THE COMMISSIONER
HAZARA DIVISION ABBOTTABAD WHEREBY APPEAL OF THE
APPELLANT HAS BEEN DISMISSED AND ORDER DATED 07-06-2016 OF
THE DEPUTY COMMISSIONER HARIPUR HAS BEEN UP-HELD WHEREBY
THE APPELLANT HAD BEEN AWARDED THE PENALTY OF STOPPAGE OF
02 ANNUAL INCREMENTS WITH CUMULATIVE EFFECT".**

**PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL
IMPUGNED ORDER DATED 07-10-2016 OF COMMISSIONER HAZARA
DIVISION ABBOTTABAD AND ORDER DATED 06-07-2016 OF THE
DEPUTY COMMISSIONER HARIPUR MAY GRACIOUSLY BE SET ASIDE
AND APPELLANT BE RESTORED HIS STOPPED 02 ANNUAL INCREMENTS
WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.**

Respectfully sheweth,

1. That appellant has been working in the Revenue
Department for the last about 10 years and presently as
Junior Scale Stenographer in Security Branch, Deputy
Commissioner Office, Haripur.

Filed to-day

Registrar

2/11/16

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2. That since his induction in Revenue Department the appellant has performing his assigned duties with zeal, zest, devotion, dedication, dexterity and honesty and to the entire satisfaction of his superiors and never provided a chance of reprimand. Appellant always earned good/very good/excellent ACRs and has unblemished rather meritorious service record at his credit.
3. That due to some personal dissention the competent Deputy Commissioner Haripur started fault findings in appellant's services and appointed Additional Assistant Commissioner-1 Haripur (Mohammad Irshad Khan) vide letter No. Inquiry/1593/DC(H) dated 15-02-2016 for holding a fact findings inquiry into affairs of Canteen affairs at District Secretariat Haripur allotted to Chan Mohammad Khan Contractor (father of appellant). **(Copy of letter dated 15-02-2016 is attached herewith as Annex-"A")**.
4. That on his turn the Additional Assistant Commissioner-1 Haripur (Mohammad Irshad Khan) submitted his Fact Findings Report to the Deputy Commissioner Haripur on 22-02-2016. **(Copy of fact findings report dated 22-02-2016 is attached herewith as Annex-"B")**.
5. That on receipt of Fact Finding Report the Deputy Commissioner Haripur issued the appellant with a Charge Sheet alongwith statement of allegations dated nil and appointed the Additional Assistant Commissioner-1 Haripur (Mohammad Irshad Khan) as Inquiry Officer vide letter No.2172/AE/DC(H) dated 26-02-2016. Irrelevant, false, fabricated, baseless and concocted allegations were incorporated in the Charge Sheet against the appellant.

File

3

(Copies of Charge Sheet alongwith Statement of allegation dated nil and letter dated 26-02-2016 are attached herewith as Annex-"C & D").

6. That though the Charge Sheet was delivered to the appellant on 03-03-2016 by the Inquiry Officer yet he was verbally directed to submit its reply the very next day on 04-03-2016 positively without any failure. The very fact was mentioned by appellant in his reply dated 04-03-2016. However appellant was deprived of the statutory period of reply by Inquiry Officer. The Charge Sheet was responded by appellant on 04-03-2016 in detail explaining all facts and circumstances of the matter and straightway denied the allegations mentioned therein. **(Copy of reply dated 04-03-2016 to Charge Sheet is attached herewith as Annex-"E")**.
7. That on completion of Inquiry the Additional Assistant Commissioner- Haripur/Inquiry Officer submitted his report alongwith its enclosures vide No.168/AAC-1 dated 15-03-2016 **(Copy of Inquiry Report dated 15-03-2016 is attached herewith as annex-"F")**.
8. That on receipt of Inquiry Report, the Deputy Commissioner Haripur served the appellant with a Show Cause Notice under No. AE/DC(H)/3195 dated 18-03-2016 with the same allegations which was also duly responded stating all the facts and circumstances of the matter in detail. **(Copies of Show Cause Notice dated 18-03-2016 and its reply dated 24-03-2016 are attached herewith as Annex-"G & H")**.

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9. That without considering the appellant's reply to the Charge as well as Show Cause Notice, the Deputy Commissioner Haripur awarded the appellant with the minor penalty of stoppage of 02 annual increment with cumulative effect vide impugned order No.1(9)/AE/DC(H) dated 07-06-2016 against the law and natural justice without going through the facts and circumstances of the matter. **(Copy of impugned order dated 07-06-2016 is attached herewith as Annex-"I")**.
10. That the above mentioned order of the Deputy Commissioner, Haripur was appealed against by the appellant before the Commissioner Hazara Division Abbottabad vide departmental appeal dated 30-06-2016 explaining all facts and circumstances of the matter in detail. **(Copy of departmental appeal dated 30-06-2016 is attached herewith as annex- "J")**.
11. That the Commissioner Hazara Division Abbottabad without consulting and perusing the record available on case file in the form of allegations leveled in the Charge Sheet, Show Cause Notice, Replies of the appellants to the Charge Sheet and Show Cause Notice, Inquiry Reports as well as without evaluating the evidence dismissed appeal of the appellant vide impugned order No. appeal-Estab/13037-38 dated 07-10-2016 in a slipshod manner without applying judicial principles for the dispensation of justice at preliminary stages of departmental inquiries. **(Copy of order dated 07-10-2016 is attached herewith as annex "K")**.



(5)

12. Hence instant Service Appeal, inter alia, on the following grounds:-

GROUND:

- a) That both the impugned orders dated 07-06-2016 and 07-10-2016 passed by the Deputy Commissioner Haripur as well as the Commissioner Hazara Division Abbottabad respectively whereby the appellant has been awarded with the minor penalty of stoppage of 02 annual increments with cumulative effect and dismissal of appeal are illegal, unlawful, without lawful authority passed in a slipshod, cursory, perfunctory, whimsical, arbitrary manner without adhering to the service law, departmental rules & regulations and natural justice; hence impugned orders are not tenable in the eyes of law and need to be set aside.
- b) That no proper departmental inquiry was ever conducted which was mandatory under law, departmental rules and regulations and principle of natural justice.
- c) That no witnesses were ever called for or produced before the inquiry officer in the presence of appellant nor was appellant allowed with the opportunity of cross-examining them.
- d) That no documentary evidence, what so ever may be, was produced before the Inquiry Officer against the appellant nor was appellant confronted with such evidence.
- e) That the very Additional Assistant Commissioner-I Haripur (Mohammad Irshad Khan) who conducted the fact findings

Guil

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inquiry was appointed as Inquiry Officer of appellant in violation of Departmental Rules and Regulation and principle of natural justice.

- f) That on personal dissention by Deputy Commissioner Haripur leveled false, fabricated, concocted and baseless allegations in the Charge Sheet and Show Cause Notice against the appellant which had no nexus with the duties and responsibilities his job and such allegations were never proved in departmental inquiry against the appellant but still he has been awarded with the penalty of stoppage of 02 annual increments with cumulative effect with any reason and rhyme against the law, departmental rules & regulations and principles of natural justice thus impugned orders need to be turned down.
- g) That nothing has been brought adverse against the appellant by the Assistant Commissioner-I Haripur/Inquiry Officer for which the appellant has been penalized with the penalty of stoppage of 02 annual increments with cumulative effect. The appellant is totally innocent; there is no fault on his part.

PRAYER:

It is therefore, humbly prayed that on acceptance of instant service appeal the impugned order dated 07-06-2016 and 07-10-2016 passed by Deputy Commissioner Haripur and Commissioner Hazara Division Abbottabad respectively may graciously be set aside and stopped increments be restored with grant of consequential back benefits of service to the appellant.

Signature

(7)

Any other relief which this Honour Tribunal deems fit in the circumstance of the case may also graciously be awarded.



APPELLANT

THROUGH



(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
HARIPUR

Dated: -11-2016

Verification

It is verified that the contents of instant appeal are true and correct to the best of my knowledge and nothing has been concealed therefrom.



Deponent/Appellant

Dated: -11-2016

(8)

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Samiullah Khan S/O Chan Mohammad Khan, Junior Scale
Stenographer, Security Branch, Deputy Commissioner Office,
Haripur.

Appellant

VERSUS

1. Revenue Department, Khyber Pakhtunkhwa, Peshawar
through its Secretary-1.
2. Commissioner Hazara Division, Abbottabad.
3. Deputy Commissioner, Haripur.

Respondents

SERVICE APPEAL

AFFIDAVIT:

I, Samiullah Khan S/O Chan Mohammad Khan, do hereby
solemnly declare and affirm on oath that the contents of the
instant Service Appeal are true and correct to the best of my
knowledge and belief and nothing has been suppressed from
this Honourable Service Tribunal.

✓ *Sie*

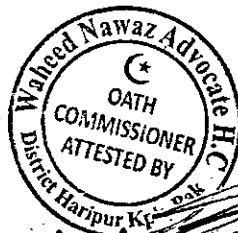
Deponent/Appellant

Dated: -11-2016

Identified By:

M. Aslam

Mohammad Aslam Tanoli
Advocate High Court
At Haripur,



h/h
31-10-16

✓ *Sie*
Appellant

(9)

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Samiullah Khan S/O Chan. Mohammad Khan, Junior Scale
Stenographer, Security Branch, Deputy Commissioner Office,
Haripur.

Appellant

VERSUS

1. Revenue Department, Khyber Pakhtunkhawa, Peshawar
through its Secretary-1.
2. Commissioner Hazara Division, Abbottabad.
3. Deputy Commissioner, Haripur.

Respondents

SERVICE APPEAL

CERTIFICATE

It is certified that no such Appeal on the subject has ever been
filed in this or any other court prior to the instant one.


✓ **APPELLANT**

Dated: -11-2016

OFFICE OF THE DEPUTY COMMISSIONER, HARIPUR.

No. Inquiry / 1593 / DC (H) Dated 15 / 02 / 2016.

To

The Additional Assistant Commissioner-I
Haripur.

SUBJECT: - Inquiry.

The Assistant Commissioner Haripur has observed that Gas, water and electricity etc is being used by the canteen manager and photo stat owners at the District Secretariat Haripur. He summoned the users of utilities of the District Government to ascertain the factual position. They have produced an allotment order / agreement inked between the then DCO and sitting management. There is need to ascertain the actual position by holding a fact finding inquiry.

You are required to probe into the issue thoroughly while considering into view the followings TORs as well:-

1. What is the legal status of the agreement of allotment produced by the management? Whether it is legally valid or otherwise?
2. Who is the original allottee and what is his present status?
3. Can the utilities as mentioned in the agreement be provided freely to the allottee or it is a valid audit observations?
4. Can this agreement be withdrawn if the clauses mentioned in the agreement are hitting to the natural justice/ law of contract?
5. How much amount is recoverable since ^{day} - till to-date in respect of the utilities utilized by the management without paying electricity/ water/ Gas bills etc.
6. Any other point which deem appropriate.

JS

All concerned be pin-pointed who are involved behind the scene? Record available with Finance Department the nominated Care-Taker must be consulted.

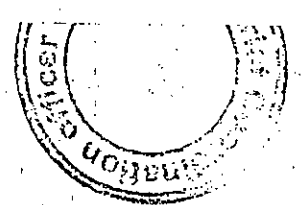
Inquiry Report must be submitted within 07 days positively.

[Handwritten Signature]

Deputy Commissioner
Haripur

*P-4 A issue to 2
notice to 2
parties.*

[Handwritten Signature]
15/2/16



[Handwritten Signature]
Administrator District Government
Haripur.

1-11-11

-01-

REPORT;

SUBJECT: INQUIRY.

Reference letter No. Inquiry/ 1593/DC (H) dated 15.02.2016 (Annex-I), the undersigned was directed to conduct the enquiry with the following TORs and submit report

1. What is the legal status of the agreement of allotment produced by the management? Whether it is legally valid or otherwise?
2. Who is the original allottee and what is his present status?
3. Can the utilities as mentioned in the agreement be provided freely to the allottee or it is valid audit observation?
4. Can this agreement be withdrawn if the clauses mentioned in the agreement are hitting to the natural justice/ law of contract?
5. How much amount is recoverable since day first – till to-date in respect of the utilities utilized by the management without paying electricity/water/ Gas bills etc?
6. Any other point which deem appropriate?

Background of the case.

On establishment of District Secretariat for District Government, Haripur, in the year 2012 the contract for canteen was allotted to Mr. Chan Muhammad Khan S/O Suleman Khan on the following terms and conditions (Annexe-II): -

- The allottee would construct and establish the canteen at suitable place in the premises of the District Secretariat from its own sources. The C&W Department Haripur will facilitate him in selection of site.
- // • Electricity, gas and water connection would be provided by District Govt for which the allottee will pay rent on monthly basis.
- A monthly rent at the rate of Rs. 2000/- was approved which will be increase at the rate of 10 percent per annum as per rule and applicant shall pay a rent by District Coordination Office which will be deposit in A-IV.
- The rent will be started after running the offices in the premises of District Govt Secretariat building as per agreement.
- The period of contract is 10 years which will be extendable with the approval of competent authority.
- One month prior notice will be served in case the allottee is unable to continue the agreement. The District Government Haripur will arrange to pay half of amount invested by the allottee in case of termination of agreement.
- Three month prior notice will be served in case the District Government intends to terminate the contract after completion of this agreement. The District Government Haripur will arrange to pay full of the amount invested by the allottee in case of termination of the agreement.
- The allottee is hereby allowed to run the business of photo copier and stationary in the premises of the District Government Secretariat, Haripur.
- No subsidy will be provided to the allottee and he will be bound to provide the services at the market rate.

Proceedings.

- 12 -

The parties were issued summon for proceeding on 22.02.2016 (Annex-III)

Findings

- ❖ During the proceedings it was disclosed that original allottee Mr. Chan Muhammad Khan S/O Suleman has sublet the subject canteen to present proprietor namely Usman S/O Atiq ur Rehman etc. R/O Village Malkiyar. Total rent @ Rs. 35000/- per month (Rs. 20000/- from proprietor of canteen and Rs. 15000/- from proprietor of Photostat shop) is being received by the original allottee. Statement of both the proprietors annexed (Annex-IV & V).
- ❖ One Mr. Shahid Iqbal S/O Sabir Din, has established a shed where two Photostat machines are functioning beside canteen shop.
- ❖ The subject proprietor of photostate shop admitted in his statement (Annex-V ibid) that he is paying monthly rent for the last three months @ Rs. 15000/- to an official working in DC Office, Haripur, namely Sami ullah S/O Chan Muhammad.
- ❖ Usman S/O Atiq ur Rehman, and Sajjad Attiq S/O Attiq ur Rehman, stated in their joint statement that they are running the subject canteen for last three month and monthly rent @ 20000/- is being paid to Mr. Samiullah S/O Chan Muhammad.
- ❖ For looking after the affairs of District Secretariat an official Mr. Shams ur Rehman, (Assistant Programmer, F&P), was nominated as caretaker of District Secretariat, Haripur, vide an order issued by Deputy Commissioner Haripur dated 06.09.2013 (Annex-VI)
- ❖ An ex-proprietor namely Faisal Mehmood S/O Mehmood Ellahi R/O Mohallah Motian, Haripur, stated in his statement (Annex-VII) that he had been running the subject canteen for the period of two years and was paying monthly rent @ Rs. 15000/- to Mr. Samiullah S/O Chan Muhammad.
- ❖ Original allottee namely Chan Muhammad S/O Suleman father of Samiullah khan stated in his statement (Annex VIII) that he has established the structure of canteen with the cost of Rs. 900000/- since allotment of canteen to them in the month of 2013. They have been paying regular rent of the subject canteen (photocopies of the receipt enclosed).

PARAWISE REPLY OF TORS

1. As far as legality of the allotment/ agreement is concerned no tender was issued by the management. Required under the rules.
2. The name of original allottee is Mr. Chan Muhammad Khan S/ O Sulamen Khan, who has sublet the subject canteen to Mr. Usman S/ O Atiq ur Rehman R/O Malkiyar, Haripur.
3. As per allotment order, electricity, gas and water connection would be provided by the District Government.
4. The agreement can be withdrawn by the administration on the basis of following issues:
 - i. The allottee has sublet the subject canteen to the present proprietors without getting any approval from the competent authority.

- ii. The allottee has also violated the terms and conditions of the agreement regarding 10% increased per anum in the rent charges of canteen. Copies of receipts enclosed for ready reference (Annex-IX & X).
 - iii. The allottee has failed to produce receipts regarding payment of water connection and electricity bills since allotment.
5. As regards the amount recoverable from the allottee since first till date is concerned;
- i. The allottee has not paid water charges, utilized in the canteen.
 - ii. Has failed to provide proof of electricity bills since allotment.
 - iii. ~~As regards arrear of gas connection the same was not available in the secretariat. The gas connection was provided to the District Secretariat in the month of February 2016.~~

~~5. The operational responsibility of the District Secretariat lies upon the District Management. Allotment or cancellation of allotment/ agreement is also promulgative of district management subject to the fulfillment of terms and condition of the agreement. However, it would be most appropriate if the managerial control of the District secretariat is delegated to the Assistant Commissioner Haripur to enable him to keep close watch on all the activities being carried out within the District Secretariat. Moreover, complete/ updated record of financial/ physical issues may also be maintained by the Assistant Commissioner, Office, Haripur~~

CONCLUSION.

- 1. In the light of the proceedings of, the enquiry, cross examination of the involved individuals, statement of the parties it is evident that allottee of the subject canteen is collecting an amount of Rs. 35000/- per month however, he is depositing monthly rent @ Rs. 2000/- per month. And has failed to abide by the terms and conditions of the agreement whereby it was obligatory upon him to increase the amount of rent @ Rs. 10% per anum. Copies of receipts enclosed for ready reference (Annex XI & XII ibid).
- 2. He has also failed to deposit charges of water and electricity bills due to which loss to the public ex-chequer has occurred.

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Report is submitted for further necessary action please.

Dated: 22 Feb: 2016

Encls: (23)

[Signature]
 Additional Assistant Commissioner-I
 HARIPUR
 Assistant Commissioner-I
 HARIPUR

(12)
- 14 -

DISTRICT GOVERNMENT HARIPUR

DISTRUCT COORDINATION OFFICE

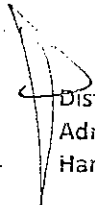
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No. A-VII/DCO (H) 777-81 /2012

Dated: 04.01.2012.

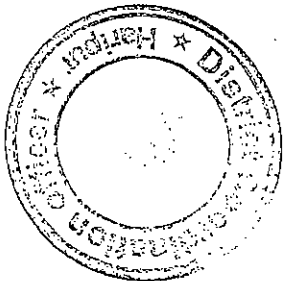
ALLOTMENT ORDER

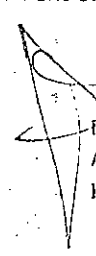
- In pursuance of application submitted by Chan Muhammad Khan S/O Sulman Khan. As per agreement between application and District Govt, Haripur approval is hereby accorded for allotment of the Canteen at the District Secretariate Haripur to Chan Muhammad Khan S/O Sulman Khan Village Chohar Sharif Tehsil & District, Haripur on the following terms and conditions:-
- The allottee would contract and establish the canteen at suitable place in the premises of the District Secretariate from its own sources. The C&W Department Haripur will facilitate him in selection of site.
- Electricity, gas and water connection would be provided by District Govt for which the allottee will pay rent on monthly basis.
- A monthly rent at the rate of Rs.2000/- was approved which will be increase at the rate of 10 percent per annum as per rule and applicant shall pay a rent by District Coordination Office which will be deposited in A-IV.
- The rent will be started after running the offices in the premises of District Govt Secretariate building as per agreement.
- The period of contract is 10 years which will be extendable with the approval of competent authority.
- One month prior notice will be served in case the allottee is unable to continue the agreement. The District Government Haripur will arrange to pay half of amount invested by the allottee in case of termination of agreement.
- Three month prior notice will be served in case the District Government intends to terminate the contract after completion of this agreement. The District Government Haripur will arrange to pay full of the amount invested by the allottee in case of termination of the agreement.
- The allottee is hereby allowed to run the business of Photo copier and stationary in the premises of the District Government Secretariate, Haripur.
- No subsidy will be provided to the allottee and he will be bound to provide the services at the market rate.


District Coordination Officer\
Administrator District Government,
Haripur.

Copy to the:-

1. Executive District Officer Finance and Planning, Haripur.
2. Executive Engineer C&W Department, Haripur to facilitate the allottee for construction of canteen at District Secretariate, Haripur.
3. Accounts Officer, DCO Office, Haripur.
4. District Accounts Officer, Haripur.
5. Applicant Chan Muhammad Khan S/O Sulman Khan resident of Chohar Sharif Tehsil & District, Haripur.




District Coordination Officer\
Administrator District Government,
Haripur.

8

- 15 -



OFFICE OF THE DEPUTY COMMISSIONER

HARIPUR
Phone # 0995-613391, 611165, 615134 Fax # 0995-612143


ORDER:

Dated: 06/09/2013

No. DO/District Secretariat/F&P/DC(H) 305-56. Consequent upon shifting of offices / departments in the newly constructed District Secretariat, Mr. Shams ur Rehman (Assistant Programmer) F&P, Haripur is hereby nominated as Caretaker of District Secretariat Haripur and Mr. Ajmal Khan (Steno) F&P Haripur will assist him in the official matters of District Secretariat.

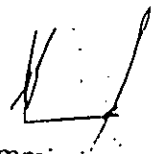
The responsibilities of the Caretaker are as under:-

1. The Caretaker shall ensure that the contractor can run the canteen only the office hours.
2. The Caretaker shall nominate at least 03 No of chowkidar at main gate of District Secretariat during the duty hours.
3. The Caretaker shall also nominate the Naib Qasid for operating the tube well in working hours.
4. The Caretaker shall submit report to the undersigned in any problem.


Deputy Commissioner
Haripur

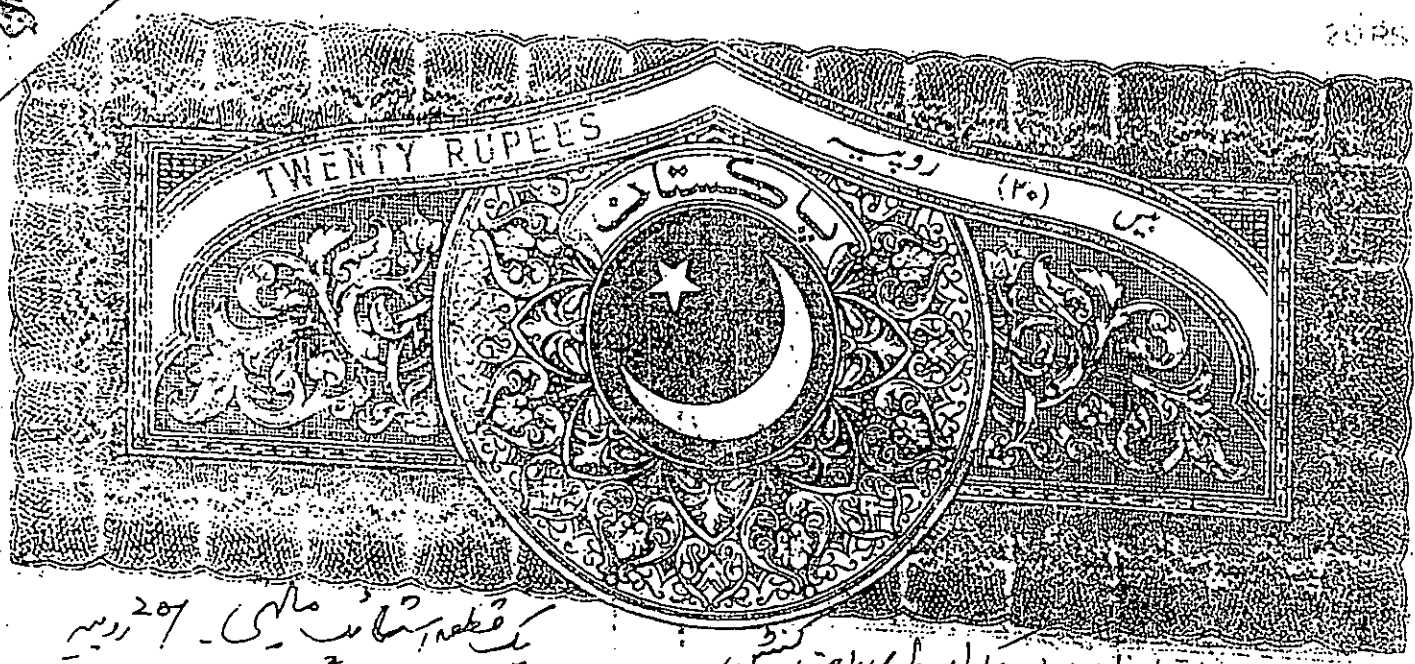
Cc.

1. Additional Deputy Commissioner, Haripur.
2. Executive Engineer, C&W Division, Haripur with the request to cooperate with the Caretaker in the District Secretariat matters.
3. Assistant Commissioner, Haripur.
4. PS to Commissioner, Hazara Division, Abbottabad for information please.
5. Muhammad Shams ur Rehman, (Assistant Programmer)/Caretaker, District Secretariat Haripur.
6. Mr. Ajmal Khan (Steno) for compliance.
7. All DO's in the District Secretariat.


Deputy Commissioner
Haripur

8

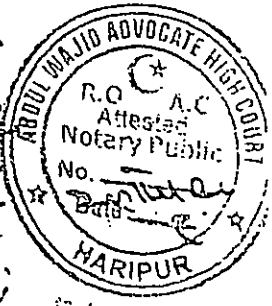
کے مکمل وقت کے لئے



یک قطعہ سٹامپ مالی ۲۰ روپے

اقرار نامہ حایرہ کرایہ داری بابت کنیشن

ماکانہ جن محمد خان ولد سلمان خان ساکنہ چوہدری صاحب محل وقوع پورہ فریق اول کرایہ
D.C.O پورہ ایڈمنسٹریٹو سیکریٹریٹ حویلی فریق دوم کے پاس
میر کاہ صاحبین فریقین فریق اول و دوم بابت کنیشن کے سرٹیفکیٹ پورہ کرایہ
نسبت حایرہ کرایہ داری فریق اول کے پاس ہے۔

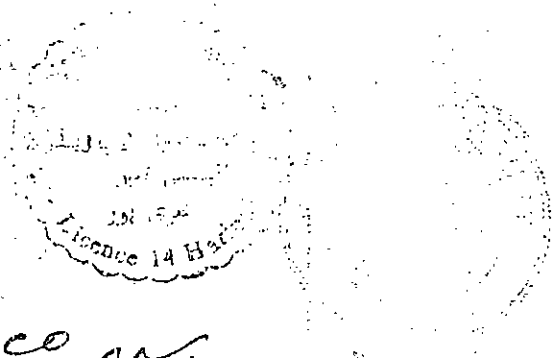


(۱) یہ فریق اول کرایہ دار مذکورہ کنیشن کے سرٹیفکیٹ پورہ کرایہ (اپنے ذاتی
پر تعمیر کیا۔ اگر فریق دوم کی جانب سے کرایہ کنیشن نہ دیا گیا۔ اور ساتھ ہی
اول فریقین کے پاس ہے لہذا اسے کرایہ فریق اول کے پاس رکھا جائے گا۔

(۲) یہ کنیشن مذکورہ میں فریق اول کے پاس ہے اور اسے استعمال کیا
(۳) یہ فریق دوم کی جانب سے کنیشن فریق اول کے پاس رکھے گا۔ جبکہ اس کا
فریق اول ادا کرنے کا پابند ہوگا۔

(۴) یہ کنیشن کنیشن کے عہدہ پر اجازت فریق دوم فریق اول کو اسے
نگوا کر دیا گیا۔ اور اسے کنیشن کے ادا کرنے پر فریق اول کرایہ دہن کے
بل پانے سے فریق اول کے پاس ہے۔ کنیشن پورہ فریق اول کو فریق اول کے پاس
(۵) یہ فریق دوم کرایہ داری کے عہدہ کنیشن فریق اول کو ملنے پر شروع ہوگا اور ماہوار کرایہ
کنیشن مبلغ دو ہزار روپے کے ہوا ہے جو کہ فریق اول کرایہ دار فریق دوم کو ادا کرے
میر سال کرایہ میں قانون کے مطابق اس کے عہدہ پر اضافہ ہونا چاہیے جو باقاعدہ فریق
حاضر سید افسی (D.C.O) میں جمع کرار کر سید لگا فریق اول کرایہ سیکریٹریٹ کے
میں جمع کرار کر سید لگا فریق اول کرایہ سیکریٹریٹ کے

8



رہبر صوبہ آفس طبرکہ ریگیا

6) سکرٹری ہاؤس (ایم ایس ڈی) کی مصیبت پر ہر دو سال مقرر کی گئی ہے جو قابل تجدید ہوگا۔

فریق دوم جو مسیبتوں کے تحت ہے

فریق اول کے لئے فریق دوم کے لئے

فریق اول کے لئے فریق دوم کے لئے

فریق اول کے لئے فریق دوم کے لئے

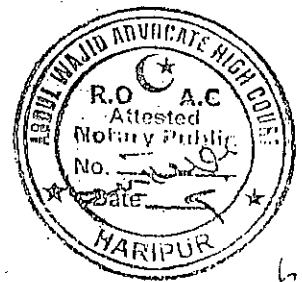
فریق اول کے لئے فریق دوم کے لئے

فریق اول کے لئے فریق دوم کے لئے

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فریق اول کے لئے فریق دوم کے لئے

13302-0503905-9



11 AUG 2018

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Coordination Officer

Handwritten signature and name of the Coordination Officer.

13302-0434893-9

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13302-0365181-5

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13302-0390514-5

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بیان شافعیہ خیال واد صاحبہ دین سائیم سرانے صالح
ہری پور

(2 نومبر 2019)
بیان کیا کہ میں گزشتہ 2 سال سے دستبرد
کلیئرنگ میں فوٹو سٹیٹ کا کاروبار کر رہا
ہوں جس کا پانہ کر رہا، حساب مبلغ / 5000
میں سے سچ اللہ واد جس محمد جو کہ C.D.A. میں

ملازم اس کی ادا کر رہا ہے
Shenili
22/2/2016

C # 0302-3501617

عثمان ولد عسوق الرحمن
مستترکہ بیان سجاد عسوق ولد عسوق الرحمان - کتبیں بیرونیہ

بیان کیا ہے کہ میں نے شیخ محمد علی صاحب مدظلہ کے پاس
میں نے شیخ محمد علی صاحب مدظلہ کے پاس
میں نے شیخ محمد علی صاحب مدظلہ کے پاس
میں نے شیخ محمد علی صاحب مدظلہ کے پاس

22-02-2016
0312-9864554
0312-6989300

بیان جسکی منہل محمود ولد محمود علی سکنہ محلہ موٹیاں لہر کالو

بر حلف بیان کیا کہ ڈسٹرکٹ سیکرٹریٹ میں واقع

کینٹین کو میں تقریباً دو سال پہلے چھوڑا گیا - اور مالکانہ کرایہ

محاسبانہ 15000/- روپیہ جسکی سبب اللہ ولد چنا محمد حوکہ

آفس لہر کالو میں بلڈز نمبر 2 - کو اجاڑا گیا ہے -

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منہل محمود ولد محمد علی

NIC # 13302-0415278-5

0332-5618600.

verified

Handwritten signature

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③
- 20 -

P-5
Annex-C

CHARGE SHEET.

I, Tasleem Khan Deputy Commissioner as Competent Authority, hereby charge you Mr. Samiullah Khan Junior Scale Stenographer on account of the following acts and commissions:-

That you, as PS to DCO/DC Haripur presently working as Junior Scale Stenographer in ADC Office Haripur has committed the following misconduct:-

1. Misuse of official status / capacity (as PS to DCO Haripur) in getting the allotment of Canteen and Photostat Shop in the premises of District Secretariat by influencing and using your official capacity through an agreement in the name of your father namely Chan Mohammad Khan r/o Chohar Sharif, which falls in the status of nepotism / favoritism for getting undue advantage while concealing the factual position in back dates which is the breach of trust.
2. By subletting the canteen and Photostat Shop to un-authorized persons without approval of the Competent Authority by using your official position which is amounting to in-subordination.
3. Caused financial loss to govt. treasury by depositing Rs. 2000/- only while charging Rs. 30000/- per month unlawfully from the Sublettees namely Mr. Faisal Mehmood s/o Mehmood Ellahi r/o Moh: Motian Haripur and Mr. Shahid Iqbal s/o Sabir Din r/o Sarai Saleh running the Canteen and Photostat shop respectively.
4. Concealment of facts from Competent Authority.
5. Misbehaved with Mr. Shahid Iqbal sublettee of Photostat shop, who recorded his statement before AAC-I Haripur / Inquiry Officer regarding the misuse of Photostat shop, whereas Inquiry Officer / AAC-I Haripur was conducting enquiry under the orders of DC/Competent Authority. As per report of Inquiry Officer both the proprietors (Sublettees) Faisal Mehmood and Mr. Shahid Iqbal confirmed in their statements on oath before the Inquiry Officer that they had been paying Rs. 15000/- each to you (Mr. Samiullah Khan Steno).
6. During the period of allotment, the allottee failed to pay the utility bills, which is violation of agreement.
7. You while using your official position alongwith your brother namely Naeem Khan, a Junior Clerk in E&SE Department Haripur threatened the innocent Mr. Shahid Iqbal sublettee etc of grave consequences for recording factual statement before the inquiry Officer against you. You alongwith your brother forcefully removed his Photostat machine / equipment etc from the premises of Photostat shop.
8. You uttered the unlawful remarks that there was no competent authority in the premises of District Secretariat to decide the matter except you.
By reason of above, you appeared to be guilty of misconduct and insubordination in terms of Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the Rules ibid.

You are, therefore, required to submit your written defense within seven days of the receipt of this charge-sheet to the Inquiry Officer.

Your written defense if any should reach the Inquiry Officer within the specified period failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

Intimate whether you desire to be heard in person.

Statement of allegations is attached.


Deputy Commissioner
Haripur.

DISCIPLINARY ACTION.

I, Tasleem Khan, Deputy Commissioner as Competent Authority, hereby charge you Mr. Samiullah Khan Junior Scale Stenographer, ADC Office Haripur on account of the following acts and commissions:-

That you, as PS to DCO/DC Haripur presently working as Junior Scale Stenographer in ADC Office Haripur has committed the following misconduct:-

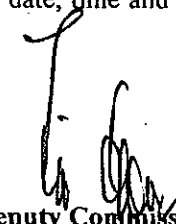
STATEMENT OF ALLEGATIONS.

1. Misuse of official status / capacity (as PS to DCO Haripur) in getting the allotment of Canteen and Photostat Shop in the premises of District Secretariat by influencing and using your official capacity through an agreement in the name of your father namely Chan Mohammad Khan r/o Choar Sharif, which falls in the status of nepotism / favoritism for getting undue advantage while concealing the factual position in back dates which is the breach of trust.
2. By subletting the canteen and Photostat Shop to un-authorized persons without approval of the Competent Authority by using your official position which is amounting to in-subordination.
3. Caused financial loss to govt. treasury by depositing Rs. 2000/- only while charging Rs. 30000/- per month unlawfully from the Sublettees namely Mr. Faisal Mehmood s/o Mehmood Ellahi r/o Moh: Motian Haripur and Mr. Shahid Iqbal s/o Sabir Din r/o Sarai Saleh running the Canteen and Photostat shop respectively.
4. Concealment of facts from Competent Authority.
5. Misbehaved with Mr. Shahid Iqbal sublettee of Photostat shop, who recorded his statement before AAC-I Haripur / Inquiry Officer regarding the misuse of Photostat shop, whereas Inquiry Officer / AAC-I Haripur was conducting inquiry under the orders of DC/Competent Authority. As per report of Inquiry Officer both the proprietors (Sublettees) Faisal Mehmood and Mr. Shahid Iqbal confirmed in their statements on oath before the Inquiry Officer that they had been paying Rs. 15000/- each to you (Mr. Samiullah Khan Steno).
6. During the period of allotment, the allottee failed to pay the utility bills, which is violation of agreement.
7. You while using your official position alongwith your brother namely Naeem Khan, a Junior Clerk in E&SE Department Haripur threatened the innocent Mr. Shahid Iqbal sublettee etc of grave consequences for recording factual statement before the inquiry Officer against you. You alongwith your brother forcefully removed his Photostat machine / equipment etc from the premises of Photostat shop.
8. You uttered the unlawful remarks that there was no competent authority in the premises of District Secretariat to decide the matter except you.

For the purpose of enquiry against you with reference to the above allegations, Mr. Mohammad Irshad Khan, AAC-I Haripur is hereby appointed as Inquiry Officer under Rule 10 (1) (a) of the ibid rules.

The Inquiry Officer shall in accordance with the provisions of the rules ibid provide reasonable opportunity of hearing to the accused, record his findings and submit the same to this office within 15 days of the receipt of this order for further necessary action.

The accused shall be bound to attend the proceedings on the date, time and place fixed by the Inquiry Officer.


Deputy Commissioner
Haripur.

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A-1-0-
[Handwritten notes and scribbles at the bottom of the page]

-22-

P-3

Annex-D

OFFICE OF THE DEPUTY COMMISSIONER HARIPUR.

No. 2177 /AE/DC(H).
Dated: February 26, 2016.

To,

Mr. Mohammad Irshad Khan,
Addl: Assistant Commissioner-I,
Haripur.

SUBJECT:- DISCIPLINARY ACTION AGAINST MR. SAMIULLAH KHAN JUNIOR SCALE STENOGRAPHER.

Memo;

Enclosed please find herewith charge-sheet alongwith statement of allegation to be served upon Mr.Samiullah Khan presently working as Junior Scale Stenographer in the office ADC Haripur.

Consequently, you are appointed as Inquiry Officer to conduct enquiry against Mr. Samiullah Khan Junior Scale Stenographer under the provision of Khyber Pakhtunkhwa; Government Servants (Efficiency & Discipline) Rules-2011 in the light of attached charge-sheet / statement of allegations with the direction to submit your findings / report within a period of 15 days. You may add any point as deemed appropriate during the inquiry process.

Enclosures as above.

Deputy Commissioner
Haripur.

J-6
Issue notice
for proceedings
on 3/3/16
26/2

④ 23 -

Annex. E ^{P-17}

To

The Addl. Asstt. Commissioner-I
(Inquiry Officer),
Haripur.

Subject:- REPLY TO THE CHARGE SHEET.

Sir,

With reverence it is submitted that a charge sheet bearing number Nil dated Nil alongwith statement of allegations under the signatures of worthy Deputy Commissioner Haripur (Competent Authority) has been delivered to me on 03-03-2016 by your goodself (Inquiry Officer) with verbal directions to submit my reply to the instant charge sheet by tomorrow i.e. 04-03-2016. Strictly acting upon your valuable directions, though under stress of granting very short time, I try to submit my para-wise reply as under:-

1. Para-1 is vehemently denied being incorrect and against the facts. I have been working as Junior Scale Stenographer. So far as allotment of Canteen and Photostat Shop in the premises of District Secretariat is concerned the same was not my job; hence the question of my involvement in said allotment does not arise. For the purpose there was/is a separate branch in the department and the officers/officials working therein were/are not subordinate or controlled by me. I have no knowledge with regard to allotment of said Canteen and Photostat Shop. The allegation of influence and using of official capacity in this respect is ridiculous one because it is not understood that as to how a very low rank employee can influence his superiors and high-ups. The allegation is just on

presumptive nature based on surmises and conjectures. Further I am a married person and have been living independently/separately from my parents since long. I have no concern, whatsoever, with the business activity of my father.

2. Para-2 is denied. I have no concerned with the canteen and Photostat shop therefore subletting the same by me to an unauthorized person does not arise. Only an allottee of the premises can sublet it and I am not allottee of the premises. Hence the allegation is vehemently denied being incorrect one.
3. Para-3 being mere allegation is denied. As already submitted in supra para that when I am not the allottee of Canteen and Photostat Shop then as to how I can receive the amount from subletties or deposit the same with govt office. I am inacquaintance with any such transaction. Hence the allegation being incorrect one is vehemently denied.
4. Para-4 is also denied being having no nexus with truth. Question of concealment of fact arises only when the same is asked for or enquired from and the same is not disclosed. I was never inquired by any authority with regard to any fact if I had ever concealed them. Hence the allegation is without any reason which is denied.
5. Para-5 is straightway denied. Neither I ever went to the so-called subtleties nor did I receive any amount from

them. Neither I am allottee of the premises nor sublettor; therefore, any transaction in this respect has no nexus or relationship with me. Hence the question of misbehaving any body on my part does not arise. The allegation is false one. According to assertion made in statement of allegations the unauthorized subtleties are crying for their removal from shops, then it is but natural that they are making false statements on oath. However, problem whatsoever may be with them, I have no concern with them. But it is very astonishing and perplexing one that on the one hand Shahid Iqbal and Faisal Mehmood are counted as unauthorized subtleties and on the other they are being defended rigorously by the authorities.

6. Para-6 is denied. Neither I was allotted the premises nor did I ever enter into any agreement, therefore question of violating the agreement for non-payment of utility bills on my part is incorrect and without any substance.
7. Para-7 is incorrect hence denied. As we both the brother have nothing to do with the canteen and Photostat shop, therefore allegation of removing from there or threatening any body is false, fabricated and without any substance rather based on malafide.
8. Para-8 is incorrect hence vehemently denied. I do not know that as to why it was necessitated to utter that there ^{is} no competent authority in the District Secretariat to decided the matter except me. If there be so many

authorities or the District Secretariat be without any authority, deciding the matters is not my job. The allegation is ridiculous one and without any proof and substance.

That since my induction in the department I have been performing my assigned duties with zeal, zest, devotion, dedication, dexterity and honesty and to the entire satisfaction of my superiors and I never provided them with a chance of reprimand. I always earned good/very good ACRs. I have unblemished rather meritorious service record at my credit which stretches over long 09 years.

In view of the aforementioned circumstances it is requested that the instant charge sheet may kindly be withdrawn by exonerating me of the allegations being incorrect, baseless and result of misinformation communicated to my worthy officers malafidely. I shall be very thankful for this act of kindness.

Yours Obediently


(SAMIULLAH KHAN)

Stenographer,
Security Branch, Haripur

Dated: 04-03-2016



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Annex-1 F

OFFICE OF THE ADDITIONAL ASSISTANT COMMISSIONER-I HARIPUR

No. 168 / AAC-I (H).

Dated 15/03/2016

REPORT:

SUBJECT: DISCIPLINARY ACTION AGAINST MR. SAMIULLAH KHAN, JUNIOR SCALE STENOGRAPHER

Reference letter No. 2172/AE/DC (H) dated 26.02.2016 on the above captioned subject, the undersigned was directed to conduct the enquiry and report (Annex-I): -

Keeping in view the allegations leveled in the statement of allegation, the following issues are framed: -

ISSUES.

Issue No. 1. Whether the accused Mr. Samiullah Khan, Junior Scale Stenographer of ADC office, remained/posted as PS to DCO/ DC Haripur.

Issue No. 2. Whether the accused misused his influence in allotment of canteen, situated at District Secretariat Haripur, to his father namely Mr. Chan Muhammad Khan.

Issue No. 3. Whether the canteen was subletted by the original allottee to unauthorized person.

Issue No. 4. Whether the financial loss to the government treasury occurred due to nonpayment of utility bills of the said canteen.

Issue No. 5. Whether unlawful act was committed by the accused while throwing away the luggage/ photostate machine of sublettee namely Shahid Iqbal and forced the sublettee to vacate the photostate shop.

Proceedings.

The parties/accused were issued summons (Annexe-II) to attend the proceeding of the enquiry on 03.03.2016.

Findings

Issue No. 1 is responded positively as the accused Mr. Samiullah Khan, admitted in his questionnaire (Annex-III) that he remained PS to DC for the period of 02 years.

Issue No. 2 is responded as positive as the allotment of the canteen was made by the accused during his tenure as PS to DC and the contract was illegally awarded in the name of father of accused Mr. Chan Muhammad Khan. The same was admitted by the accused in his questionnaire

Issue No.3 is also responded as positively as the statements of sublettees MR. Usman S/O Atiqu ur Rehman and Shahid Iqbal S/O Sabir Din have been recorded (Annex-IV) in which they stated that they have been paying monthly rent to the accused (Mr. Samiullah Khan), @ of Rs. 20000/- for canteen and Rs. 15000/- for photostate shop.

AE / Supdt

M
16/3

Ad/ Supdt

Process

16/3/16

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Issue No. 4 is also responded positively as the assessment of the arrears pertaining to utility bills have been made by the Account Officer of DC Office Haripur (Annex-V) which proves that an amount of Rs. 1,23,250/- is outstanding on part of the original contractor of the canteen.

Issue No. 5 is authenticated by the complaint from MR. Shahid Iqbal, a photostate shop vendor (Annex-VI), who complained that Mr. Samiullah Khan, alongwith his brother Mr. Naeem Khan forcefully got vacated the photostate shop of the complainant and threw the luggage of the complainant in open in the District Secretariat.

REPLY TO THE CHARGE SHEET:

The accused Mr. Samiullah Khan, while responding to the charge sheet vehemently denied (Annex-VII) all the charges leveled against him and he responded that allotment of canteen was not his job and there is no involvement on his part. Moreover a separate branch in the office of Deputy Commissioner, Haripur, was meant for such allotment and the officials working in the said branch were not subordinate to him.

CONCLUSION.

In the light of the proceedings of the enquiry, cross examination of the accused and perusal of the available record it is construed that above mentioned accused Mr. Samiullah Khan, while posted as PS to Deputy Commissioner, Haripur, during his tenure misused his official position in allotment of canteen in the name of his father Mr. Chan Muhammad Khan S/O Suleman Khan R/O Choar Sharif, Tehsil and District Haripur. Moreover, no codal formalities were observed during the process of allotment and process of open tendering was not made in the said allotment.

That, as per agreement the contract was awarded to the above mentioned on monthly rent @ Rs. 2000/- while the original allottee mentioned above had sub letted the said canteen on monthly rent @ Rs. 35000/- (Rupees 20000/- for canteen and Rs. 15000/- for photostate shop).

That, the accused concealed many facts from the competent authority while making allotment of the said canteen and committed nepotism and favoritism for allotment of said canteen in the name of his father Mr. Chan Muhammad Khan.

Moreover, breach of agreement was also made by the allottee mentioned above who defaulted in payment of utility bills amounting to Rs. 1,23,250/-

RECOMMENDATIONS:

Report is submitted for further necessary action under the relevant rules, please.

Dated: March: 2016


Additional Assistant Commissioner-I
HARIPUR

Encls: (23) pages

8

۱۳۔ اگر معلوم نہیں تو یہ بات بیان کی جاے۔

جواب:۔ جمعے اس کا علم نہیں ہے، نہ کسی نے دانصت کی ہے

۱۴۔ اگر آپ کو معلوم نہیں ہے، تو آپ ریکٹن اور فوٹو سٹیٹ

ڈیٹا کے واچوں سے مشقی کرارہ یوں وہوں کرتا ہے

جواب:۔ میں نے بھی کسی سے کوئی کرارہ معلوم نہیں کیا

۱۵۔ کیا یہ درست نہیں کہ۔ جس دن ریکٹن واچ اور فوٹو سٹیٹ

ڈیٹا کے آپ کے مددگار ہوتے ہیں یہ بات ہے تو آپ نے

اور آپ کے بھائی تقیم خان جو کہ حکم تقیم میں بطور مددگار

ہے فوٹو سٹیٹ اور ریکٹن واچ کا سامان بازار میں باہر نہیں

جواب:۔ میں نے بھی اور میرے بھائی تقیم کو اس بارے میں کچھ معلوم

نہیں ہے۔ ~~میں نے کبھی نہیں سنا ہے کہ کوئی ایسی~~ اور نامی

سیارہ کی گتیں اور کی فوٹو سٹیٹ سے کوئی معلوم نہیں ہے

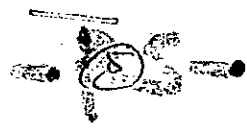
غنی

7, March, 2016

13302-0481526-3

غنی

7/3/16



سوال نامہ سراج صحیح اللہ فانی باسلسلہ انٹرویو

1. آپ ڈی آفس میں کسی پوسٹ پر تعینات ہیں اور تب سے تعینات ہیں

جواب: ہاں میں نے آخری پوسٹ پر اور 8، 9 سال سے تعینات ہوں

2. ڈسٹرکٹ سروسٹ میں آپ کا کیا کردار ہے

جواب: ڈسٹرکٹ سروسٹ کی ٹین میں میرا کوئی کردار نہیں ہے

3. ٹین کی الاٹمنٹ اب دور سے کس نام کی گئی ہے

جواب: ٹین کی الاٹمنٹ سے میرا کوئی تعلق نہیں ہے اور

مجھے نہیں معلوم تھا کہ اس کا نام کیا ہے

4. کیا یہ درست نہیں ہے کہ یہ ٹین آپ کے والدین جی جی خان کے نام کی گئی ہے

جواب: مجھے ٹین کی الاٹمنٹ کے بارے میں علم نہیں ہے

5. آپ بطور P.O. ٹو، 5، 10، 15 سے کس سے تعینات ہیں

جواب: اس وقت معلوم نہیں ہے، تقریباً 2 سال تعینات رہا

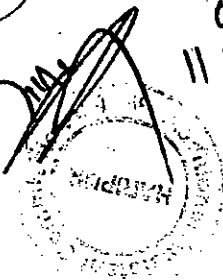
6. کیا یہ درست نہیں ہے کہ آپ نے اپنے تعیناتی ڈوم کوئی سے کوئی روانہ کیا اور سب سے پہلے اس کے والدین کے نام تعینات کیا گیا

جواب: نہیں یہ درست نہیں ہے اور نامی جی اس کا ہے P.O.

سوالنامہ برائے انٹرویو آزاد

Vaidi

11/03/16



سوالات

نمبر شمارہ

یاں نہیں

۵۱ کیا آپ ڈپٹی کمشنر کے دفتر میں ملازم ہیں؟

✓

۵۲ کیا سہمی چن محمد خان آپ کے والد ہیں؟

✓

۵۳ کیا آپ ڈپٹی کمشنر آفس میں PS کے عہدہ پر تعینات رہے ہیں؟

✓

۵۴ کیا سہمی شاہ داد خان ولد چن محمد خان آپ کے بھائی ہیں؟

✓

۵۵ کیا آپ کے والد چن محمد خان سہمی خان ولد یلیان خان صاحب صاحب سہمی خان صاحب صاحب ہیں؟

✓

۱/ کیا اس وقت پڑھتے ہیں؟

۵۶ کیا آپ سہمی شاہ اقبال جو کہ کنیشن مانگا کر آپ سے ماہانہ ڈرائیو وصول کرتے ہیں؟

✓

۵۷ کیا آپ سہمی عثمان ولد عتیق احمد خان اور سجاد عتیق ولد عتیق احمد خان سے کنیشن ماہانہ کر رہے ہیں؟


✓

عنتی
11-03-2016

31

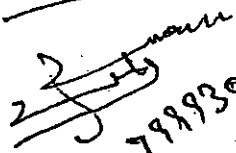
عقمان ولد عسوق الرحمن
مشترکہ بیان سجاد عسوق ولد عسوق الرحمان سنہ ۱۹۶۷ء
پروویڈنٹ

بیان کیا ہے کہ میں نے ستمبر ۲۰۱۴ء میں ڈسٹریکٹ
سپریم کورٹ میں سٹیٹ منسٹرین کے خلاف ریفرنس
میں سٹیٹ منسٹرین کا بیان کر کے کہہ دیا ہے کہ 20 ہزار
سے سب سے سب سے اللہ کے لئے اور اپنے لئے



22-02-2014

0312-9864554



0312-7999300

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بیان شاهد قبیل ولد صاحبہ دین گائے سرائے صالح
ہری پور

(2 نومبر 2013)
بیان کیا کہ میں گزشتہ 2 سال سے دستہ
مکرمہ میں فوٹو سٹیٹ کا کاروبار کر رہا
ہوں میں قایم کر رہے ہیں حساب مبلغ 15000
میں سے جمع اللہ ولد جن محمد جو کہ C.D.C میں
ملازم ہے اس کو ادارہ میں سے لیا گیا ہے
22/2/2016

C # 0302-3501617

نیت کر کے جمع کروا کر دیا گیا ہے

(9)

(9)

بیان مسیٰ فیصل محمود ولد محمود الہی سندھ مسلم یونیورسٹی لہور

بہ حلف بیان کیا کہ ڈسٹرکٹ سیکرٹریٹ میں واقع

کینٹین کو مسیٰ فیصل ^{تو} حوالہ ^{کے} جلدتا رہا - اور ماہانہ کرایہ

محسبات 15000/- ^{بندہ گزار} مسیٰ سید اللہ ولد فیاض محمد کو

50 آفس لہور سے ملزوم 2 - کو ادا کرنا رہا -

(Signature)

فیصل محمود ولد محمد الہی

NIC # 13302 - 0415278-5

0332-5618600.

Verified

(Signature)

8

P.O.F.
No 22/2

جواب بت کے لئے آپ کو اس کے لئے شکریہ ادا کرتے ہیں

جواب میں عرض فرماتا ہے

جواب میں

1۔ کہ میں نے سال کا معاہدہ نہیں کیا ہے D.C. جاہ میں سے 2012 میں

میں سال کا معاہدہ نہیں کیا ہے اور اس کے لئے آپ کو شکریہ ادا کرتے ہیں 2013 میں

میں نے سال کا معاہدہ نہیں کیا ہے

2۔ کہ میں نے سال کا معاہدہ نہیں کیا ہے 2013 میں

میں نے سال کا معاہدہ نہیں کیا ہے

3۔ کہ میں نے سال کا معاہدہ نہیں کیا ہے

جو کہ اس کے لئے آپ کو شکریہ ادا کرتے ہیں

4۔ کہ میں نے سال کا معاہدہ نہیں کیا ہے

میں نے سال کا معاہدہ نہیں کیا ہے

5۔ کہ میں نے سال کا معاہدہ نہیں کیا ہے

کہ میں نے سال کا معاہدہ نہیں کیا ہے

میں نے سال کا معاہدہ نہیں کیا ہے

16. 24 اکتوبر 2013 میں D. آفس کے ماتحت عمل کے حساب سے حساب کیا گیا
سے اصل معاوضہ یعنی نوٹس فورسٹیشن کا تعین اور اس کے مطابق
اعداد کی سطح پر نوٹس فورسٹیشن کے مطابق کیا گیا ہے

17. 24 جنوری 2013 سے دو بار متعلقہ ماتحت عمل کے مطابق عمل ہو گیا ہے جس کی
نسبت معاوضہ مندرجہ ذیل طور پر درج کیا گیا ہے اور اس کے مطابق عمل کیا گیا ہے
سے غیر قانونی طور پر تعین کیا گیا ہے۔ جس کی بابت مندرجہ ذیل نوٹس
میں تعین کیا گیا ہے

18. 24 جنوری 2013 سے دو بار متعلقہ ماتحت عمل کے مطابق عمل ہو گیا ہے جس کی
نسبت معاوضہ مندرجہ ذیل طور پر درج کیا گیا ہے اور اس کے مطابق عمل کیا گیا ہے
سے غیر قانونی طور پر تعین کیا گیا ہے۔ جس کی بابت مندرجہ ذیل نوٹس
میں تعین کیا گیا ہے

19. 24 جنوری 2013 سے دو بار متعلقہ ماتحت عمل کے مطابق عمل ہو گیا ہے جس کی
نسبت معاوضہ مندرجہ ذیل طور پر درج کیا گیا ہے اور اس کے مطابق عمل کیا گیا ہے
سے غیر قانونی طور پر تعین کیا گیا ہے۔ جس کی بابت مندرجہ ذیل نوٹس
میں تعین کیا گیا ہے

20. 24 جنوری 2013 سے دو بار متعلقہ ماتحت عمل کے مطابق عمل ہو گیا ہے جس کی
نسبت معاوضہ مندرجہ ذیل طور پر درج کیا گیا ہے اور اس کے مطابق عمل کیا گیا ہے
سے غیر قانونی طور پر تعین کیا گیا ہے۔ جس کی بابت مندرجہ ذیل نوٹس
میں تعین کیا گیا ہے

21. 24 جنوری 2013 سے دو بار متعلقہ ماتحت عمل کے مطابق عمل ہو گیا ہے جس کی
نسبت معاوضہ مندرجہ ذیل طور پر درج کیا گیا ہے اور اس کے مطابق عمل کیا گیا ہے
سے غیر قانونی طور پر تعین کیا گیا ہے۔ جس کی بابت مندرجہ ذیل نوٹس
میں تعین کیا گیا ہے

بیان جن محمد خان ولد سید محمد خان سید محمود شاہ صاحب کھلمکھلا

موجود

۱۔ ذوالقعد ۱۳۵۸ھ مطابق ۱۷ دسمبر ۱۹۴۰ء کو میرٹھ ضلع لاہور میں پیدا ہوا۔
۲۔ تعلیم ابتدائی اور ثانوی میرٹھ میں ہی کی۔
۳۔ اس وقت لاہور میں مقیم ہیں۔
۴۔ اس وقت لاہور میں مقیم ہیں۔
۵۔ اس وقت لاہور میں مقیم ہیں۔
۶۔ اس وقت لاہور میں مقیم ہیں۔

محمد خان ولد سید محمد خان

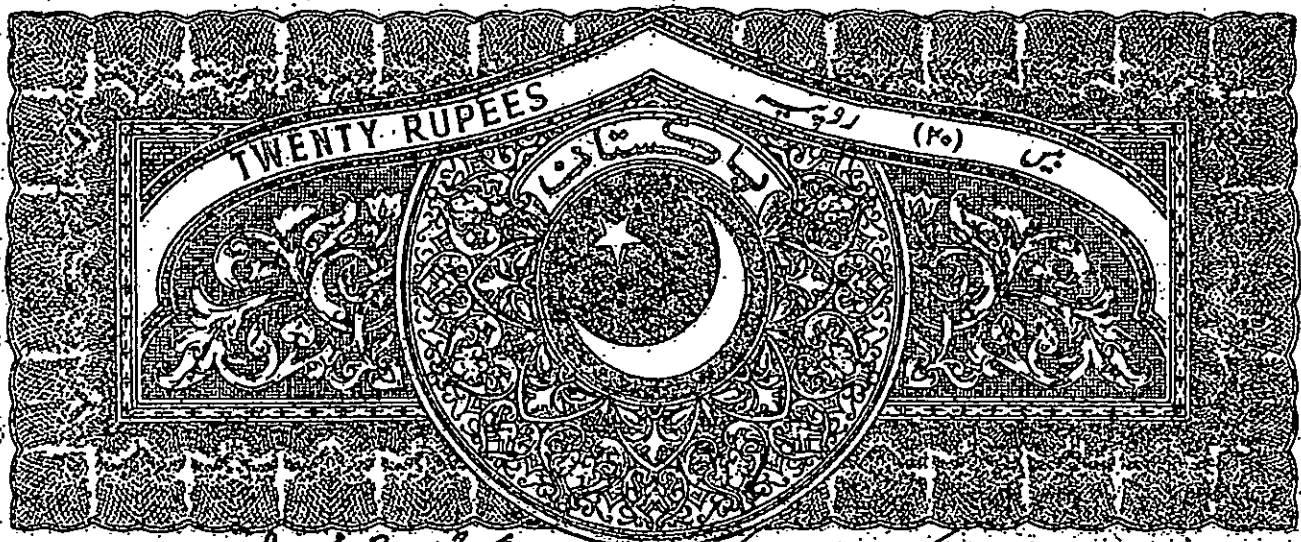
۹-۱۳۳۵۳-۵۴۳۱۸۳۹



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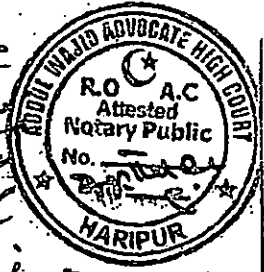
۲۲

14/11



ایقرار نامہ صحابہ کرام کے ذریعے تائید کیشن ایک قطعہ زمینیں ملہی۔ ۲۰۱۶ روسیہ

ماہنامہ حسن محمد خان ولد سلمان خان صاحب جو تحصیل و ضلع میرپور فریق اول کے ذریعہ دار
۵۰۰ ہیرے پور اور انڈیا منسٹر کے حوالے فریق اول کے حکم کے ہیں
سیر کاہ صاحبین فریقین فریق اول و دوم کے مابین کیشن کے ذریعہ ایک ایک ہیرے پور کے
نسبت معاہدہ کر ایم دار کے ذریعہ سیر کاہ کے پاس ہے۔



(۱) میر فریق اول کے ذریعہ دار مذکورہ کیشن کے ذریعہ سیر کاہ کے ہیرے پور (اپنے ذاتی فریق
میر تقی میر کا۔ اگر فریق دوم کی جانب سے کیشن نہ دیا جائے اور ساتھ ہی فریق
اول کو سیر کاہ کے کیشن ہی لگائے گا تو فریق اول کے کیشن نہ دیا جائے گا۔
(۲) میر کیشن مذکورہ میں فریق اول کے کیشن اور فریق اول کے کیشن لگائے
(۳) میر فریق دوم کی جانب سے کیشن لگائی جائے گی۔ جس کے ذریعہ کیشن
فریق اول کے کیشن لگائے گا پھر سیر کاہ

(۴) میر کیشن کیشن / سیر کاہ کے ذریعہ فریق اول کے کیشن لگائے جائے
لگوا کر دیا جائے۔ اور بل کیشن کے ذریعہ فریق اول کے کیشن لگائے جائے
بل کیشن فریق اول کے کیشن لگائے جائے۔ فریق اول کے کیشن لگائے جائے گا
(۵) میر کیشن کیشن / سیر کاہ کے ذریعہ فریق اول کے کیشن لگائے جائے اور سیر کاہ کے کیشن

۲/201
۱۰/201
۱۵/11
۱/2016

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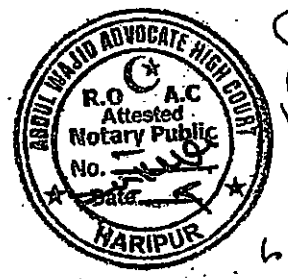


بہار صحت اور صحت کارکنوں کے بارے میں

۱۶) یہ معاہدہ کر کے اس کے مطابق اس سال کے لئے ایک نو
 قابل خدمت ہوگا۔ اس کے لئے خود دروشن مطابق کارکنوں کو
 فریق دوم کو بھی معاہدہ کر دینا چاہیے کہیں وہ بھی اس کے لئے
 ۱۷) یہ کہ کینٹن لوہن شمال میں ہوگا اور وہ بھی کینٹن ہوگی۔
 ۱۸) یہ کہ فریق اول کے لئے بھی معاہدہ کر دینا چاہیے اور اس معاہدہ میں
 کینٹن پر لاف لگنے اور رقم کا نصف فریق اول کو فریق دوم کو دیا جائے گا۔
 جو کہ باقی بھی مساوی سے ملے ہوگا۔

۱۹) یہ کہ فریق دوم خود فریق اول کو کینٹن سے نکالے گا اور اس معاہدہ میں
 تین ماہ قبل پیشگی نوٹس دینے اور سالم رقم خرچہ کینٹن ادارہ کا فریق دوم
 کا مندر ہوگا اور اخراجات تعمیرات۔ فریق دوم کو بھی ویدر سامان وغیرہ
 و جملہ اخراجات فریق اول کو فریق دوم کو دیا جائے گا۔ نیز اس کے نام
 معاہدہ کر کے دار کینٹن اور ہوگا وہاں طینہ لگنا اور تعمیرات۔

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11 AUG 1952

Handwritten signature and stamp of the District Coordination Officer, Haripur.

13302-0434893-9
 مندرجہ بالا معاہدہ کے مطابق
 فریق اول کو دیا جائے گا

Handwritten signature and stamp at the bottom right.

N.W.F.P A & T200

See reverse

-38-

NATIONAL BANK OF PAKISTAN HARIPUR

Dated the 16 of December 2013.

Received from the bearer the sum of Rs.

8000/-

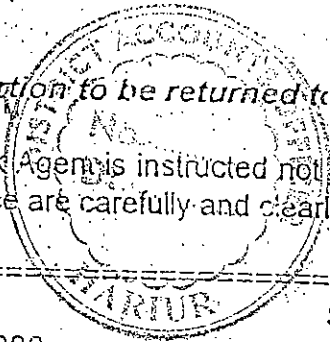
To be credited to Government Account under the head

CO3870

On account of Rent Charges of Canteen in District Secretariat for the
months of September 2013 to December 2013 (04 months)

Manager

DEPUTY COMMISSIONER
HARIPUR



Note: This portion to be returned to the Payee receipted by the Agent

The Bank Agent is instructed not to receive money unless both portions of the invoice are carefully and clearly filled in.

See reverse

N.W.F.P A & T200

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-39-

Dated the 13th / 11 / 2014

20000 ✓

Received from the bearer the sum of Rs: 20000/- Twenty thousand only,

to be credited to Government Account under the head C. 03870

on account of Sent Charges of Contain in District Secretariat

for the month of Jan/2014 to Oct/2014 (10 months)

W
1.9 NOV 2014

[Signature]
DEPUTY COMMISSIONER
HARIPUR

Manager

This portion to be returned to the payee receipted by the Agent.

Note:- The bank agents instructed not to receive money unless both portion the invoice are carefully and clearly filed in.

10143170000 321

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Received from the bearer the sum of Rs: 330201-

to be credit to Government Account under the head C 03870

On account of Rent + charges of Canteen in District Secretariate
for the month of November 2014 to November 2015 (12-months)

21 Nov 2015

Chan Muhammad Khan s/o
Sulman Khan
ID: 13302-0434893-9

This portion to be returned to the payee receipt by the Agent.

Note:- The bank agent is instructed note to receive money unless both portion the invoice are carefully and clearly filed in.

8

- No subsidy will be provided to the allottee and he will be bound to provide the services at the market rate.

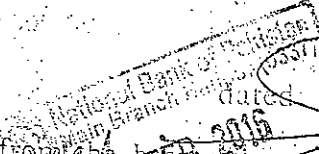
-41-

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

HR-6129

received from
to be credit to
in account of

To THE MANAGER, STATE BANK OF PUNJAB



dated the 09-02-2016

Received from the bank for the sum of Rs 2500 + 2750 = 5250/-
to be credited to Government account under the head C.O. 3870
on account of Rent charges of quarters in District Secretariat
For the month of Dec-2015 to Jan-2016
NIC-13302-0434893-4
Signature and full official designation of the
officer ordering the money to

8

- The allottee is hereby notified that the premises of the District Government Secretariat, Haripur.
- No subsidy will be provided to the allottee and he will be bound to provide the services at the market rate.

-42-

Dated the 19/02/2016.

Received from the bearer

₹ 8000/-

the sum of Rs,

Eight thousand only

to be credited to Government account under the Head

CO 3270

on account of

Rent of Containr Electricity charges.

Pran
lls.

NIC = 13302-0434293-9

W

This portion to be returned to the payee received by the Agent.

Manager

19 FEB 2016

2016 Jan 2604

Note:- The Bank Agent is instructed not to receive money unless both portion the in voice are carefully and clearly filed in.

See reverse

NWFP A&T 200

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- 43 -

عسکری شہداء لہذا جو کہ موقع پر موجود نہیں تھے ان کا نام طلب

اور نصیر خان صاحب نے میرے آڑے سے لیکر میری پیشین گوئی کر لی

کننگ دل تھی موقع پر پہنچے کہ بعد میں نے کافی عرصت سمجھا دیا

پس میری کوئی بات نہیں مانی گئی بلکہ نصیر خان صاحب نے کنٹینر

کو لولا ہے اپنی پیشین گوئی اور لگاؤ میری پیشین گوئی پر لگا رہی

جو آج بھی سیکرٹری عسکری لگا رہیں اور موقع پر آج بھی کنٹینر

کام کر رہے ہیں جو میرے ساتھ نا انصافی ہے

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Shaukidul

3/3/2016

03023501617

~~Verified~~

3/3/16

SHOW CAUSE NOTICE.

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Annex 'E'

I, Tasleem Khan Deputy Commissioner Haripur under the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules-2011 serve you Mr. Samiullah Khan, Junior Scale Stenographer (DC Office Haripur) Show Cause Notice that an enquiry was conducted against you by Addl: Assistant Commissioner-I Haripur, wherein an opportunity was given to you to furnish your defense. The Inquiry Officer has submitted his report vide No. 168/AAC-I (H) dated 15.03.2016.

After going through the findings of the Inquiry Officer, material on record and your written defense before the Inquiry Officer, I am satisfied that you have committed misconduct on the following accounts:-


1. As per enquiry report of Inquiry Officer, all the charges leveled against you have been proved regarding misuse of official position and influence as PS to DCO / DC Haripur in the allotment of Canteen to your father namely Chan Mohammad Khan s/o Suleman Khan r/o village Choar Tehsil and District Haripur, un-lawfully received Rs. 35000/- (Rs. 20000 plus 15000) from the Sublettees namely Usman s/o Attique ur Rehman and Mr. Shahid Iqbal s/o Sabir Din r/o Sarai Saleh as monthly rent and deposited only Rs. 2000/- per month in government treasury, thus sustained financial loss of Rs. 33000/- per month. The sublettees named above in their written reply / statements have confirmed that they have paid Rs. 20000/- and Rs. 15000/- total Rs. 35000/- as monthly rent of canteen and Photostat shop to you. When the sublettees namely Usman s/o Attique ur Rehman and Mr. Shahid Iqbal s/o Sabir Din brought the factual position into notice of Inquiry Officer, you and your brother namely Mr. Naeem Khan forcefully got vacated the Photostat shop of the complainant and threw the luggage / machinery in open area of District Secretariat. You have committed nepotism and favoritism for allotment of the said canteen and Photostat shop in the name of your father by misusing your official position and concealed the facts from the Competent Authority.
2. Being government servant you were under obligation not to indulge or involve in private business but you unlawfully received the rent from the sublettees and when they brought factual position before the Inquiry Officer, you forcefully threw the luggage and Photostat machine out of the Photostat shop. Your behavior and conduct is contrary to the Civil Servants Conduct Rules-1987.
3. The agreement inked was absolutely against the law having no record in DC Office as well as Finance Wing which was done with the intent of fraud, coercion and undue influence circumventing all the stakeholders.

As a result thereof, I, as Competent Authority, have agreed to the findings of Inquiry Officer and tentatively decided to impose upon you any of the major penalties as indicated in Rule-4 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules-2011.

You are, therefore, required to show cause as to why the aforesaid any of the major penalties should not be imposed upon you. Furthermore, you are directed to appear on 25.03.2016 at 3.00 PM before the undersigned for personal hearing.

If no reply to this Notice is received within 07 days of its delivery, it shall be presumed that you have no defense to prove your contention and in that case ex-parte action shall be taken against you.

A copy of the enquiry report is attached herewith.


Deputy Commissioner
Haripur.

No. AE/DC(HY) 3195
Dated Haripur the 18/03/2016
Mr. Samiullah Khan
Junior Scale Stenographer
Office of ADC Haripur presently working
in Security Branch of DC Office Haripur.

that they have been paying monthly rent to the accused (Mr. Samiullah Khan), @ of Rs. 20000/- for canteen and Rs. 15000/- for photostate shop.

1911

1911

To

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Amex-H

The Deputy Commissioner,
(Competent Authority),
Haripur.

Subject:- REPLY TO SHOW CAUSE NOTICE DATED 18-03-2016.

Respected Sir,

With most reverence it is submitted that I am in receipt of above mentioned Show Cause Notice and para-wise reply to which is as under:-

1. Nothing has been proved through enquiry findings against me. I had / have been working as Junior Scale Stenographer. So far as allotment of Canteen in the premises of District Secretariat is concerned the same was not my job. There was/is a separate branch in the department working for the purpose and the officers/officials working therein were/are not subordinate to me or controlled by me. I have no knowledge with regard to allotment of any Canteen. The allegation of influence and misuse of official position in this respect is ridiculous one because it is not understood that as to how a very low rank employee can influence his superiors and high-ups. The allegation is just on presumptive nature based on surmises, conjectures and malafide. Further I am a married person and have been living independently/ separately from my parents since long. I have no concern, whatsoever may be, with the business activity of my father. I am not an allottee of the canteen and photostate shop therefore question of subletting the same to an authorized person by me does not arise. Because only an allottee of the premises can sublet the same. I am not the allottee of Canteen and Photostat Shop then as to how I can receive the amount from subtleties or deposit the same with govt offices. I am in acquaintance with any such transaction. Neither I ever went to the so-called subtleties nor did I receive any amount from them. Neither I am allottee of the premises nor sublettor; therefore, any transaction in this respect has no nexus or relationship with me. Even the question of misbehaving with Atique-ur-Rehman and Shahid Iqbal on my part does not arise. The allegation is false one. However, problem whatsoever may be with

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them, I have no concern with them. During enquiry neither they were ever examined in my presence nor was I allowed to cross examine them by the enquiry officer. Even an iota of proof could not be brought against me through independent and convincing evidence during the course of enquiry. Charges are nothing but mere baseless allegations just on the basis of malafide.

2. It is incorrect that I ever indulged in any type of private business. I have repeated clamoring that neither I am allottee of the Shops nor could I sublet the same. Word subletting is used for a lawful allottee when he hand overs such allotted premises unlawfully to an unauthorized person. It is not understood that as to why and how this word is attributed to me. Again and again I have said/am saying that I have no concern with the canteen etc if the same is allotted or got vacated or subletted or some one is put into it but despite that the matter is forcibly attached/attributed to me. I have not committed any thing contrary to the Civil Servant Conduct Rules 1987, hence allegations are vehemently denied being false and fabricated ones based on malafide.
3. I never inked any agreement of allotment of canteen. The execution and signing of such agreements of allotments of canteen etc with allottees on the part of District Government was/is the jurisdiction of the DCO/Deputy Commissioner Haripur and not that of a Junior Scale Stenographer but still the same is attributed/plastered to me without any prudence and reason. So for as question that there no record of agreement in the DC Office and Finance Wing is concern has no relation with me as sufficient relevant staff is available and performing duties in those offices and is responsible for keeping the same in their safe custody. Job's responsibilities of a Stenographer are totally different and he has nothing to do with such record/files of DC Office as well as Finance Wing. He cannot misplace them. But I am being made scape-goat of all the staff working in DC Office and Finance Wing.

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That since my induction in the department I have been performing my assigned duties with zeal, zest, devotion, dedication, dexterity and honesty and to the entire satisfaction of my superiors and I never provided them with a chance of reprimand. I always earned

- 47 -

good/very good ACRs. I have unblemished rather meritorious service record at my credit which stretches over long 09 years.

In view of the above mentioned facts and circumstances, it is requested that instant Show Cause Notice may kindly be withdrawn exonerating me of the false and baseless allegations leveled without any reason and proof. I shall be very thankful to you for this act of kindness.

Yours Obediently


(SAMIULLAH KHAN)
Stenographer,
Security Branch, Haripur

Dated: 24-03-2016



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Office of the Deputy Commissioner, Haripur

Phone No. 0995 - 613391, 613349, FAX - 615412

No. 1(9) 2016/AE/DC (H)

Dated: 07/06/2016

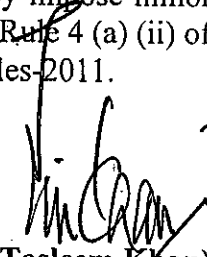
ORDER.

WHEREAS, Mr. Samiullah Khan, Jr. Scale Stenographer (BPS-14) was proceeded against under Government of Khyber Pakhtunkhwa, Civil Servants (Efficiency & Discipline) Rules-2011 by appointing Additional Assistant Commissioner-I, Haripur as Inquiry Officer.

AND WHEREAS, the Inquiry Officer submitted his report vide No. 168/AAC-I(H) dated 15.03.2016, which revealed that the accused official had misused his official position while he was posted as PS to DCO, Haripur. The Inquiry Officer reported that during his tenure as PS to DCO, Haripur, the accused official misused his official position with regard to allotment of canteen in the name of his father where no codal formalities were observed during the allotment process and open tendering was not held in the said allotment. As per agreement, the contract was awarded on monthly rent @ Rs. 2,000/- while the canteen was sub-letted @ Rs. 35,000/- PM including the Photostat Shop. The accused official concealed the facts from the Competent Authority while making allotment of the canteen and committed nepotism and favoritism for allotment of canteen in the name of his father. Moreover, breach of agreement was also made by the allottee concerned who defaulted in payment of utility bills amounting to Rs. 1,23,250/-.

AND WHEREAS, the accused official was served with a Show Cause Notice with an opportunity of personal hearing to which he replied on 24.03.2016 with the request to withdraw the Show Cause Notice and to exonerate him of the charges leveled against him. The accused official was also heard in person on 06.06.2016. During the course of personal hearing, he again denied the charges leveled against him and prayed for exoneration.

NOW THEREFORE, I, Tasleem Khan, Deputy Commissioner, Haripur (Competent Authority) keeping in view report of the Inquiry Officer, reply of the accused official and other record placed before me, am satisfied that Mr. Samiullah Khan, Jr. Scale Stenographer (BPS-14) has committed misconduct within the meaning of Rule 3 (b) of Government of Khyber Pakhtunkhwa, Civil Servants (Efficiency & Discipline) Rules-2011 and do hereby impose minor penalty of stoppage of two annual increments with accumulative effect in terms of Rule 4 (a) (ii) of Government of Khyber Pakhtunkhwa, Civil Servants (Efficiency & Discipline) Rules-2011.


(Tasleem Khan)
Deputy Commissioner,
Haripur
(Competent Authority)

Copy to the:-

1. Commissioner, Hazara Division, Abbottabad.
2. Additional Assistant Commissioner-I, Haripur.
3. District Accounts Officer, Haripur for necessary action.
4. Accounts Officer / DN (Local) for necessary action.
5. Mr. Samiullah Khan, Jr. Scale Stenographer, DC Office.


Deputy Commissioner,
Haripur.

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Annex-J

BEFORE THE HONOURABLE COMMISSIONER, HAZARA
DIVISION, ABBOTTABAD.

T.P.C

DEPARTMENTAL APPEAL; AGAINST ORDER NO.1(9)2016/AE/ DC (H)
DATED 07-06-2016 PASSED BY DEPUTY COMMISSIONER, HARIPUR
WHEREBY THE APPELLANT HAS BEEN AWARDED WITH PENELTY OF
"STOPPAGE OF 02 ANNUAL INCREMENTS WITH CUMULATIVE EFFECT".

PRAYER: ON ACCEPTANCE OF INSTANT DEPARTMENTAL APPEAL THE
PENALTY OF STAPPAGE OF 02 ANNUAL INCREMENTS WITH
CUMULATIVE EFFECT MAY KINDLY BE SET ASIDE FROM THE DATE OF ITS
AWARD AND APPELLANT BE RESTORED HIS INCREMENTS WITH ALL
CONSEQUENTIAL SERVICE BACK BENEFITS.

Respected Sir,

1. That the Deputy Commissioner, Haripur vide his order No.1 (9) 2016/AE/DC(H) dated 07-06-2016 has awarded the appellant with the penalty of "stoppage of 02 annual increments with cumulative effect". **(Copy of order dated 07-06-2016 is attached as "A")**.
2. That impugned order of the Deputy Commissioner Haripur is illegal and passed against the facts as well as in serious violation of departmental rules and regulations without adhering to the procedure set forth for the dispensation of justice at preliminary stages during the course of departmental inquiries; hence liable to be set aside.
3. That the allegations, on the basis of which impugned order was passed, have never been proved against the appellant; thus order impugned is liable to be turned down straight way.



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Dir-No. 01/7/16

L. Smith

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4. That the appellant was issued with a Charge Sheet under No.2172/AE/DC(H) dated 26-02-2016 alongwith statement of allegations and Mr. Mohammad Irshad Khan AAC-I Haripur was appointed as Inquiry Officer by the Deputy Commissioner Haripur. Following allegations were incorporated there in:

1. Misuse of official status/capacity (as PS to DCO Haripur) in getting the allotment of canteen and Photostat shop in the premises of District Secretariat by influencing and using your official capacity through an agreement in the name of your father namely Chan Mohammad Khan R/O Choar Sharif, which falls in the status of nepotism/favouritism for getting undue advantage while concealing the factual position in back dates which is the breach of trust.
2. By subletting the canteen and Photostat shop to un-authorized persons without approval of the competent authority by using your official position which is amounting to insubordination.
3. Casual financial loss to govt. treasury by depositing Rs.2000/- only while charging Rs.30000/- per month unlawfully from the subletees namely Mr. Faisal Mehmood s/o Mehmood Ellahi r/o Moh; Motian Haripur and Mr. Shahid Iqbal s/o Sabir Din r/o Serae Saleh running the canteen and Photostat shop respectively.
4. Concealment of facts from competent authority.
5. Misbehaved with Mr. Shahid Iqbal Sublette of Photostat shop, who recorded his statement before AAC-1 Haripur/Inquiry Officer regarding the misuse of Photostat shop, whereas Inquiry Officer/AAC-I Haripur was conducting inquiry under the orders of DC/Competent Authority. As per report of Inquiry Officer both the proprietors (Sublettees) Faisal Mehmood and Mr. Shahid Iqbal confirmed in their statements on oath before the Inquiry Officer that they had been paying Rs.15000/- each to you (Mr. Samiullah Khan Steno).
6. During the period of allotment, the allottee failed to pay the utility bills, which is violation of agreement.
7. You while using your official position alongwith your brother namely Naeem Khan, a Junior Clerk in E&SE Department Haripur threatened the innocent Mr. Shahid Iqbal sublettee etc of grave consequences for recording factual statement before the inquiry officer against you. You alongwith your brother forcefully removed his Photostat machine/equipment etc from the premises of Photostat shop.
8. You uttered the unlawful remarks that there was no competent authority in the premises of District Secretariat to decide the matter except you.
(Copy of Charge Sheet dated 26-02-16 is attached as "B").

5. That Charge Sheet was duly replied on 04-03-2016 by the appellant answering in detail para-wise allegations as incorporated therein in following form:

1. That allegation No.1 is vehemently denied being incorrect and against the facts. I have been working as Junior Scale Stenographer. So far as allotment of Canteen and Photostat Shop in the premises of District Secretariate is concerned the same was not my job; hence the question of my involvement in said allotment does not arise. For the purpose there was/is a separate branch in the department and the officers/officials working therein were/are not subordinate or controlled by me. I have no knowledge with regard to allotment of said Canteen and Photostat Shop. The allegation of influence and using of official capacity in this respect is ridiculous one because it is not understood that as to how a very low rank employee can influence his superiors and high-ups. The allegation is just on presumptive nature based on surmises and conjectures. Further I am a married person and have been living independently/separately from my parents since long. I have no concern, whatsoever, with the business activity of my father.
2. Allegation No.2. I have no concern with the canteen and Photostat shop therefore subletting the same by me to an authorized person does not arise. Only an allottee of the premises can sublet it and I am not allottee of the premises. Hence allegation is vehemently denied being incorrect one.
3. Allegation No. 3 is denied. As already submitted in supra para that when I am not the allottee of Canteen and Photostat Shop then as to how I can receive the amount from sublettees or deposit the same with govt office. I am in-acquaintance with any such transaction. Hence the allegation being incorrect one is vehemently denied.
4. That allegation No. 4 is also denied being having no nexus with truth. Question of concealment of fact arises only when the same is asked for or enquired from and the same is not disclosed. I was never inquired by any authority with regard to any fact if I had ever concealed them. Hence the allegation is without any reason which is denied.
5. That allegation No. 5 is straightway denied. Neither I ever went to the so-called sublettees nor did I receive any amount from them. Neither I am allottee of the premises nor subletor; therefore, any transaction in this respect has no nexus or relationship with me. Hence the question of misbehaving anybody on my part does not arise. The allegation is false one. According to assertion made in statement of allegations the unauthorized sublettees are crying for their removal from shops, then it is but natural that they are making false statements on oath. However, problem whatsoever may be with them, I have no concern with them. But it is very astonishing and perplexing one that on the one hand Shahid Iqbal and Faisal Mehmood are counted as un-authorized

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sublettees and on the other they are being defended rigorously by the authorities.

6. That allegation No.6 is denied. Neither I am allottee of the premises nor did I ever enter into any such agreement, therefore question of violation of agreement for non-payment of utility bills on my part is incorrect and without any substance.
 7. That allegation No. 7 is incorrect hence denied. As we both the brother have nothing to do with the canteen and Photostat shop, therefore allegation of removing from there or threatening any body is false, fabricated and without any substance rather based on malafide.
 8. That allegation No. 8 is incorrect hence vehemently denied. I do not know that as to why it necessitated uttering that there was no competent authority in the District Secretariat to decide the matter except me. If there be so many authorities or the District Secretariat be without any authority, deciding of matters is not my job. The allegation is ridiculous one and without any proof and substance. **(Copy of reply to the Charge Sheet dated 04-03-2016 is attached as "C")**.
-
6. That thereafter the appellant was served with a Show Cause Notice dated 18-03-2016 by the Deputy Commissioner Haripur (Competent Authority): **(Copy of Show Cause Notice dated 18-03-2016 is attached as "D")**.
 7. That on 24-03-2016 the appellant replied the above mentioned Show Cause Notice by explaining all facts and circumstances of the matter and the allegations were straightaway denied: **(Copy of reply dated 24-03-2016 to the Show Cause Notice is attached as "E")**.
 8. That without considering the detail replies, containing all facts and circumstances, submitted by appellant in response to the Charge Sheet as well as Show Cause Notice, the Competent Authority ultimately awarded the appellant with the penalty of "stoppage of 02 annual increments with

cumulative effect in violation of departmental rules, regulations and principle of natural justice.

9. That the Charges leveled against the appellant were incorrect, irrelevant, baseless, against the facts and circumstances rather as a result of personal dissensions of the competent authority developed on account of mis-information communicated by some persons interested in realizing the said canteen and Photostat shop in the premises of District Secretariat Haripur.
10. That even the Inquiry Officer could not understand the legal position of the matter and by acting on flimsy grounds went on to submit a wrong report to the Competent Authority and ultimately the appellant was awarded the penalty without any reason & rhyme and that too without any proof.
11. That though the appellant was innocent yet he has wrongly been awarded with the penalty of stoppage of 02 annual increments with cumulative effect without any proof and reason and that too on the basis of a false, fabricated and concocted allegations. 8
12. That in view of the facts and circumstance explained here above, by stretch of no imagination the appellant could be held responsible for baseless allegations as mentioned in the Charge Sheet as well as in Show Cause Notice.
13. That the appellant has always performed his assigned duties with devotion & honesty and never provided a chance of

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reprimand to his officers. Appellant has excellent rather meritorious service record at his credit and always earned good /very good A.C.Rs throughout his service.

14. That appellant shall be very grateful, if he is provided with an opportunity of personal hearing enabling him to bring the real picture of the matter into the knowledge of your Highness and to clear his position as well.
15. That as the Appellant has been awarded the penalty illegally, unlawfully against the facts and circumstances without any reason and rhyme, hence this Departmental Appeal.

PRAYER:

Sir, in view of the facts and circumstances narrated here above, it is earnestly requested that impugned order dated 07-06-2016 passed by the Deputy Commissioner Haripur whereby the appellant has been awarded the penalty of stoppage of 02 annual increments with cumulative effect may kindly be set aside and appellant be re-instated his annual increments from the date of its stoppage with all consequential service back benefits. Thanking you sir in anticipation.

You're obedient Servant



(SAMIULLAH) KHAN)

Stenographer, Security Branch,
D.C. Office Haripur

Dated: 30-06-2016



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OFFICE OF THE
COMMISSIONER HAZARA DIVISION
ABBOTTABAD

Annex-K

No. appeal-Estab/ 13037-38

Dated 7 / 10/2016

ORDER

Whereas, Mr. Samiullah Khan, Stenographer, Security Branch, Deputy Commissioner Office, Haripur filed an appeal against the order of Deputy Commissioner, Haripur. Whereby minor penalty of stoppage of 02 annul increments was imposed upon the official concerned under rules 4 (a)(ii) of E&D Rules, 2011.

Whereas the official concerned failed to rebut the said charges. Therefore, the penalty imposed upon the official concerned by the Deputy Commissioner, Haripur in his order dated 07/06/2016 is upheld and keeping in view the relevant record/ personal hearing, the appeal in hand is dismissed being not on merit.

Sd/-

Commissioner,
Hazara Division, Abbottabad.

Endst: No. & Dated Even

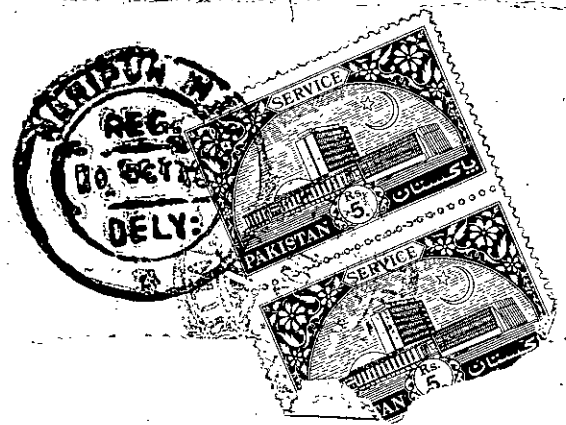
Copy forwarded to the:

1. Deputy Commissioner, Haripur for information, please.
2. PS to Commissioner Hazara Division for information, please.
3. Mr. Samiullah Khan, Stenographer, Security Branch, Deputy Commissioner Office, Haripur.

Assistant to Commissioner (Rev/GA),
Hazara Division, Abbottabad.

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Dispatcher Office
Commissioner, Abbottabad
Division, Abbottabad

**BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR,
ABBOTTABAD BENCH.**

Appeal No. 1111/2016

Mr. Samiullah Khan S/O Chan Muhammad Khan, Junior Scale Stenographer, Security Branch,
Deputy Commissioner Office, Haripur.

Appellant.

VERSUS

1. Revenue Department, Khyber Pakhtunkhwa, Peshawar through its Secretary-1.
2. Commissioner, Hazara Division, Abbottabad.
3. Deputy Commissioner, Haripur.

Respondents

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2 & 3.

Respectfully Sheweth;

Preliminary Objections:

- 1) He was offered with an opportunity of being heard but failed to defend his guilt.
- 2) He does not come to the Khyber Pakhtunkhwa, Service Tribunal with clean hands.
- 3) He was careless and non-serious Government Servant.
- 4) He is estopped by his own conduct.
- 5) He does not exhaust all the available remedies under appeal rules.
- 6) His appeal against imposition of minor penalty of Stoppage of two annual increments with accumulative effect under Rule-4(a)(ii) of Government of Khyber Pakhtunkhwa, Civil Servants (Efficiency & Discipline) Rules-2011 was dismissed by the Commissioner, Hazara Division, Abbottabad.
- 7) He should have filed an appeal before the Senior Member Board of Revenue but he did not do so as per record of DC Office / Compete Authority.
- 8) Under the rules, the aggrieved person can file appeal before the Hon'able Tribunal against the final order, the impugned order did not attain finality.

Joint Para-wise Comments:

- 1) Correct.
- 2) He was appointed as Jr. Scale Stenographer in the office of Deputy Commissioner, Haripur. Rest of the para is self-praised and exaggerated is incorrect hence, denied.


- 3) He remained Private Secretary to DCO w.e.f. 2012 to 2015 on casual basis and got unlawful gain. On the basis of complaint / observations submitted by the Assistant Commissioner, Haripur regarding use of Gas, Water and Electricity etc by the Canteen Manager and Photostate owners at the District Secretariat Haripur, facts finding inquiry was initiated and the appellant was held responsible after proper inquiry. The appellant Mr. Samiullah Khan by using his official position managed to award contract of Canteen Government owned property to his father Mr. Chan Muhammad through unfair means. The appellant has instituted a Civil Suit against the District Authorities through his father, which is under adjudication.
- 4) Correct.
- 5) Correct to the extent that keeping in view the circumstances as highlighted in the Inquiry Report, departmental proceedings were initiated against him. Rest of para is not correct (copy of inquiry report is attached).
- 6) Para No. 06 is incorrect, hence denied. In fact inquiry was conducted under the laid down inquiry procedure as provided in Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules-2011.
- 7) Para No. 7 is correct to the extent of submission of reply, rest Para is incorrect. Hence, denied.
- 8) Correct but the reply submitted by the appellant was incorrect.
- 9) He was provided with opportunity of being heard as per rule but he could not satisfy the Competent Authority and as such he was imposed "minor penalty of stoppage of two annual increments with accumulative effect".
- 10) Correct.
- 11) The appellate authority upheld the order of Competent Authority / DC Haripur after consulting all the record and hearing the applicant and respondent thus the contention of the applicant is incorrect. Hence denied.
- 12) **Grounds:**
- a) Both the authorities i.e. Commissioner, Hazara Division and DC, Haripur have decided the case of the applicant on merit. The language used by the appellant in the Para is objectionable as he did not regard the official decorum while framing the official appeal.
- b) Incorrect hence denied, proper inquiry was conducted according to law.
- c) Incorrect.
- d) Incorrect.
- e) Incorrect.
- f) Incorrect, the Competent Authority awarded him minor penalty on justified grounds while exercising his powers vested under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules-2011.
- g) The appellant misused his official position for illegal gain by getting awarded a contract of Canteen at Government place to his father.


The appeal of the appellant is not on merit, therefore, the same may be dismissed by intacting order of the Competent Authority / Appellant Authority, which were issued on merit and under the rules. The appellant should have filled appeal before the SMBR, thus did not exhaust the available remedy, the appeal in hand is also in violation of rules governing the subject matter.


VERIFICATION

It is verified that the contents of instant appeal are true and correct to the best of our knowledge and nothing has been concealed therefrom.

Dated: 28.02.2017


**Secretary Board of Revenue,
Peshawar / Respondent No.1**


**Commissioner, Hazara Division,
Abbottabad / Respondent No.2**


**Deputy Commissioner,
Haripur / Respondent No.3**

**BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR,
ABBOTTABAD BENCH.**

Appeal No. 1111/2016

Mr. Samiullah Khan S/O Chan Muhammad Khan, Junior Scale Stenographer, Security Branch,
Deputy Commissioner Office, Haripur.

Appellant.

VERSUS


1. Revenue Department, Khyber Pakhtunkhwa, Peshawar through its Secretary-1.
2. Commissioner, Hazara Division, Abbottabad.
3. Deputy Commissioner, Haripur.

Respondents

AFFIDAVIT

I, Tasleem Khan, Deputy Commissioner, Haripur do hereby solemnly declare and affirm that the contents of the Joint Para-wise comments in the instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

Dated: 28.02.2017


**Deputy Commissioner,
Haripur / Respondent.**



OFFICE OF THE ADDITIONAL ASSISTANT COMMISSIONER-I HARIPUR

No. 123 / AAC-I (H).

Dated 22/02/2016

REPORT;

SUBJECT: INQUIRY.

Reference letter No. Inquiry/ 1593/DC (H) dated 15.02.2016 (Annex-I), the undersigned was directed to conduct the enquiry with the following TORs and submit report

1. What is the legal status of the agreement of allotment produced by the management? Whether it is legally valid or otherwise?
2. Who is the original allottee and what is his present status?
3. Can the utilities as mentioned in the agreement be provided freely to the allottee or it is valid audit observation?
4. Can this agreement be withdrawn if the clauses mentioned in the agreement are hitting to the natural justice/ law of contract?
5. How much amount is recoverable since day first – till to-date in respect of the utilities utilized by the management without paying electricity/water/ Gas bills etc?
6. Any other point which deem appropriate?

Background of the case.

On establishment of District Secretariat for District Government, Haripur, in the year 2012 the contract for canteen was allotted to Mr. Chan Muhammad Khan S/O Suleman Khan on the following terms and conditions (Annexe-II): -

- The allottee would construct and establish the canteen at suitable place in the premises of the District Secretariat from its own sources. The C&W Department Haripur will facilitate him in selection of site.
- // • Electricity, gas and water connection would be provided by District Govt for which the allottee will pay rent on monthly basis.
- A monthly rent at the rate of Rs. 2000/- was approved which will be increase at the rate of 10 percent per annum as per rule and applicant shall pay a rent by District Coordination Office which will be deposit in A-IV.
- The rent will be started after running the offices in the premises of District Govt Secretariat building as per agreement.
- The period of contract is 10 years which will be extendable with the approval of competent authority.
- One month prior notice will be served in case the allottee is unable to continue the agreement. The District Government Haripur will arrange to pay half of amount invested by the allottee in case of termination of agreement.
- Three month prior notice will be served in case the District Government intends to terminate the contract after completion of this agreement. The District Government Haripur will arrange to pay full of the amount invested by the allottee in case of termination of the agreement.
- The allottee is hereby allowed to run the business of photo copier and stationary in the premises of the District Government Secretariat, Haripur.
- No subsidy will be provided to the allottee and he will be bound to provide the services at the market rate.

Proceedings.

The parties were issued summon for proceeding on 22.02.2016 (Annex-III)

Findings

- ❖ During the proceedings it was disclosed that original allottee Mr. Chan Muhammad Khan S/O Suleman has sublet the subject canteen to present proprietor namely Usman S/O Atiq ur Rehman etc R/O Village Malkiyar. Total rent @ Rs. 35000/- per month (Rs. 20000/- from proprietor of canteen and Rs. 15000/- from proprietor of Photostat shop) is being received by the original allottee. Statement of both the proprietors annexed (Annex-IV & V).
- ❖ One Mr. Shahid Iqbal S/O Sabir Din, has established a shed where two Photostat machines are functioning beside canteen shop.
- ❖ The subject proprietor of photostate shop admitted in his statement (Annex-V ibid) that he is paying monthly rent for the last three months @ Rs. 15000/- to an official working in DC Office, Haripur, namely Sami ullah S/O Chan Muhammad.
- ❖ Usman S/O Atiq ur Rehman, and Sajjad Attiq S/O Attiq ur Rehman, stated in their joint statement that they are running the subject canteen for last three month and monthly rent @ 20000/- is being paid to Mr. Samiullah S/O Chan Muhammad.
- ❖ For looking after the affairs of District Secretariat an official Mr. Shams ur Rehman,(Assistant Programmer, F&P), was nominated as caretaker of District Secretariat, Haripur, vide an order issued by Deputy Commissioner Haripur dated 06.09.2013 (Annex-VI)
- ❖ An ex-proprietor namely Fasiel Mehmood S/O Mehmood Ellahi R/O Mohallah Motian, Haripur, stated in his statement (Annex-VII) that he had been running the subject canteen for the period of two years and was paying monthly rent @ Rs. 15000/- to Mr. Samiullah S/Q Chan Muhammad.
- ❖ Original allottee namely Chan Muhammad S/O Suleman father of Samiullah khan stated in his statement (Annex VIII) that he has established the structure of canteen with the cost of Rs. 900000/- since allotment of canteen to them in the month of 2013. They have been paying regular rent of the subject canteen (photocopies of the receipt enclosed).

PARAWISE REPLY OF TORS

1. As far as legality of the allotment/ agreement is concerned no tender was issued by the management. Required under the rules.
2. The name of original allottee is Mr. Chan Muhammad Khan S/ O Sulamen Khan, who has sublet the subject canteen to Mr. Usman S/ O Atiq ur Rehman R/O Malkiyar, Haripur.
3. As per allotment order electricity, gas and water connection would be provided by the District Government.
4. The agreement can be withdrawn by the administration on the basis of following issues:
 - i. The allottee has sublet the subject canteen to the present proprietors without getting any approval from the competent authority.

- ii. The allottee has also violated the terms and conditions of the agreement regarding 10% increased per anum in the rent charges of canteen. Copies of receipts enclosed for ready reference (Annex-IX & X).
 - iii. The allottee has failed to produce receipts regarding payment of water connection and electricity bills since allotment.
5. As regards the amount recoverable from the allottee since first till date is concerned;
- i. The allottee has not paid water charges, utilized in the canteen.
 - ii. Has failed to provide proof of electricity bills since allotment.
 - iii. As regards arrear of gas connection the same was not available in the secretariat. The gas connection was provided to the District Secretariat in the month of February 2016.
5. The operational responsibility of the District Secretariat lies upon the District Management. Allotment or cancellation of allotment/ agreement is also promulgative of district management subject to the fulfillment of terms and condition of the agreement. However, it would be most appropriate if the managerial control of the District secretariat is delegated to the Assistant Commissioner Haripur to enable him to keep close watch on all the activities being carried out within the District Secretariat. Moreover, complete/ updated record of financial/ physical issues may also be maintained by the Assistant Commissioner, Office, Haripur

CONCLUSION.

1. In the light of the proceedings of the enquiry, cross examination of the involved individuals, statement of the parties it is evident that allottee of the subject canteen is collecting an amount of Rs. 35000/- per month however, he is depositing monthly rent @ Rs. 2000/- per month. And has failed to abide by the terms and conditions of the agreement whereby it was obligatory upon him to increase the amount of rent @ Rs. 10% per anum. Copies of receipts enclosed for ready reference (Annex XI & XII ibid).
2. He has also failed to deposit charges of water and electricity bills due to which loss to the public ex-chequer has occurred.

Report is submitted for further necessary action please.

Dated: 22 Feb: 2016

Encls: (23)

Additional Assistant Commissioner-I



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In the matter of:
Appeal No. 1111/2016

Samiullah KhanV/S..... Revenue Department etc.
(Appellant) **(Respondents)**

REJOINDER ON BEHALF OF THE APPELLANT

Respectfully Sheweth:

The appellant submits his rejoinder s under:

Preliminary Objection:

1. Contents incorrect and misleading; no opportunity of personal hearing was afforded to the appellant.
2. Contents incorrect and misleading; the appellant has come to the Tribunal with clean hand.
3. Contents incorrect and misleading; appellant has unblemished and meritorious service record at his credit.
4. Contents incorrect and misleading, no rule of estoppel is applicable in the instant case.
5. Contents incorrect and misleading, on rejection of departmental appeal the appellant had to approach this Honourable Tribunal.
6. Correct.
7. Contents incorrect and misleading; no second departmental appeal under KPK Civil Servants (E&D) Rules-2011 is allowed.
8. Contents incorrect and misleading; hence denied.

ON FACTS:

Contents of para No.1 to 12 of the appeal are correct; and the reply submitted to these paras by respondents in para-1 to 12 is incorrect and misleading hence denied.

GROUND:

All the grounds "A" to "G" taken in the memo of appeal are legal and will be substantiated at the time of hearing of appeal and reply submitted to these paras by respondents from "A" to "G" is incorrect and misleading hence denied.

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

Through:

Signature
Appellant
M. Aslam
(Mohammad Aslam Tanoli)
Advocate High Court, at Haripur

Dated: 19-03-2018

AFFIDAVIT:

It is stated on oath that the contents of this Rejoinder as well as that of the titled Appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honourable Tribunal.

Dated: 19-03-2018



Signature
Deponent/Appellant

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 627 /ST

Dated 26 /03/2018

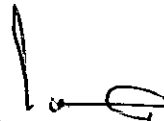
To

The Deputy Commissioner,
Government of Khyber Pakhtunkhwa,
Haripur.

Subject: **ORDER/JUDGEMENT IN APPEAL NO. 1111/2016, MR. SAMIULLAH KHAN.**

I am directed to forward herewith a certified copy of Judgment/Order dated 19/03/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


**REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.**