

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 53/2021

Muhammad Khayyam Appellant

Versus

**Government of Khyber Pakhtunkhwa through Secretary Health Civil
Secretariat Peshawar and others Respondents**

AFFIDAVIT

I, Dr. Ahsan Athar Ali, Litigation Officer DHO Office, Mardan do hereby solemnly affirm and declare on oath that the contents of the accompanying report of DHO Office Mardan submitted by the Respondents are true and correct to the best of my knowledge and belief that nothing has been concealed from this Honourable Tribunal.



DEPONENT

CNIC No: 16101-6804903-1
Mobile No: 0342-0900001

IDENTIFIED BY

Deputy District Attorney,
Khyber Pakhtunkhwa,
Service Tribunal Peshawar

ATTESTED



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 53/2021

Muhammad Khayyam Appellant

Versus

**Government of Khyber Pakhtunkhwa through Secretary Health Civil
Secretariat Peshawar and others Respondents**

Index

S.No	Description	Annexure	Pages
1.	Authority Letter		1
2.	Affidavit		2
3.	Comments		3-4
4.		Annexed-I	5
5.		Annexed-II	6
6.		Annexed-III	7
7.		Annexed-IV a	8
8.		Annexed-IV b	9
9.		Annexed-V	10
10.		Annexed-VI	11
11.		Annexed-VII	12
12.		Annexed-VIII	13
13.		Annexed-IX	14
14.		Annexed-X	15
15.		Annexed-XI a	16
16.		Annexed-XI b	17


DEPONENT

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Appeal No. 53/2021

Muhammad Khayyam Appellant

Versus

**Government of Khyber Pakhtunkhwa through Secretary Health Civil
Secretariat Peshawar and others Respondents**

Respectfully Sheweth:

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 1 TO 3:

PRELIMINARY OBJECTIONS:

- i. That the Appellant have got neither cause of action nor did locus standi to file the Appeal.
- ii. That the Appellant has not come to the tribunal with clean hands.
- iii. That all steps taken were according to rules and regulation.
- iv. That the appeal of the appellant is based by law and limitations.

BRIEF FACTS:

1. That complaint was received from Anti-corruption Mardan Letter No. 558 ACE dated 19/8/2019 (**ANNEXED-1**), which was then forwarded as Letter No. 12569/DHO Dated 26/8/2019 to Agency Surgeon South Waziristan regarding the fake appointment order and fake transfer for verification (**ANNEXED-II**), a reply was received in Letter No. 500 dated Wana 16/9/2019 from the office of District Health Office South Waziristan (**ANNEXED-III**), in which it is clearly mentioned that appointment order was fake as no dispatch number was found and fake signatures of then Agency Surgeon has been made.
2. Pertains to record.
3. Reply is given in Supra Para Number 1.
4. Reply is given in Supra Para Number 1.
5. Reply is given in Supra Para Number 1.
6. Incorrect: Regular inquiry and all procedure were conducted in accordance with rules and regulation, as an inquiry into the appointment order of Mr.Khayyam was conducted by Deputy DHO Mardan & District Coordinator LHW's Program Mardan (**Annexed-IV**), Personal Hearing Letter No. 15469/DHO dated 16/11/2020 about fake appointment order dispatched to Mr.Khayyam (**Annexed-V**), Charge Sheet Vide Letter No. 16861/DHO dated 18/12/2020 served to MR.Khayyam (**Annexed-VI**), Charge Sheet Notice Vide Letter No. 1048/DHO dated 21/01/2021 sent to Mr.Khayyam (**Annexed-VII**), Final personal hearing Letter No. 1262/DHO dated 27.01.2021 dispatched to Mr.Khayyam (**Annexed- VIII**)), Show cause

Notice Letter No. 10641/DHO dated 23/06/2021 to Mr.Khayyam (**Annexed-IX**), Office order (Removal from service of Mr.Khayyam) Letter No. 13662-68/DHO dated 06/08/2021 (**Annexed-X**).


7. Reply is given in Supra Para Number 1 and 6.
8. Incorrect: His departmental Appeal was responded properly (**Annexed-XI**).
9. No comments.

GROUND:

- A. Incorrect: Respondents cannot even think to violate rules and law.
- B. Reply is given in Supra Para Number 1.
- C. Pertains to record.
- D. Incorrect: Reply is given in Supra Paras.
- E. Incorrect: Reply is given in Supra Para number 1.
- F. Incorrect: Reply is given in Supra Para number 6
- G. Incorrect.
- H. Incorrect: Proper procedures were followed according to rules and law.
- I. Reply is given in Supra Paras.
- J. No comments
- K. Incorrect: Appellant has entered into service through fake appointment orders.
- L. Appellant is wasting precious time of Honorable court, It is therefore requested that his appeal may be set aside and it may be dismissed with cost.

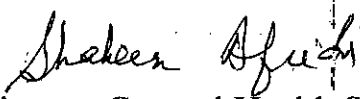
PRAYER:

As the Appellant did not come with clean hands, so it is humbly prayed that the Appeal may be dismissed with cost.


12/10/22
Secretary Health


Khyber Pakhtunkhwa

Respondent No.01


Director General Health Services

Khyber Pakhtunkhwa

Respondent No.02


District Health Officer

Mardan

Respondent No.03

(ANNEXED - I)

51

تھا ACE

ظہور صاحبہ DHO ماردان

ظہور

ادنی انتظامیہ / 21

017

مردانہ سوری دورہ
نام محمد ضیاء ڈسٹریکٹ ہیلتھ سٹیشن ماردان

سکاڈر سہیل احمد صاحبہ کے گھر انتظامیہ ماردان سے ACE دورہ
سے زبردستی ہے جو محمد ضیاء صاحبہ کے خلاف شکایت کی گئی ہے اور
یہ تمام الزامات اور اور یہ تمام شہادتیں اور سہیل احمد صاحبہ کے
اور سہیل احمد صاحبہ سے شکوہ اور جواب ہے اور جواب ہے
شہان زبیر خان سے شکوہ اور شہادتیں ہیں

انتظامیہ دورہ 21/4 کے بعد مردان سے DHO کو کون تھا جو محمد ضیاء کے
صالح شہادتیں اور سہیل احمد صاحبہ سے شکوہ کیا گیا اور اس کے بعد ایک دفعہ
DHO نے مردان کو کون تھا جو محمد ضیاء کو شکوہ اور مردان سے جواب کیا گیا ہے
سہیل احمد صاحبہ کے ذمہ داران (سکاڈر) سے ناموں سے شکوہ فرما کر
ظہور صاحبہ سے شکوہ کیا گیا ہے

DAIRY CLERK
DHO OFFICE MARDAN
NO. 256
DATE 19-8-2019

Si PS ACE MR
17-8-2019

Mv. Nou Shey Khan
by necessary action
20-8-19
District Health officer
Mardan

No 558 ACE
19-8-19

(ANNEXED - II)



**DISTRICT HEALTH OFFICER
MARDAN (Khyber Pakhtunkhwa)**

Ph: # (0937) 9230030 Fax: # (0937) 9230283
Email: mardandho@gmail.com

All communications should be addressed to the District Health Officer Mardan and not to any official by name.

No. 12569 /DHO Dated: 26/08 /2019

To The Agency Surgeon / DHO
South Waziristan, Wana.

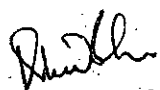
Subject: **VERIFICATION**

Memo: A complaint received from ACE Anti-corruption Mardan vide his No. 558 ACE dated 19/08/2019 regarding fake appointment order and fake transfer order in respect of Mr. Muhammad Khiyam, Dental Technician.

It is stated that Mr. Muhammad Khiyam, Dental Technician was appointed by your office vide your office order No. 145-47/IV dated 02/02/2009 and he was reported for duty on 16/02/2009 according to his service book under your signature. The ACE Anti-Corruption Mardan has stated that the appointment order issued by your office is fake and also the transfer order issued by DGHS Peshawar. The photocopies of the service book and appointment order are enclosed for verification as to whether the concerned official was actually appointed in your office.

Furthermore, who was the agency surgeon and signature made in his service book at that time? Was the Agency Surgeon regularly / continuously remained as Agency Surgeon with effect from 16/02/2009 to 31/05/2012? All signatures in the service book of the said official made by one Agency Surgeon.

It is therefore requested that the Service Book pages and Transfer order of the official concerned may kindly be verified to proceed further in the matter.


District Health Officer
Mardan.



(ANNEXED - III)
OFFICE OF THE DISTRICT HEALTH OFFICER
DISTRICT SOUTH WAZIRISTAN WANA

No. 506

Dated Wana the 16/09/2019

To

The District Health Officer
Mardan Khyber Pakhtunkhwa

Subject: **VERIFICATION**

Memo:

With reference your office letter No.12569/DHO Dated 26-08-2019.

I have the honor to state that the record of this office was checked regarding the appointment of Mr. Muhammad Khiyam as a Dental Technician. The Dispatch number on the appointment order was not found. Which shows that the appointment order is fake.

For further clarification, the undersigned contacted the then Agency Surgeon Dr. Azam Khan Afridi (retired) and send him the pictures of the appointment orders and service book via Whatsapp. He categorically denied these orders and called the signatures fake.

It is also pertinent to highlight that Dr. Muhammad Nazir remained as Agency Surgeon South Waziristan from 12-07-2006 to 06-04-2010 and Dr. Azam Khan Afridi remained as Agency Surgeon South Waziristan from 07-04-2010 to 24-04-2011. Thus fake signatures of Dr. Azam Afridi has been made on the appointment order during the tenure of Dr. Muhammad Nazir. Moreover, no salary has ever been drawn on the name of Mr. Muhammad Khiyam Dental Technician from this office.

Report is submitted for your kind information and further process please:

District Health Officer
South Waziristan Wana

506
23-09-19

Seen
25.9.19

(ANNEXED-IV)

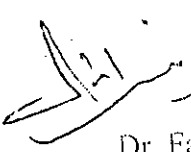
Enquiry Report


Reference letter No. 16101-04/E.II dated 05/06/2020, on the direction of DG Health Khyber Pakhtunkwa Peshawar, the enquiry was conducted on 02/07/2020 by Dr. Shakir Ullah Deputy District Health Officer Mardan along with Dr. Fahad Iqbal District Coordinator LHW Program, with the following findings:

1. Mr. Muhammad Khayam CT (Dental) BPS-12 was hired in South Waziristan vide letter No.145-47/IV dated 02/02/2019. (Copy attached).
2. The office of undersigned sent Mr. Muhammad Khayam appointment order and photocopy of his service book to the Agency Surgeon South Waziristan for verification vide letter No.12569/DHO dated 26/08/2019 (Copy attached).
3. The Agency Surgeon found no dispatch number on the appointment of Mr. Khayam and also the signature on his appointment order was forged (Copy attached).
4. The office of the undersigned sent all the findings to your good office vide letter No.13746-49/DHO dated 24/09/2019 (Copy attached).
5. Moreover Mr. Muhammad Khayam was directed to present before the Enquiry Committee in person on 16/03/2020 vide letter No. 2984/DHO dated 11/03/2020 (Copy attached) but he failed to do so.

Suggestion & recommendations

1. It's a clear cut open & shut case as all evidences are attached.
2. DG Office is requested to take disciplinary action according to E&D rules.


Dr. Fahad Iqbal
District Coordinator LHWs Program


Dr. Shakir Ullah
Deputy DHO Mardan



حکومت خیبر پختونخوا

(ANNEXED - IV)

**DISTRICT HEALTH OFFICER
MARDAN (Khyber Pakhtunkhwa)**

Ph: # (0937) 9230030 fax: # (0937) 9230283
Email: mardandho@gmail.com

All communications should be addressed to the District Health Officer Mardan and not to any official by name.

No. 2984 /DHO Dated: 11/3 /2020

To

Mr. Muhammad Khayam s/o Adnan Khan,
Dental Technician, TDH Katlang
R/O Village Ibrahim Khan Killi, District Mardan.

Subject: **ENQUIRY AGAINST MUHAMMAD KHAYAM, CT DENTAL (BPS-12)**

Reference Health Directorate office order bearing endorsement No. 17709-12/AE-VI dated 17/10/2019. You are hereby directed to be present before Inquiry Committee in person at District Health Office Mardan on 16/03/2020 at 10:00 AM sharp, failing which one side action will be initiated against you.

No. 2985-86 /DHO

Cc:

1. MS / DDHO Tehsil Katlang.
2. Office copy.

Deputy District Health Officer
Mardan

Deputy District Health Officer
Mardan



مکملہ صحت خیبر پختونخوا

(ANNEXED - V)
District Health Department - Mardan
DISTRICT HEALTH OFFICER
Mardan (Khyber Pakhtunkhwa)
Ph: # (0937) 9230030 Fax: # (0937) 9230283
Email: mardandho@gmail.com

All communications should be addressed to the District Health Officer and not to any official by name.

No. 15469 /DHO dated 16/11/2020

To

Mr. Muhammad Khayam s/o Adam Khan,
Dental Technician TDH Katlang
R/O Village Ibrahim Khan Killi, District Mardan.

Subject:


Personal Hearing Regarding Fake Appointment Of Mr. Muhammad Khayam, CT Dental (BPS-12)

In continuation to this office Letter No. 2984/DHO dated 11.03.2020 and reference to Directorate General Health Services Letter No. 7631-32/E-V/DT dated 26/10/2020 on the subject cited above.

You are once again hereby directed to appear before the undersigned in person within **15 days** after the receipt of this letter on the above cited subject.

It is worth mentioning that reference previous letter No. 2984/DHO dated 11.03.2020, you failed to appear before the Inquiry Committee, DHO office Mardan on 16.03.2020.

This is to inform you that, if you failed to appear before the undersigned within the stipulated period of time, then Disciplinary action will be initiated against you under E&D rules.


District Health Officer
Mardan

No. 15470-73 /DHO

Copy Forwarded to the:

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar
2. Additional Director General (HRM), Khyber Pakhtunkhwa, Peshawar (w/r to Letter No. 7631-32/E-V/DT dated 26/10/2020.
3. MS/DDHO Tehsil Katlang, Mardan
4. Office Copy


District Health Officer
Mardan

o/c

No. 33

For Insurance Notices see reverse. Rs. Ps.
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or in which
acknowledgement is due.

Received a registered*
addressed to _____

Date Stamp

Initials of Receiving Office _____
"Write here" letter, "postage" "packet" or "parcel"
with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____

If insured.

Insurance fee Rs. _____

Weight (in words) _____

Name and
address
of sender _____

(ANNEXED - VI)



District Health Department - Mardan
DISTRICT HEALTH OFFICER
Mardan (Khyber Pakhtunkhwa)
Ph: # (0937) 9230030 Fax: # (0937) 9230283
Email: mardandho@gmail.com

All communications should be addressed to the District Health Officer and not to any official by name.

No. 16861 /DHO dated 18 / 12 /2020

CHARGE SHEET

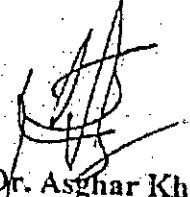
I, Dr. Asghar Khan, District Health Officer, Mardan as a competent authority hereby charge you, Mr. Muhammad Khayam, Dental Technician TDH Katlang as follows;

"Fake appointment order reference order No. 145-47/IV/02.02.2009"

By reason of the above, you appear to be guilty under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to be dismissal from service.

You are therefore required to submit your written defense within 07 days of this Charge Sheet to the undersigned, as the case may be.

Your written defense, if any, should reach the undersigned 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.

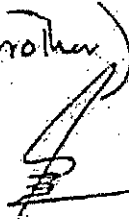

(Dr. Asghar Khan)
District Health Officer
Mardan

Mr. Muhammad Khayam, Dental Technician
(TDH Katlang)

Received by.

Shakeer Ullah (Brother)

0315.9005313



20/01/20



حکومت خیبر پختونخوا

**DISTRICT HEALTH OFFICER
MARDAN (Khyber Pakhtunkhwa)**

Ph: # (0937) 9230030 Fax: # (0937) 9230283
Email: mardandho@gmail.com

All communications should be addressed to the District Health Officer Mardan and not to any official by name

(ANNEXED - VII)

No. 1048 /DHO Dated: 21/01/2021

Mr .Muhammad Khayam
CT (Dental) Category-D Hospital
Katlang

Subject:- CHARGE SHEET NOTICE

Memo. Reference your application dated 15/01/2021 regarding non receiving Charge Sheet , In this context it is bring to your notice that the Charge Sheet also shared with Medical Superintendent Category-D Hospital Katlang .

So you are trying and playing foul to lengthening the process of proceeding against you.

If you have any evidence or proof regarding the status of your initial appointment/posting transfer and Service documents etc ,you are required to attend the office of undersigned for personal hearing with in 02 weeks.

District Health Officer
Mardan

0



(ANT (EO- VIII))
District Health Department - Mardan

DISTRICT HEALTH OFFICER
Mardan (Khyber Pakhtunkhwa)

Ph: # (0937) 9230030 Fax: # (0937) 9230283
Email: mardandho@gmail.com

All communications should be addressed to the District Health Officer and not to any official by name.

No. 1262 /DHO dated 27/01/2020

To

Mr. Muhammad Khayam s/o Adam Khan,
Former Dental Technician TDH Katlang
R/O Village Ibrahim Khan Killi, District Mardan.

Subject: **Final Personal Hearing Regarding Fake Appointment Of Mr. Muhammad Khayam, CT Dental (BPS-12)**

Reference to the written defense/ reply of charge sheet regarding the subject cited above. As requested for personal hearing, you are hereby directed to appear for the last time before the undersigned in person on 05th February 2021 at morning time positively.

It is worth mentioning that it's the 3rd time you are being called for personal hearing regarding your fake appointment order.

This is to inform you that, if you failed to appear before the undersigned within the stipulated time, then Disciplinary action will be initiated against you under E&D rules.

No. 1263-65 /DHO

District Health Officer
Mardan

Copy Forwarded to the:

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. MS/DDHO Tehsil Katlang, Mardan.
3. Office Copy.

District Health Officer
Mardan

(124) 1.1.2021

(ANNEXED - IX)

District Health Department - Mardan
DISTRICT HEALTH OFFICER
Mardan (Khyber Pakhtunkhwa)
Ph: # (0937) 9230030 Fax: # (0937) 9230283
Email: mardandho@gmail.com

All communications should be addressed to the District Health Officer and not to any official by name.

NOTICE - The P...
for l... damage in the
article unless they are al

(2) - The special con...
insurance which will be f...
of the Post Office Gui...
sender of an insured po...
prescribed under the Pa...

No. 10641 /DHO dated 23/06/2021

SHOW CAUSE NOTICE

Dr. Kachkol Khan, District Health Officer, Mardan as competent authority under Khyber Pakhtunkhwa Govt: Servants (Efficiency and Disciplinary) rules 2011 & 2021, do hereby show cause to Mr. Muhammad Khayam Clinical Technician (Dental) BPS-12 Type D Hospital Katlang as follows:

- I. Consequent upon the inquiry conducted against you by this office, directed By DG Health, Peshawar vide No. 16101-04/E.II dated 05.06.2020 for which you were given the opportunity of hearing and reply.
- II. Ongoing through Charge Sheet vide No. 16861/DHO dated 18.12.2020 and the material record and other collected papers including your defense/ reply before this office.

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

- (b) Guilty of misconduct.
- (c) Guilty of corruption.

- 2. As a result thereof, I, as competent authority, have tentatively decided to remove you from service under the said rules.
- 3. You are thereof, required to show cause as to why the aforesaid removal from service should not be imposed upon you and also intimate whether you desired to be heard in person.
- 4. If no reply to this notice is received within 07 days or not more than 20 days of the receipt of this notice, it shall be presumed, that you have no defense to put in and in that ex-parte action shall be taken against you.

(DR. KACHKOL KHAN)
District Health Officer,
Mardan

(Mr. Muhammad Khayam Clinical Technician (Dental) BPS-12)
Type D Hospital Katlang, Mardan.

O/C

2.	Tab. Paracetamol 500 mg (Pedrol)	1.29	8433	10/8/19	8/133
3			2811		

(ANNEXED - X)



حکومت خیبر پختونخوا


District Health Department - Mardan
DISTRICT HEALTH OFFICER
Mardan (Khyber Pakhtunkhwa)
Ph: # (0937) 9230030 Fax: # (0937) 9230283
Email: mardandho@gmail.com

All communications should be addressed to the District Health Officer and not to any official by name.

No. 13662-68 /DHO dated 06/08/2021

OFFICE ORDER

Consequent upon the "Fake appointment order reference order No. 145-47/IV/02.02.2009" and proper procedures under E&D rules, 2011 & 2020 (inquiry, personal hearing, charge sheet vide No. 16861/DHO dated 18.12.2020 and vide No. 1048/DHO dated 21.01.2021, show cause notice vide No. 10641/DHO dated 23.06.2021) followed by this office, Mr. Muhammad Khayam Clinical Technician (Dental) BPS-12 Type D Hospital Katlang is hereby removed from Government service with immediate effect in the public interest.



District Health Officer
Mardan

No. 13662-68 /DHO

Copy Forwarded for information to the:

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. DDHO/ MS Type D Hospital Katlang.
3. District Comptroller of Accounts, Mardan.
4. Account DHO Office Mardan.
5. DHIS Cell DHO Office Mardan.
6. Official concerned.
7. Office Copy

For information and necessary action.


District Health Officer
Mardan

(ANNEXED- X0)



حکومت خیبر پختونخوا

**DISTRICT HEALTH OFFICER
MARDAN (Khyber Pakhtunkhwa)**

Ph: # (0937) 9230030 Fax: # (0937) 9230283
Email: mardandho@gmail.com

All communications should be
addressed to the District Health
Officer Mardan and not to any
official by name

No. 18643

/DHO dated: 12/10/2021

Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Attention: Addl: Director General (HRM)

**Subject: DEPARTMENTAL REPRESENTATION BEFORE THE WORTHY
DGHS KHYBER PAKHTUNKHWA PESHAWAR FOR REMOVAL OF
SERVICE FROM CLINICAL TECHNICIAN (DENTAL) BPS-12
KATLANG DISTRICT MARDAN.**

Reference letter No. 14962/E-V-DT dated 29.09.2021 regarding subject cited
above. Enclosed please find herewith Para-wise reply with annexure of the instant case, along
with removal order of the appellant for further proceeding please.

District Health Officer
Mardan

OK

S. No	Medicine Name	Price	Quantity	Amount	Detail Status
31	Syp. Dymen Hydrate	30	168	5.050	

(ANNEXED - X)

Subject:

DEPARTMENTAL REPRESENTATION BEFORE THE WORTHY
DIRECTOR GENERAL HEALTH, KHYBER PAKHTUNKHWA,
PESHAWAR, FOR REMOVAL OF SERVICE FROM CLINICAL
TECHNICIAN (DENTAL) BPS-12 KATLANG, DISTRICT MARDAN

PARA-WISE REPLY:

1. Incorrect. The appointment order mentioned by the appellant was found bogus, as the appointing authority i.e. Agency Surgeon South Warizistan, Cleary explained in his letter.
(Annexed- A)
2. Correct.
3. Correct. As the initial appointment order of the appellant was found fake, therefore proper disciplinary proceedings had to be initiated as per E & D rules.
4. Incorrect. The appellant could not justify his appointment order to be fake, hence unable to satisfy the undersigned.
5. Incorrect. The undersigned was following E & D rules, through which the appellant was under proceedings and the result of inquiry the appellant found guilty of misconduct.
6. Reply given in Supra Para 1, 3, 4 & 5.
7. Correct. By giving several opportunities to the appellant, to justify his initial appointment order and the letter from his initial appointing authority, the appellant could not manage to do so. Therefore the appellant became guilty of misconduct resulting in liable to major penalty i.e. removal from service.
8. Detail reply given in Supra Paras.