

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

EP. No.143/2024 IN S.A. NO. 939/2015

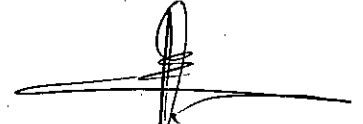
Muhammad Sohail Ex-DS **Appellant**

Versus

Govt. of Khyber Pakhtunkhwa & Others **Respondents**

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Deponent

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BEFORE THE HON'BLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Civil Miscellaneous Application in Execution Petition No. 143/2024

In

Service Appeal No. 939/2015

Muhammad Sohail.....Petitioner

VS

Government of Khyber Pakhtunkhwa through Chief Secretary & Others.....Respondents

APPLICATION FOR DETACHEMENT OF SALARY IN R/O RESPONDENT NO. 01

ATTACHED VIDE ORDER SHEET DATED 06.06.2024

Respectfully Sheweth,

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 13882

The respondent most humbly submitted as under:-

Dated 01/07/2024

1. That the above titled case is pending for adjudication before this Tribunal and was fixed for hearing on 06.06.2024
2. That the Hon'ble Tribunal vide Order Sheet dated 26.04.2024 issued direction for submission of certain documents.
3. That in pursuance of the orders of the Hon'ble Tribunal, the answering respondent submitted the requisite documents, thus complied with the direction in letter and spirit.
4. That there is no legal bar while detaching salary of the relevant respondent i.e. Chief Secretary, Khyber Pakhtunkhwa.
5. That the order of the attachment of the salary may kindly be reviewed and order may graciously be passed for its release, please.


(CHIEF SECRETARY)

Khyber Pakhtunkhwa
(Respondent No.01)

Through
(Kaleemullah Khan)
Special Secretary Establishment

19/2/2014

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DISCIPLINARY PROCEEDINGS (DE NOVO ENQUIRY) AGAINST MR. MUHAMMAD SOHAIL KHAN (PMS-BS-18) DEPUTY SECRETARY INDUSTRIES DEPARTMENT.

Introduction:-

A letter No: EPA/NOC/BTS/646 dated 19th August, 2013, addressed to M/S Pakistan Mobile Communication Limited, Mobilink House, I-A, Kohistan Road, F-8, Islamabad, (Based Transceiver Station) sites located at various districts in Khyber Pakhtunkhwa, was found to have been fake and bogus. The mover behind this letter was Mr. Muhammad Sohail Khan who (reportedly) personally delivered it in the office of Chief Secretary and to Private Secretary to Secretary-Environment. A preliminary enquiry was initially conducted against the accused and on the basis of its findings, a formal enquiry under the Khyber Pakhtunkhwa Government Servant (Efficiency and Disciplinary) Rules, 2011 was concluded.

Order of Enquiry:-

2. The Competent Authority (Chief Minister Khyber Pakhtunkhwa) was pleased to order de-novo enquiry against Mr. Muhammad Sohail Khan (PMS-BS-18) Deputy Secretary Industries Department on 15th September, 2013 and appointed enquiry committee comprising the following officers to enquire into the charges against the accused officer and resubmit its report (Annexure-I).

- i. Kamran Rehman Khan (PAS-BS-19), Additional Secretary (PFC), Finance Department.
- ii. Mian Muhammad (PCS-SG-BS-19), Additional Secretary (BSII), Establishment Department.

Law Applicable:-

3. The accused officer has been charge sheeted under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for the following charges (Annexure-II):-

i. You issued the fake Environmental Protection Agency approval to 780 BTS sites for Pakistan Mobile Communication Limited (Mobilink).

ii. You, yourself delivered the fake Environmental Protection Agency approval to 780 BTS sites for Pakistan Mobile Communication Limited (Mobilink) to the offices of Chief Secretary, Khyber Pakhtunkhwa and Secretary Environment.

iii. You had no official relation being a Deputy Secretary Industries with the EPA Environmental Approval but got yourself involved in it.

Enquiry Proceedings:-

4. Charge Sheet and statement of allegation were served on the accused officer and he was directed to submit written reply to the enquiry committee and attend the proceedings as & when directed by the enquiry committee. The accused officer sent his written reply/defence to the enquiry committee via mail on 19th September, 2014 which was received on 22nd September.

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a. The copies of approval of EPA to Mobilink in respect of 780 BTS sites (the copy whereof has been provided to him by Establishment Department) neither bears any diary no. nor date of the dispatch of Industries Department, nor it bears his signature. There is nothing to this effect neither in the preliminary/fact-finding enquiry, nor in the previous enquiry conducted by Mr. Zakir Hussain Afridi, Member

7. Since his posting as Deputy Secretary Industries in April, 2013 in Industries and Technical Education Department, he had been dealing exclusively with matters of Industries Department and have nothing to do with the Environment Department. As per Rules of Business, 1985, these are two different departments with exclusively different domain of responsibilities. Giving EPA approval to BTS sites is the domain of Environment Department, and not Industries & Technical Education Department. Even in the Industries Department all approvals in most of the cases are granted at Secretary Level. His post does not enjoy any power to give approval to anything vital even in Industries Department. The allegation is otherwise also baseless on the following grounds:

6. In his reply, the accused officer has stated that he reiterates the same stand point that all the three charges/allegations are baseless, unfounded and without any solid grounds to prove the same.

5. On October 10th, 13th & 14th the officers/officials and witnesses recorded their statements and produced relevant record. Mr. Muhammad Sohail Khan was heard in person and given ample opportunity of defence. He also availed the opportunity to cross examine the witnesses in a free and fair manner.

- i. Mr. Shaikat Ali Yousufzai, Additional Secretary Agriculture Department.
- ii. Dr. Muhammad Bashir Khan, Director General, Environmental Protection Agency (EPA).
- iii. Mr. Muhammad Iqbal Khatak, Deputy Secretary, Environment Department.
- iv. Mr. Farhad Khan, Deputy Secretary, Environment Department.
- v. Mr. Muhammad Sohail Khan (the accused officer), Deputy Secretary, Industries Department.
- vi. Mr. Liaqat Ali Khan, Deputy Director, Environmental Protection Agency (EPA).
- vii. Dr. Amjad Ali Khan, Ex Deputy, Director, Environmental Protection Agency.
- viii. Mr. Mir Zaili Khan, Section Officer, Environment Department.
- ix. Mr. Muhammad Hanif, Assistant Director, Environmental Protection Agency (EPA).
- x. Mr. Naeem Khan, PS to Secretary Environment Department.
- xi. Mr. Zafarullah, Junior Clerk, office of the Chief Secretary.

14th October, 2014 for recording statements and producing evidence. The enquiry proceedings were initiated immediately after receipt of enquiry from Establishment Department on 17th September, 2014. Secretary Environment Department was requested on 18th September, 2014 for provision of documents along with list of witnesses related to enquiry proceedings (Annexure-IV). Environment Department provided the requisite documents on 30th September, 2014 (Annexure-V) consequent upon which the following witnesses were summoned to be present on 10th, 13th &

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of the witnesses and cross examination:-

Mr. Liaqat Ali Khan, Deputy Director, Environmental Protection Agency (EPA) recorded on oath the statement on 10th October, 2014 (Annexure-VI) highlighting that:-

- i. Letter in question bearing No.EPA/NOC/BTS/646 dated 19th August, 2013 communicating, EPA's approval for 780 BTS sites for Pakistan Mobiles Communication Limited (Mobilink) is fake and Environmental Protection Agency (EPA) does not own this letter or its contents.
 - ii. He also referred to the detailed report of Director General, Environmental Protection Agency (EPA) submitted to Environment Department vide Letter No.EPA/NO/NOC/BTS/295 dated 7th October, 2013. The report clearly and unequivocally disowned the letter (fake) to have been issued by EPA.
11. Dr. Amjad Ali Khan, Ex Deputy Director, Environmental Protection Agency (EPA) recorded in his statement on 10th October, 2014 that he was part of the preliminary enquiry and he own his statement (Annexure-VII).
12. Mr. Naeem Khan, PS to Secretary Environment recorded his statement on 10th October, 2014. He confirmed that he (Mr. Muhammad Sohail Khan), Deputy Secretary, Industries Department had delivered photo copy of the fake letter to him by hand. Mr. Muhammad Sohail Khan was known to him. This letter did have original stamp of Chief Secretary Office and had been marked to Secretary Environment. He (Naeem Khan) kept this letter in fresh dak. After some time (5-6 minutes) the accused (Mr. Muhammad Sohail Khan) stated to him to return the letter. As it was not received by Peon Book so he returned the letter to Mr. Muhammad Sohail Khan. But before return he had made two/three photo copies of this letter. In the meanwhile Mr. Muhammad Sohail Khan came to him and told that it was not a reliable letter and should not disclose it to anyone.
13. He was cross examined by the accused (Muhammad Sohail Khan) that on which date he came to him for delivery of letter, to which he replied that it was 26th September, 2013 that he (the accused) came to his office. He was further questioned by the accused that whether he had brought this letter and was it marked to Secretary Environment to which he replied that yes it was marked to Secretary Environment. He was questioned by the accused that whether the fake letter placed before the enquiry committee for probe is the same letter? He replied yes it is copy of that letter. He was also questioned by the accused that for how long did he know him (the accused) to which he replied he knew him since he was posted as Secretary RTA (Annexure-VIII).
14. Mr. Zafar Ullah, Junior Clerk, Issue Branch of Chief Secretary recorded in his statement on 10th October, 2014 that he had diarized (by mistake) the letter under NO.10369 on 25th September, 2013 with positive intention and not with the negative one. No remarks were written by the Chief Secretary, PSO to Chief Secretary, PS to Chief Secretary or by him on the letter in question.
15. He was cross examined by the accused that whether he had delivered this letter to him (Zafarullah) to which he replied "No". He forgot that who brought this letter to him and further said that he did not know about Mr. Muhammad Sohail Khan (Annexure-IX).

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Mr. Muhammad Bashir Khan, Director General, Environmental Protection Agency (EPA), recorded in his statement on 13th October, 2014 that he solemnly states on oath that Mr. Muhammad Sohail Khan, Deputy Secretary had issued fake letter for BTS Towers of Mobilink Company. A person by the name of Mr. Sohail introducing himself to be a DMG officer did visit his office requesting for help in granting approval on the subject issue to the Company. He was already irritated as many impersonators were approaching him for approval of BTS towers. On suspicion, he inquired through his PS regarding Mr. Sohail to be Additional Secretary and a DMG officer in Industries Department. The reply was in negative and the PS told him that there was a PCS officer and a Deputy Secretary in Industries Department by the same name. With 100% surety, he would not be able to confirm that the person was visited his office was Mr. Sohail (the accused officer) as someone else was also trying to present as an imposture and claiming to be DMG officer and pushing him for this approval. With Mr. Naeem PS to Secretary Environment he did not discuss if he knew Mr. Sohail or not but he (Muhammad Bashir Khan) told him that one Mr. Sohail had approached him.


17. He was cross examined by Mr. Naeem Khan, PS to Secretary Environment Department that whether a person with the name of Mr. Sohail met him to which he replied yes a person with the name of Mr. Sohail had met him. He was further questioned that whether he had told his own PA to get information and what was his reply about Mr. Sohail from Industries Department. To this query he replied that his reply was available in his statement and due to unfamiliarity he had not got information about Mr. Sohail from Industries Department. He was also questioned by the accused that did he see any resemblance with him (the accused) and the one who delivered the fake letter to him to which he replied he could not say with 100% surety he was that person. He was further questioned by the enquiry committee that what would have been the pros and cons on the issuance of NOC for BTS sites 780 for government, to which he replied that Provincial Government did not charge any fees so far as Environmental Protection Agency is concerned. However, it causes noise pollution, air emission and creates legal complications (Annexure-X).

18. Mr. Muhammad Iqbal Khattak, Deputy Secretary, Environment Department (a member in the preliminary enquiry committee) recorded in his statement on 13th October, 2014 that Mr. Muhammad Sohail Khan had denied about the fake letter on 19th November, 2013. But on 22nd November, 2013 Mr. Naeem Khan stated that the fake letter had been delivered by Mr. Muhammad Sohail Khan himself and he knew him since the time he was posted as Secretary RTA. Later on, the accused had admitted the delivery of letter to Naeem Khan.

He was cross examined by the accused that on which date he had delivered the fake letter to him (Mr. Naeem Khan) to which he replied that on 22nd November, 2013 he (the accused) did admit that he had delivered it to Mr. Naeem Khan. He was further questioned by the accused had did he have any written evidence about it to which he replied that he (the accused) had verbally admitted before the fact finding enquiry that the fake letter was delivered by accused personally to Mr. Naeem Khan, PS to Secretary Environment Department (Annexure-XI).

19. Mr. Mir Zali Khan, Section Officer, Environment Department recorded in his statement on 13th October, 2014 that as stated in the fact finding enquiry report, Mr. Muhammad Sohail, Deputy Secretary, Industries Department had delivered the fake document/approval to Mr. Naeem, PS to Secretary Environment, is true.

He was cross examined by the accused that on which date he admitted the delivery of fake document to Mr. Naeem, PS to Secretary Environment to which he replied that

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23. The departmental representative was questioned by the enquiry committee that could he substantiate as to whether the accused had drafted the fake letter or through someone else and issued accordingly? He replied that the department's view point is that the fake letter was delivered by Mr. Muhammad Sohail Khan, Deputy Secretary, Industries Department to Mr. Naqem Khan, PS to Secretary Environment on 26th September, 2013. Further details regarding drafting or issuance of the fake letter could be provided by the accused officer.

Cross Examination of Departmental Representative by the Enquiry Committee:-

22. The accused was cross examined by the enquiry committee that on 26th September, 2013 at what time did he leave for Lahore? To which he replied he left for Lahore at 04:00 P.M. He was further questioned that on 26th September, 2013 did he attend office in the morning? He replied yes he attended the office in the morning.

Cross Examination of Mr. Muhammad Sohail Khan by the Enquiry Committee:-

21. The accused was also cross examined by the representative of Environment Department that had Khan-Deputy Secretary) and pointed out that in para-4 of his reply to charge sheet he stated that he was neither called for recording statement, before the committee consumed for conducting preliminary enquiry nor he ever admitted this allegation anywhere in the enquiry. To this query the accused replied that he was in Lahore on 26th September, 2013, so why he did not take this stand before the earlier enquiry committee? To this question the accused replied that earlier enquiry was totally one sided and having no footing hence de-novo. He was further questioned that would he like the enquiry committee to verify the notification No:3050-69 dated 5th July, 2013 regarding rates of printing paper in the open market at Punjab" and his presence at Lahore on 26th September, 2013 as mentioned in office order No:3059-69 dated 18th September, 2013 from Industries Department. To which he replied yes, it could be confirmed from the Industries Department.

Cross Examination of Mr. Muhammad Sohail Khan by the Departmental Representative:-

20. Mr. Shaukat Ali Yusufzai, Additional Secretary Agriculture Department recorded in his statement on 14th October, 2014 that he stood by the wordings of the enquiry report (Fact Finding Enquiry). He was cross examined by the accused that whether he had given anything in writing during fact finding enquiry to which he replied that on 19th November, 2013 he did turn down the charges and stated that he was unaware/unconcerned with the Mobilink Company and further he had never met P.S to Secretary Environment (Mr. Naqem) identified Mr. Muhammad Sohail Khan, Deputy Secretary Industries Department and stated in front of the accused that he had (the accused) delivered the fake document to him (Mr. Naqem) and Mr. Sohail was known to him as he did remain Secretary RTA, which was at that time part of Environment Department. After listening to Mr. Naqem, Mr. Sohail admitted that he had delivered the fake document to Mr. Naqem. No written statement was recorded at that time (Annexure-XII).

19. The accused was also cross examined by the accused that was he sure about the fact that he had delivered fake letter to Mr. Naqem? To which he replied yes he was sure about the date (Annexure-XII).

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Conclusion on Charge No.1:-

Fake and bogus letter bearing No: EPA/NOC/BTS/646 dated 19th August, 2013 containing approval/NOC of the Environment Protection Agency had not been issued by Environmental Protection Agency EPA. This was reported by Director General, Environmental Protection Agency (EPA) to Environment Department through a note No: EPA//NOC/BTS/285 on 7th October, 2013 and established the case through argument mentioning the procedure involved in issuance of Approval/NOC. The fake letter did not have logo of the Environmental Protection Agency (EPA) and the signature of the Director General on it and was bogus. Besides, this NOC in such cases are issued by Assistant Director (Technical) and not Director General, Environmental Protection Agency (EPA). NOC is issued after receipt of monitoring report and that too in respect of each site. This was not possible that one official/officer could carry out inspection/monitoring of 780 BTS sites at one time and on the same day i.e. 19th August, 2013 when M/S Pakistan Mobile Communication Limited was addressed through the fake letter.

25. The enquiry committee did try to find out as what would have been the implication (s) of fake approval/NOC and asked Director General, Environmental Protection Agency (EPA) for that purpose during course of the enquiry. He informed that Provincial Government does not charge any fees as far as Environmental Protection Agency (EPA) is concerned. However, implications in terms of noise pollution, air emission and legal complications would definitely have arise if the fake approval/NOC could have found place for implementation.

Findings:-

26. Charge against the accused is not proved.

Conclusion on Charge No.2:-

27. The enquiry committee was concerned that a letter which was neither addressed nor endorsed to Chief Secretary Khyber Pakhtunkhwa had been registered under Diary No: 10369 on 25th September, 2013 by Mr. Zafarullah, Junior Clerk, Chief Secretary office. He states that he received it with "positive intention and not with negative one". Now the question arises that what could have been that "positive intention"? This is a lapse on part of him.

28. Naeem Khan, Private Secretary to Secretary Environment Department, during course of the enquiry proceedings as well as written statement recorded on oath, stood by his words that it was accused (Mr. Muhammad Sohail Khan, Deputy Secretary Industries Department) who had personally delivered the fake Approval/NOC for 780 BTS sites on 26th September, 2013

29. Director General, Environmental Protection Agency (EPA). Mr. Muhammad Bashir Khan, however, could not say for sure that the accused was the same impersonator (Mr. Sohail) who met him in connection with a request for helping issue the required Approval/NOC in respect of the same Company.

30. The other witnesses Mr. Shaukat Ali Yousufzai, Ex-Additional Secretary Environment, Two Deputy Secretaries Mr. Farhad Khan, Mr. Muhammad Iqbal Khattak and Mr. Mir Zali Khan Section Officer including Mr. Naeem Khan PS to Secretary Environment stood by the statement and confirmed that during preliminary/fact finding enquiry the accused turned down the charge on 19th November, 2013 to have delivered the fake Approval/NOC to Mr.



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Summary 8

SUMMARY FOR CHIEF MINISTER

SUBJECT: EXECUTION PETITION NO. 511/2022 IN REVIEW PETITION NO. 444/2019
- MUHAMMAD SOHAIL, EX-DEPUTY SECRETARY (BS-18) V/S GOVT. OF
KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY.

A summary on the subject is submitted for approval of the Chief Minister, Khyber Pakhtunkhwa, please.

(AKHTAR SAEED TURK)
SECRETARY ESTABLISHMENT

Signature
11/11/22

CHIEF SECRETARY

PRINCIPAL SECRETARY
TO CHIEF MINISTER

KHYBER
TABL CHIEF SECRETARY
GOVT. OF KHYBER PAKHTUNKHWA

NO. 5
EXT

Signature
17/11
Principal Secretary
to Chief Minister
Khyber Pakhtunkhwa

21.11.22

Sec: Estt. Deptt

C.S.O to C.S.
Govt. of Khyber Pakhtunkhwa

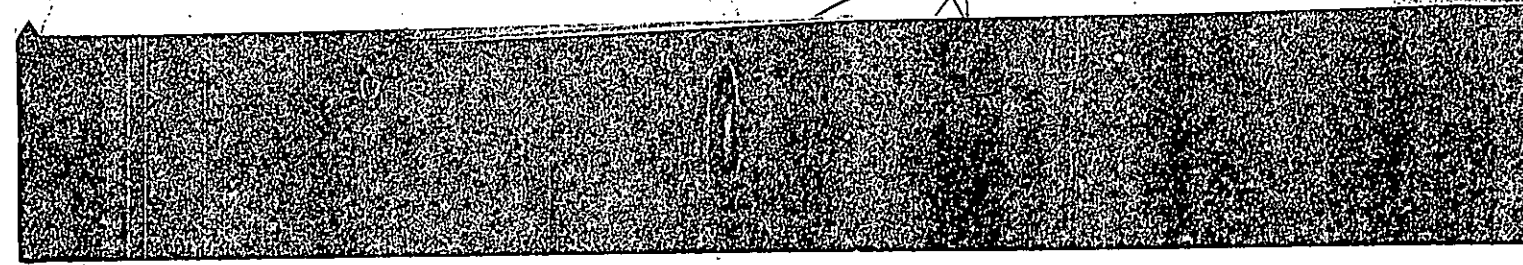
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P.S. SOOY E&AD WP
Diary No. 3155
ETS No.
Date: 11/11/2022

Office of the PSCM
Diary No. 1255
Dated: 15/11/2022



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Diry No. 1143

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Office of the PSCM

Diry No. 710

Dated 18/6/23

2021/1

11/07/023

Chief Secretary, Khyber Pakhtunkhwa

Principal Secretary to
Chief Minister, Khyber Pakhtunkhwa

17/6/2023
CHIEF SECRETARY

Views of Establishment Department may kindly be perused vide 14-18 the Summary.

Secretary, Establishment
7 June 2023

[Signature]

Principal Secretary
to Chief Minister
Khyber Pakhtunkhwa

[Signature]
18/7

[Signature]
17/7

Deputy Secretary
to Chief Secretary
Khyber Pakhtunkhwa

[Signature]
11/6/23

Views of Establishment Department may kindly be perused vide Paras 20-24 of the Summary.

AS 12
Date 22/09/23

Office of the PSCM
Disty No. 1002
Dated 24-8-2023

Chief Secretary, Khyber Pakhtunkhwa

~~Principal Secretary to
Chief Minister, Khyber Pakhtunkhwa~~

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24/8/2023

Secretary Establishment
17 Aug. 2023

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SECY; ICL: 5679
D.NO.
DATED 25-8-2023

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CSO to Chief Secretary
Govt. of Khyber Pakhtunkhwa

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Principal Secretary
to Chief Minister
Khyber Pakhtunkhwa
25.8-23

25/8/23

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D.NO. 1016
DATED 22/09/23

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6 Views of Establishment Department may kindly be perused vide Paras 33-34 of the Summary.

Secretary Establishment
12 Oct. 2023

~~Minister for Establishment & Administration Department~~
~~Caretaker Minister for Establishment & Admin and IPC Department~~
~~Khyber Pakhtunkhwa~~

~~Chief Secretary, Khyber Pakhtunkhwa~~

~~Principal Secretary to Chief Minister, Khyber Pakhtunkhwa~~

CHIEF SECRETARY
Govt. of Khyber Pakhtunkhwa

Principal Secretary
to Chief Minister
Khyber Pakhtunkhwa

CSO to Chief Secretary
Govt. of Khyber Pakhtunkhwa

~~Sec. Estt. Dept~~

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PS/Secy E&AD/KP
Diary No. 2077
FTS No. 12/10/23
Date 12/10/23

Caretaker Minister for
Diary No. 2077
Date 12/10/23

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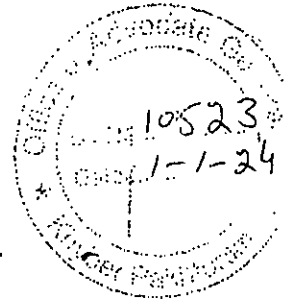


GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

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SUBJECT: EXECUTION PETITION NO. 511/2022 IN REVIEW PETITION NO. 444/2019 - MUHAMMAD SOHAIL, EX-DEPUTY SECRETARY (BS-18) VIS GOVT. OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY.

Para-39 of the summary is submitted for appropriate orders of the Chief Minister, Khyber Pakhtunkhwa, please.



(SHAHIDULLAH)
SECRETARY ESTABLISHMENT

15-12-23

MINISTER FOR E&A
Minister for Establishment & Admin and IPC Department
Khyber Pakhtunkhwa

CHIEF SECRETARY

PRINCIPAL SECRETARY
TO CHIEF MINISTER

Caretaker Minister for E&A/IPC Deptt
Diary No. 578
Dated: 15-12-2023

Principal Secretary
Diary No. 2077
FTS No. 15/12/23
Date: 15/12/23

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Atty Jameel Akhtar For News

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main subject vide para 42 Summary

Chief Secretary

Secretary Law

20/12/2023

Atty

Secretary

CHIEF SECRETARY

Advocate General

Secretary

26-3-24
P. P. Q. Khan
Peshawar

Secretary Govt

Law, Finance, Education
and Public Health
Departments
Government of
Punjab

Secretary
Punjab

Learned Advocate General

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~~Secretary Govt~~

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3/3/24

Secretary

Chief Secretary

Law, Finance, Education
and Public Health
Departments
Government of
Punjab

Secretary
Punjab

Secretary Govt

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AMIR JAVED
Advocate General
Khyber Pakhtunkhwa, Peshawar

Signature

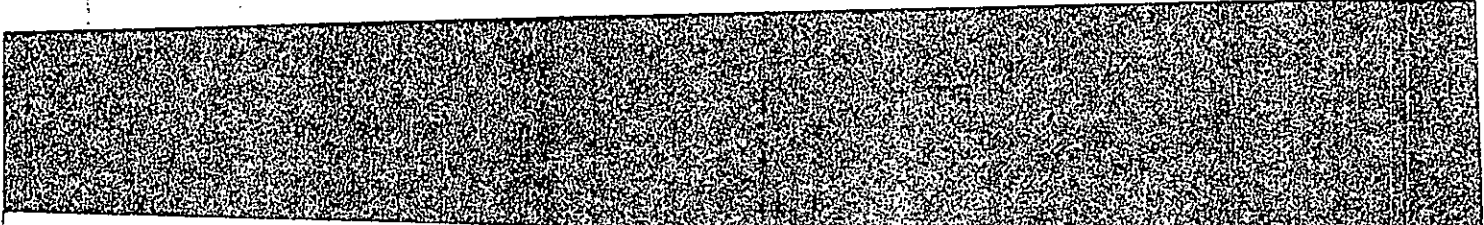
Views enclosed

Lot AGKP

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Opinion submitted to Lot AGKP

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Govt. of Khyber Pakhtunkhwa

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Sec: F. S. / Dept. H

NO. 16105
S.No. 16105/24

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29/3/24

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Principal Secretary
to Chief Minister
Khyber Pakhtunkhwa

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Govt. of Khyber Pakhtunkhwa

CHIEF SECRETARY

6/14/2024

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Secretary
Law
28/3/24

be permitted under para 52 & 55/5

Under the Advocate General's office

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GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

SUMMARY FOR CHIEF MINISTER

SUBJECT: EXECUTION PETITION NO. 511/2022 IN REVIEW PETITION NO. 444/2019
- MUHAMMAD SOHAIL, EX-DEPUTY SECRETARY (BS-18) V/S GOVT. OF
KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY.

It submitted that Mr. Muhammad Sohail, Ex-Deputy Secretary, Industries Department was a PMS BS-18 officer. He joined service on 22.1.2002. In 2014, an enquiry was conducted against him on the following charges (Annex-I):-

- i) He issued the fake Environment Protection Agency approval to 780 BTS sites for Pakistan Mobile Communication Limited (Mobilink).
- ii) He, himself delivered the fake Environmental Protection Agency approval to 780-BTS sites for Pakistan Mobile Communication Limited (Mobilink) to the offices of Chief Secretary, Khyber Pakhtunkhwa and Secretary Environment.
- iii) He had no official relation being a Deputy Secretary, Industries with the EPA Environmental Approval but got himself involved in it.

2. Mr. Zakir Hussain Afridi, the then Member, BOR conducted enquiry and submitted his report wherein the enquiry officer has recommended that all the charges leveled against the accused officer were proved and recommended major penalty of "removal from service" (Annex-II).

3. However, competent authority did not agree with the findings/recommendation of the enquiry officer and constituted an inquiry committee comprising of Mr. Kamran Rehman Khan (PAS BS-19) and Mian Muhammad (PCS SG BS-19) to conduct de-novo enquiry against under E&D Rules, 2011.

4. The committee conducted the enquiry and submitted its report (Annex-III).

5. After completion of all codal formalities a penalty of "Removal from Service" was imposed upon him on 19.5.2015. He filed a Review Petition in Service Appeal No. 139/2015 before the Khyber Pakhtunkhwa Service Tribunal and the honorable Tribunal passed the following judgment (Annex-IV):-

"We have carefully perused the record and have come to the conclusion that all codal formalities for disciplinary action against the appellant have been fulfilled by the respondent-department. He has been given full opportunity of defense and hearing since charge No. 2 and No. 3 stand proved against the appellant therefore, he has been punished. The major punishment awarded to the appellant is that of removal from service however it was observed that the appellant has rendered about thirteen years of service. Present he was in grade-18 which shows that he was promoted from BS-17. Since Section-19 of the Civil Servant Act, 1973 provides for compassionate allowance not exceeding two-third of the pension or gratuity to dismissal/removed Government Servant on compassionate ground, therefore, the Tribunal is inclined to form the opinion that though penalty of removal from service and that of compulsory retirement both fall in the domain of major punishment yet the

Affekt

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14 Pursuant to the approval of Chief Minister vide Para-13 ante. Engineer Sohail Khan

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GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

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13. Para-12/5, approved.

[Signature]
18.11.2022

Chief Minister
Khyber Pakhtunkhwa

CS

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findings as to whether the charge or charges have been proved or not proved and specific recommendations regarding exoneration of imposition of minor or major penalty or penalties upon the accused. Moreover, Rule 14 (4) of the rules ibid provides that where the charges have been proved, the competent authority shall issue a show cause notice to the accused.

18. In view of above explained position, Chief Minister, being competent authority under Rule 4 (1) (a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 read with Rule 14 (4) of the Khyber Pakhtunkhwa Government servants (Efficiency and Discipline) Rules, 2011 may sign the show cause notice and insert the penalty from the list of penalties (Annex-XIII) in space left blank in the show cause notice (Annex-XII).

(Akhtar Saeed Turk)
Secretary Establishment
7 June, 2023

Chief Secretary
Khyber Pakhtunkhwa

Chief Minister

Akhtar Saeed Turk
17/6/2023
CHIEF SECRETARY
Govt. of Khyber Pakhtunkhwa

19. Show cause notice signed.

M. M. M.

08/7/2023
CHIEF MINISTER
(CARETAKER)
KHYBER PAKHTUNKHWA

Affected

[Signature]

P.T.O

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Date

Office

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20. In pursuance of Para-19 ante, show cause notice, was issued to the accused officer Mr. Muhammad Sohail (PMS BS-18), Ex-Deputy Secretary, Industries Department, Khyber Pakhtunkhwa (Annex-XIV).

21. In response the accused officer has stated that he has already submitted a reply to the Charge Sheet and the same may be considered as reply to the instant Show Cause Notice. He has further stated that he has committed no misconduct which fact is evident from the inquiry report, as no evidence whatsoever had been collected against him, therefore, the Inquiry Committee has recommended his reinstatement with all back benefits and minor punishment of "censure". The officer has further requested that the Show Cause Notice may be filed and he may be exonerated from the charges leveled against him after affording opportunity of personal hearing (Annex-XV).

22. It is pointed out that nothing new has been added in reply to the Show Cause Notice and the same is repetition of his earlier response/reply to the Charge Sheet/statement of allegations. The case in this regard has already been examined at Paras 14-18 ante and Show Cause Notice was issued after approval of the Competent Authority vide Para-19 of the summary.

23. However, it is further pointed out that Rule-15 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 stipulates that the Competent Authority, by an order in writing, call the accused and the departmental representatives, along with relevant record of the case, to appear before him or before a hearing officer, on the fixed date and time (Annex-XIII *ibid*).

24. Foregoing in view, the Honorable Chief Minister Khyber Pakhtunkhwa being competent authority under Rule-4(1)(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 may afford opportunity of personal hearing to the accused officer before confirmation of tentative penalty or appoint hearing officer in terms of Rule-15 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

Affected

Saeed

(Akhtar Saeed Turk)
Secretary Establishment
August 17 2023

Chief Secretary, Khyber Pakhtunkhwa

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Approved

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CHIEF MINISTER
(CARIBBEAN)
KHYBER PAKHTUNKHWA

2023

24/8

M. M. M.

Secretary

Secretary and
Member of Honourary Officer

Secretary and
Member of Honourary Officer

CS

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Chief Minister

2013/13/2013

Chief Minister

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25. Proposal at para 24/5 is endorsed for approval.

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21 (14)

(18)

2nd INQUIRY REPORT

Subject: - EXECUTION PETITION NO.511/2022 IN REVIEW PETITION NO:444/2019-MUHAMMAD SOHAIL, EX-DEPUTY SECRETARY (BS-18) VS GOVT. OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY, KHYBER PAKHTUNKHWA.

27. Reference Para 26/N of Summary for Chief Minister, Khyber Pakhtunkhwa, the undersigned, was appointed as Hearing Officer in terms of Rule-15 of the of Khyber Pakhtunkhwa, Govt. Servants (Efficiency & Discipline) Rule, 2011:

28. The accused Mr. Muhammad Sohail was summoned for personal hearing on 12.09.2023. The Departmental Representative i.e. Deputy Secretary (Judicial) Establishment Department and Section Officer (E-I) Establishment Department were also summoned.

29. The Departmental Representatives briefed regarding facts of the case. The accused officer was heard at length and record was perused. The accused officer has remained suspended from service since 19.05.2017 based on the three charges levelled against him in the Charge Sheet and Statement of Allegations. He was removed from service by the Competent Authority and subsequently his punishment was converted to compulsory retirement by the Service Tribunal.

30. The accused officer preferred a review petition No. 444/2019 before the Service Tribunal, Khyber Pakhtunkhwa. The Tribunal Set aside its previous judgement and reinstated the accused officer in service for purpose of de-novo inquiry. Establishment Department has also filed CPLA in the Supreme Court of Pakistan against the judgment of service tribunal.

Attested

[Signature]

of Rep

Establishment

Department

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31. De-novo inquiry conducted. The Inquiry Officer has recommended his re-instatement into service with all back benefits.

32. The undersigned has gone through all the available record, heard the accused officer in person and stance of the department, recommends reinstatement of Mr. Muhammad Sohail into service, with imposition of Major Penalty of reduction to a lower post for a maximum of three (03) years under Section 4 (1) (b) (i) of Khyber Pakhtunkhwa, Govt. Servants (Efficiency & Discipline) Rule, 2011, subject to final outcome of CPLA filed by the Establishment Department in the Supreme Court of Pakistan.

[Signature]
18/9/23

Secretary
Industries Commerce & Technical
Education Department

Secretary
Establishment Department

[Signature]

[Signature]

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33. In pursuance of para 26 ante, the Secretary Industries afforded opportunity of personal hearing to the accused namely Mr. Muhammad Sohail on behalf of the competent authority on 12.9.2023 and submitted his report vide Paras 27-32 of the Summary. The Hearing Officer recommended reinstatement of the accused into service with imposition of major penalty of "reduction to a lower post for a maximum period of three years" subject to outcome of CPLA filed by the Establishment Department in the Supreme Court of Pakistan. Since, as per Instructions of this Department dated 10.01.2022 (Annex-XI) the Hearing Officer can submit recommendations; therefore, the case is covered under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. However, the recommendations of Hearing Officer shall not be binding on the Competent Authority.

34. Forgoing in view, recommendations of the Hearing Officer at Para-32 ante is submitted for orders of the Hon'ble Chief Minister being competent authority in terms of Rule-4(1)(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

(Akhtar Saeed Turk)
Secretary Establishment
October 12, 2023

Para 34
13/10

~~Minister for Establishment & Administration~~
Caretaker Minister for Establishment & Admin and IPC Department
Khyber Pakhtunkhwa

~~Chief Secretary, Khyber Pakhtunkhwa~~

~~Chief Minister~~

21/10/2023
CHIEF SECRETARY
Govt. of Khyber Pakhtunkhwa

Alleged

35. The case has been lingering on since 2014 ^{the last} in nine years. I therefore agree with the recommendations of the Hearing Officer contained in Para 32 ante. CPLA may be vigorously pursued.

CS

30/10/2023
CHIEF MINISTER
(CARETAKER)
KHYBER PAKHTUNKHWA



24 (17)

(H)

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

SUMMARY FOR CHIEF MINISTER

SUBJECT: EXECUTION PETITION NO. 511/2022 IN REVIEW PETITION NO. 444/2019 - MUHAMMAD SOHAIL, EX-DEPUTY SECRETARY (BS-18) V/S GOVT. OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY.

Para-35/S refers:

36. In pursuance of approval of the Chief Minister, Khyber Pakhtunkhwa accorded vide Para-35 of the summary, the following questions arises as to whether we may: -

- a. Re-instate the officer into service w.e.f 19.05.2015 (i.e from the date of imposition of major penalty of "**Removal from service AND** Impose penalty of "**Reduction to a lower post for a period of three years**" upon the officer w.e.f 19.05.2015, subject to final outcome of CPLA filed by the Establishment Department in the Supreme Court of Pakistan.

OR

- b. Re-instate the officer into service w.e.f 19.05.2015 AND Impose penalty of "**Reduction to a lower post for a period of three years**" upon the officer with immediate effect, subject to final outcome of CPLA filed by the Establishment Department in the Supreme Court of Pakistan

AND

- c. Whether the intervening period w.e.f 19.05.2015 till date will be treated as on duty OR as Extra Ordinary Leave without pay?

37. In order to discuss and resolve the above issues, a meeting was held under the chairmanship of Special Secretary (Estt.) on 21.11.2023 at 1400 hours, duly attended by Additional Secretaries (Establishment & Regulation), E&AD and representatives of Finance and Law Departments (**Record Note of the meeting is at Annex-XII**). During the discussion representative of Finance Department added that:-

- ❖ The accused officer Mr. Muhammad Sohail may be re-instated into service w.e.f 19.05.2015 and impose the major penalty of "**Reduction to a lower post for a period of three years**" upon him with immediate effect, subject to final outcome of CPLA filed by the Establishment Department in the Supreme Court of Pakistan.

AND

- ❖ The intervening period w.e.f 19.05.2015 till date may be treated as on Extra Ordinary Leave (without pay).

38. However, representative of Law Department endorsed the proposal of the representative of Finance Department and further added that:-

- i. The subject Execution Petition No. 511/2022 in Review Petition No. 444/2019 has already been disposed of by the Hon'ble Tribunal via Order Sheet dated 21/12/2022. Hence, there is no legal bar to dispose of the instant case on war footing basis.
- ii. He further opined that in case we issue the above mentioned re-instatement and impose penalty upon the accused officer at this stage,

KHYBER PAKHTUNKHWA URBAN MOBILITY AUTHORITY

(Established under KP Urban Mass Transit Act-2016)

Phone # 091-2621364/091-2621359



25

No: KP(UMA)/Dir.HIAF/HR/2023/508-11

Date: 24/03/2023

1524ME
27/3/23

PS/SECRETARY/HR

2388 ME

27-3-23

To:

The Secretary,
Establishment & Administration Department,
Government of Khyber Pakhtunkhwa.

Subject: NOTIFICATION NO.SO(E-DE&AD/5-197/2022

I am directed to refer to your office letter No. SO(E-DE&AD/5-197/2022 dated 02/12/2022 and to state that the inquiry committee comprising of the following has concluded the subject de-novo inquiry, wherein Departmental Representative/Focal Person Mr. Adnan Jamil, Deputy Secretary-II also participated in the inquiry proceedings and provided all relevant documents and evidences required for the inquiry:

1. Mr. Zaka Ullah Khattak (PCS EG BS-20), Chairman Inquiry Committee
2. Mr. Waheed Khan Deputy Director EPA Central Directorate, Technical Member of the Inquiry Committee.

I am therefore directed to state that the inquiry report comprising of 05 pages each page signed by the Chairman and Technical Member of the inquiry committee and each annexure has been given reference in the inquiry report is submitted for perusal and appropriate order of the Competent Authority.

Ahmad

Assistant Director IIR
Khyber Pakhtunkhwa Urban Mobility Authority

Copy forwarded for information to:

1. PS to Chief Secretary, Khyber Pakhtunkhwa w.r.t to above quoted letter
2. PS to Secretary Climate Change, Forestry, Environment and Wildlife Department
3. PS to Managing Director, KPUMA

*Copy forwarded to
PS to Chief Secretary
27/3*

Assistant Director HR
Khyber Pakhtunkhwa Urban Mobility Authority

Ground Floor, KPUMA Building, Main BRT Depot, Opposite NHA Complex, Main GT Road, Peshawar, KPK, Pakistan

*SO(E-DE&AD/5-197/2022)
28/3/23
27/03*

Ahmad



GOVERNMENT OF KHYBER PAKHTUNKHWA SCIENCE AND TECHNOLOGY & INFORMATION TECHNOLOGY DEPARTMENT

26

2nd Floor SDU Building, Khyber Road, Peshawar

Phone # 091-9212400

Fax # 091-9212401

No. SOE/ST&IT/KP/2-99/Gen Inquiry/2023

Dated Peshawar, the 17-04-2023

19336
12/4/2023

PS/Secy E&AD KP

Diary No. 2384

FIS No.

Date 18-4-23

The Secretary Govt. of Khyber Pakhtunkhwa, Establishment Department.

Subject: NOTIFICATION NO.SO(E-I)E&AD/5-197/2022

Dear Sir,

I am directed to refer to your office letter No.SO(E-I)E&AD/5-197/2022 dated 05-04-2023 and to state that the inquiry committee comprising Mr. Zaka Ullah Khattak (PCS EG BS-20), Chairman Inquiry Committee and Mr. Waheed Khan Deputy Director EPA Central Directorate, Technical Member of the inquiry-committee added recommendation also.

I am therefore, directed to enclose herewith the inquiry report for further appropriate action, please.

Inquiry report consists of 05 pages, each signed.

H/salim

Section Officer (Establishment)

Enclose as above.

Copy forward to the:

1. PS to Secretary, ST&IT Department
2. PA to Additional Secretary, ST&IT Department, Govt. of KP
3. PA to Deputy Secretary (Admin), ST&IT Department, Govt. of KP

Section Officer (Establishment)

Please put it up

B/I Zaka
19/4

20/4/2023

Attested

Introduction:

Letter from Establishment and Administration Department vide NO.SO(E-I)E&AD/5-197/2022 dated 20th December, 2022 (F/A) was received, wherein honorable Chief Secretary of Khyber Pakhtunkhwa was pleased to approve a de-novo inquiry against PMS officer Mr. Muhammad Sohail (PMS BS-18) Ex-deputy Secretary Industries Department. Statement of allegation and charge sheet were also enclosed. The undersigned was nominated as chairman of the inquiry committee Environment Department was however requested vide NO KPUMA/Dir.HAF/HR/2022/1280-82 dated 14/12/2022 (F/B) and subsequently a reminder vide NO.KPUMA/Dir.HAF/HR/2022/1340-42 dated 16/01/2023 (F/C), for nomination of their departmental representative and Technical member for assisting the inquiry committee in the production of record/ witnesses as well as to provide guidance on technical matters. Subsequently, Environment Department vide SO(G)/CCFE&WD/1-8/NOMINATION/2022/1865-66 dated 21/12/2022(F/D) nominated Mr. Adnan Jamil (PMS-BS18) Deputy Secretary as Departmental Representative, and vide letter No. EPA/Admn/Nomination/Inquiry/234-237 dated 27/01/2023, Environmental Protection Agency nominated Mr. Waheed Khan Deputy Director as Technical Member (F/E). Witnesses and accused officer were called and examined in presence of accused officer and full opportunity was provided to accused officer to cross examine the witnesses, list of which is (F/F), as well as witnesses were also given full opportunity to cross examine accused officer. One main witness Mr. Shukat Ali Yusafzai who was chairman of the fact finding inquiry was called for recording his statement and for provision of other relevant evidence, however he preferred to abstain.

2. Background:

Brief background of the instant case is that reportedly Mr. Muhammad Sohail a PMS officer in BPS-18 Ex-Deputy Secretary Industries department brought NOC for 780 BTS Towers for Mobilink personally to Secretary Environment office, wherein Chief Secretary office stamp was affixed along with Chief Secretary's remarks "For Immediate n/a Secretary (Inv) fr". However, reportedly after delivering the letter the accused officer came back after some time and took the letter from PS to Secretary Environment, Mr. Naeem Khan. However, Mr. Naeem Khan PS to Secretary Environment himself took photocopies of the letter and brought into the notice of Secretary Environment, who ordered a fact finding inquiry by nominating Mr. Shukat Ali Yusafzai as Chairman(F/G). The findings of the fact finding inquiry went against the accused officer (Mr. Muhammad Sohail) Deputy Secretary Industries, which was of the view that "the said officer (Mr. Muhammad Sohail, Deputy Secretary, Industries) has committed this criminal fraudulent conduct, which must be probed further".

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Consequently, a formal inquiry against the accused officer Mr. Muhammad Sohail was conducted by Mr. Zakir Hussain Afridi (E/H) and recommended that "inspite of repeated opportunities of defense being given to Mr. Sohail, Deputy Secretary (BPS-18) (PMS), he could not absolve himself from the charges levelled against him. This amounts to criminal fraudulent conduct amounting to misconduct as per Rules 2 read Rule 3 of the Government of Khyber Pakhtunkhwa, Efficiency and Disciplinary Rules 2011. He has rendered himself liable to be punished in light of Rules ibid with one or more penalties. Therefore, I, recommend major penalty of Removal from Service".

A de-novo inquiry (E/I) was ordered by honorable Chief Minister Khyber Pakhtunkhwa which was conducted by Mr. Kamran Rehman Khan, Additional Secretary (PFC) and Mr. Mian Muhammad, Additional Secretary (Estbb.). The inquiry committee concluded that the first formal charge of "issuance of Fake NOC by the accused officer" was not proved while the Second formal charge of "delivering the Fake NOC" against the accused stood proved. Furthermore, the 3rd formal charge "You had no official relation being a Deputy Secretary Industries with the EPA Environmental approval but got yourself involved in it" was partially proved against the accused officer. The accused officer preferred to move Services Tribunal against the order (E/J). The Services Tribunal converted his Appellant punishment of Removal from service in to Compulsory Retirement.

Therefore, the accused filed a review petition before the Services Tribunal wherein the impugned order of the petitioner from compulsory retirement was set aside and was reinstated into the service for the purpose of de-novo inquiry (E/K). Thus, the instant inquiry was ordered and the accused officer was charge sheeted with the following charges:

- I. That you issued the fake Environment Protection Agency approval to 780 BTS sites for Pakistan Mobile Communication Limited (Mobilink).
- II. That you, yourself delivered the fake Environment Protection Agency approval to 780 BTS sites for Pakistan Mobile Communication Limited (Mobilink) to the offices of Chief Secretary, Khyber Pakhtunkhwa and Secretary Environment.
- III. That You had no official relation being a Deputy Secretary, Industries with the EPA Environmental Approval but got yourself involved in it.

3. Methodology:

The undersigned along with inquiry committee recorded the statements of the following Officers/Officials as below:

Mr. Muhammad Bashir, Ex-DG Environmental Protection Agency (E/L), Mr. Mir Zali Khan (PMS BS-19), Director KPRA Peshawar (E/M), Dr. Amjad Ali Khan, Ex-Deputy Director, Environmental Protection Agency (E/N), Mr. Muhammad Iqbal Khattak, Ex-Deputy Secretary-II Environment Department (E/O), Mr. Muhammad Sohail (Accused Officer), Ex-Deputy Secretary Industries Department (E/P), Mr. Naeem Khan, Ex-PS to Secretary Environment Department (E/Q), Mr. Zafrullah, Ex-Junior Clerk Environment Department (E/R)

Mir Zali Khan
24/3
Chairman

Muhammad Sohail

[Signature]

Qtd. Alwan
24-03-23
Technical member

Findings

Charge No.1: That you issued the fake Environmental Protection Agency approval to 780 BTS sites for Pakistan Mobile Telecommunications Limited (Mobilink)

As far as charge No. 1 is concerned, from the statement of witnesses and other evidences such as previous inquiry reports and cross examination of the accused officer, the instant charge could not be proved for the reason that no trace could be found out leading to the accused officer for the issuance of the NOC. Statement of Zafullah, Ex Junior Clerk, is also important, who has stated that he didn't know how did the letter reached the office of Chief Secretary and how was the letter issued. However, he accepted that the responsibility of having diaried the same and gave the same statement in front of fact finding inquiry headed by Mr. Shaukat Ali Yusufzai the then Additional Secretary of Environment Department. Furthermore, he stated that in routine matters the letter with remarks was sent to concerned Secretary through peon book. The instant letter was neither diaried in the peon book nor sent to Environment Department through peon book. It is also not known if the accused officer signed the NOC or it was signed through someone else. However, if the signatures on fake NOC are sent for forensic report, it will be cleared if these were his or otherwise.

Charge No.2:

That Mr. Muhammad Sohail issued the fake Environmental Protection Agency approval to 780 BTS sites for Pakistan

As far as charge No. 2 is concerned, statement of Mr. Naeem Khan, PS to Secretary Environment Department, Government of Khyber Pakhtunkhwa is very important, who stated that he knew Mr. Muhammad Sohail accused officer since the time he was secretary RTA, as RTA before the creation of Transport department was a part of Environment Department, and therefore he had frequent official interaction with him. This fact was not denied by Mr. Muhammad Sohail (Accused Officer). He further stated that he had no doubt that the person who brought the letter of NOCs for 780 BTs tower was the present accused officer Mr. Muhammad Sohail. Mr. Naeem Khan also in his statement stated that he was doubtful of the signature of DG Environmental Protection Agency, therefore, he showed signatures on NOCs to Dr. Muhammad Bashir Ex-DG Environmental Protection Agency, who denied the signatures as his and requested for sending the same to his office officially. Therefore, after approval of Secretary Environment, the same fake NOCs letter was sent to DG EPA officially for his views (F/S). In response Dr. Bashir DG Environmental Protection Agency letter vide No. EPA/NOC/BTS/295 dated 07/10/2013 (F/T) responded that neither this NOC was issued by his office nor these were his signatures.

The statement of Dr. Bashir (F/L) is also pertinent in which he stated that he was visited by an officer introducing himself as DMG officer, posted as Additional Secretary in industries department and requested for issuing NOC for 780 BTS tower of Mobilink. Dr. Bashir further stated that actually senate standing committee in 2008 (F/U) and Federal Government (EPA

M. Malik
24/3
Chairman

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Handwritten notes: 24/07/21, Technical member

employees) 2009 (F/V) wanted to regulate establishment of BTS tower, therefore he was frequently visited by his acquaintances for NOC, especially when the Provincial Government started regulating establishment of BTS towers, however the issue arose when the Mobilink requested for clearing backlog of BTS towers established before 2009, when there were no requirement of securing NOC for establishment of BTS towers. He made a point that without inspection of BTS he will not be in a position to issue NOC for BTS towers. He further stated that he politely refused the gentleman who visited his office and also directed his PS to check with industries department if there was someone by the name of Mr. Muhammad Sohail as Additional Secretary Industries Department. However, my PS informed me that one Mr. Muhammad Sohail was posted as Deputy Secretary Industries Department, who was a PMS officer. He further stated that he could not confirm with 100% surety that the present accused officer was the one who visited his office. He informed that he gave the statement in the de-novo inquiry conducted by Mr. Kamran Rehman and Mr. Mian Muhammad (F/I). He however informed that Mr. Naeem Khan PS to Secretary Environment Department knew him as he had frequent interactions with him as Secretary RTA.

From the statement of Mr. Iqbal Khattak, Ex-Deputy Secretary Environment Department (F/O), it is clear that Mr. Sohail was the person who admitted in front of the de-novo inquiry committee headed by Mr. Kamran Rehman and Mr. Mian Muhammad, that he delivered the Fake NOC letter to the Secretary Environment's office and handed it over to the PS to Secretary Environment Mr. Naeem Khan. Mr. Mir Zali Khan Ex- Section Officer Environment Department also in his statement stated that Mr. Muhammad Sohail (Accused Officer) admitted that in the de-novo inquiry that he delivered the letter to PS to Secretary Environment, Mr. Naeem Khan.

Mr. Sohail in his statement, however has denied all the charges levelled against him. He stated in his statement that he never visited Environmental Protection Agency Office, and in his statement, further stated that he has never delivered NOC for BTS sites for Pakistan Mobile Communication Limited (Mobilink) in the office of Chief Secretary or Secretary Environment Department.

Charge No. 3:

You had no official relation being a Deputy Secretary Industries with the EPA Environmental Approval but got yourself involved in it.

As far as charge No. 3 is concerned, the accused officer stated that being Deputy Secretary Industries Department, he had no link with Environmental Protection Agency, and that he was ignorant about activity, that he never delivered approval for 780 BTS sites to Secretary Environment Department. However, Mr. Naeem Khan PS to Secretary Environment, stated that the accused officer himself brought the NOC which makes the intentions of the accused officer suspicious. Though, apparently, the accused officer being posted at Industries department had nothing to do with Environment Department, however, if it is presumed that he was the one who went to DG Environmental Protection Agency office with a request for issuing NOC for 780 BTS

M. Kamran
24/3
Chairman

Attested

Technical member

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towers, then he had some interest attached to the NOC. However, it is clear that no monetary benefit could be secured from the fake NOC for 780 BTS towers as the fake NOC was withdrawn/disowned and was of no use to any one including the accused officer and the Mobile Company (Mobilink), as informed by DG Environmental Protection Agency. Furthermore, DG Environmental Protection Agency disowned the fake NOC letter vide No. EPA/NOC/BTS/295 dated 7/10/2013 (F/T) conveyed to Section Officer, Environment Department, Government of Khyber Pakhtunkhwa.

4. Conclusion

The inquiry committee after perusing statements of accused officer, witnesses, previous inquiry reports and other related evidences, is of the view that Mr. Muhammad Sohail (Accused Officer) is guilty of committing a misconduct by bringing NOC for 780 BTS towers to the office of Secretary Environment, having fake signature of DG Environmental Protection Agency however intention of bringing NOC for 780 BTS towers to the office of Secretary Environment is not known. However it can be presumed that it was an attempt to favor Mobile Company (Mobilink) which was desperately in need of NOC for 780 BTS towers established before 2009, which DG Environmental Protection Agency had declined.


The inquiry committee is further of the view that since the fake NOC was withdrawn/disowned by DG Environmental Protection Agency after coming to know about it, therefore, the intention of the accused officer to favor Mobile Companies also stood frustrated and therefore, the NOC was of no use to any party whether the accused officer and Mobilink Company.


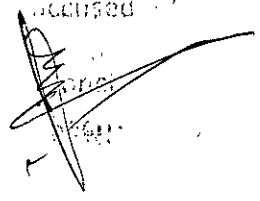
The inquiry committee agrees with the conclusion of de-novo inquiry headed by Mr. Kamran Rehman Khan (PAS BS-19), Additional Secretary (PFC), Finance Department and Mr. Mian Muhammad (PCS-SG-BS-19), Additional Secretary (Estt.), Establishment Department, wherein charge No.2 was stated to be proven against the accused officer, whereas charge No. 1 was stated to be not proven and charge No.3 was stated to be partially proven.

The inquiry committee therefore concludes by absolving the accused officer from charge No.1 however holds him guilty for charge No.2, and partially holds him guilty for charge No.3.

This de-novo inquiry report consist of 05 pages. Each page signed


Zaka Ullah Khattak 24/3
Chairman
Inquiry Committee


Waheed Khan 24/03-23
Technical Member
Inquiry Committee

INQUIRY REPORT

32
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Introduction:

Letter from Establishment and Administration Department vide NO.SO(E-IE&AD/5-197/2022 dated 2nd December, 2022 (F/A) was received, wherein honorable Chief Secretary of Khyber Pakhtunkhwa was pleased to approve a de-novo inquiry against PMS officer Mr. Muhammad Sohail (PMS-BS18), Ex-deputy Secretary Industries Department. Statement of allegation and charge sheet were also enclosed. The undersigned was nominated as chairman of the inquiry committee. Environment Department was however requested vide NO.KPUMA/Dir.HAF/HR/2022/1280-82 dated 14/12/2022 (F/B) and subsequently a reminder vide NO.KPUMA/Dir.HAF/HR/2022/1340-42 dated 16/01/2023 (F/C), for nomination of their departmental representative and Technical member for assisting the inquiry committee in the production of record/witnesses as well as to provide guidance on technical matters. Subsequently, Environment Department vide SO(G)/CCFE&WD/I-8/NOMINATION/2022/1865-66 dated 21/12/2022 (F/D) nominated Mr. Adnan Jamil (PMS-BS18) Deputy Secretary as Departmental Representative, and vide letter No. EPA/Admin/Nomination/Inquiry/234-237 dated 27/01/2023, Environmental Protection Agency nominated Mr. Waheed Khan Deputy Director as Technical Member (F/E). Witnesses and accused officer were called and examined in presence of accused officer and full opportunity was provided to accused officer to cross examine the witnesses, list of which is (F/E), as well as witnesses were also given full opportunity to cross examine accused officer. One main witness Mr. Shukat Ali Yusafzai who was chairman of the fact finding inquiry was called for recording his statement and for provision of other relevant evidence, however he preferred to abstain.

2 Background:

Brief background of the instant case is that reportedly Mr. Muhammad Sohail a-PMS officer in BPS-18 Ex-Deputy Secretary Industries department brought NOC for 780 BTS Towers for Mobilink personally to Secretary Environment office, wherein Chief Secretary office stamp was affixed along with Chief Secretary's remarks "For Immediate n/a Secretary (Inv)fr". However, reportedly, after delivering the letter the accused officer came back after some time and took the letter from PS to Secretary Environment, Mr. Naeem Khan. However, Mr. Naeem Khan PS to Secretary Environment himself took photocopies of the letter and brought into the notice of Secretary Environment, who ordered a fact finding inquiry by nominating Mr. Shukat Ali Yusafzai as Chairman (F/G). The findings of the fact finding inquiry went against the accused officer (Mr. Muhammad Sohail) Deputy Secretary, Industries, which was of the view that "the said officer (Mr. Muhammad Sohail, Deputy Secretary, Industries) has committed this criminal fraudulent conduct, which must be probed further".

Consequently, a formal inquiry against the accused officer Mr. Muhammad Sohail was conducted by Mr. Zakir Hussain Afridi (F/H) and recommended that "in spite of repeated opportunities of defense being given to Mr. Sohail, Deputy Secretary (BPS-18) (PMS), he could not absolve himself from the charges levelled against him. This amounts to

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criminal fraudulent conduct amounting to misconduct as per Rules 2 read Rule 3 of the Government of Khyber Pakhtunkhwa, Efficiency and Disciplinary Rules 2011. He has rendered himself liable to be punished, in light of Rules ibid with one or more penalties. Therefore, I, recommend major penalty of Removal from Service”.

A de-novo inquiry (F/I) was ordered by honorable Chief Mister Khyber Pakhtunkhwa which was conducted by Mr. Kamran Rehman Khan, Additional Secretary (PFC) and Mr. Mian Muhammad, Additional Secretary (Estbb.). The inquiry committee concluded that the first formal charge of “issuance of Fake NOC by the accused officer” was not proved while the Second formal charge of “delivering the Fake NOC” against the accused stood proved. Furthermore, the 3rd formal charge “You had no official relation being a Deputy Secretary Industries with the EPA Environmental approval but got yourself involved in it” was partially proved against the accused officer. The accused officer preferred to move Services Tribunal against the order (F/J). The Services Tribunal converted his Appellant punishment of Removal from service in to Compulsory Retirement.

Therefore, the accused filed a review petition before the Services Tribunal wherein the impugned order of the petitioner from compulsory retirement was set aside and was reinstated into the service for the purpose of de-novo inquiry (F/K). Thus, the instant inquiry was ordered and the accused officer was charge sheeted with the following charges:

- I. That you issued the fake Environment Protection Agency approval to 780 BTS sites for Pakistan Mobile Communication Limited (Mobilink).
- II. That you, yourself delivered the fake Environment Protection Agency approval to 780 BTS sites for Pakistan Mobile Communication Limited (Mobilink) to the offices of Chief Secretary, Khyber Pakhtunkhwa and Secretary Environment.
- III. That You had no official relation being a Deputy Secretary, Industries with the EPA Environmental Approval but got yourself involved in it.

3. Methodology:

The undersigned along with inquiry committee recorded the statements of the following Officers/Officials as below:

Mr. Muhammad Bashir, Ex-DG Environmental Protection Agency (F/L), Mr. Mir Zali Khan (PMS BS-19), Director KPRA Peshawar (F/M), Dr. Amjad Ali Khan, Ex-Deputy Director, Environmental Protection Agency (F/N), Mr. Muhammad Iqbal Khattak, Ex-Deputy Secretary-II Environment Department (F/O), Mr. Muhammad Sohail (Accused Officer), Ex-Deputy Secretary Industries Department (F/P), Mr. Naeem Khan, Ex-PS to Secretary Environment Department (F/Q), Mr. Zafrullah, Ex-Junior Clerk Environment Department (F/R)

4. Findings

Charge No.1: That you issued the fake Environmental Protection Agency approval to 780 BTS sites for Pakistan Mobile Telecommunications Limited (Mobilink)

As far as charge No.1 is concerned, from the statement of witnesses and other evidences such as previous inquiry reports and cross-examination of the accused officer, the instant charge couldnot be proved for the reason that no trace could be found out leading to the accused

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officer for having issued the NOC. Statement of Zafrullah Ex-Junior Clerk, is also important, who has stated that he didn't know how did the letter reached the office of Chief Secretary and how was the letter issued. However, he accepted that the responsibility of having diared the same and gave the same statement in front of fact finding inquiry headed by Mr. Shaukat Ali Yusafzai the then Additional Secretary of Environment Department. Furthermore, he stated that in routine matters, the letter with remarks was sent to concerned Secretary through peon book. The instant letter was neither diared in the peon book nor sent to Environment Department through peon book. It is also not known if the accused officer signed the NOC or it was signed through someone else. However, if the signatures on fake NOC are sent for forensic report, it will be cleared if these were his or otherwise.

Charge No.2:

That Mr. Muhammad Sohail issued the fake Environmental Protection Agency approval to 780 BTS sites for Pakistan

As far as charge No. 2 is concerned, statement of Mr. Naeem Khan, PS to Secretary Environment Department, Government of Khyber Pakhtunkhwa is very important, who stated that he knew Mr. Muhammad Sohail accused officer since the time he was secretary RTA, as RTA before the creation of Transport department was a part of Environment Department, and therefore he had frequent official interaction with him. This fact was not denied by Mr. Muhammad Sohail (Accused Officer). He further stated that he had no doubt that the person who brought the letter of NOCs for 780 BTs tower was the present accused officer Mr. Muhammad Sohail. Mr. Naeem Khan also in his statement stated that he was doubtful of the signature of DG Environmental Protection Agency, therefore, he showed signatures on NOCs to Dr. Muhammad Bashir Ex-DG Environmental Protection Agency, who denied the signatures as his and requested for sending the same to his office officially. Therefore, after approval of Secretary Environment, the same fake NOCs letter was sent to DG EPA officially for his views (F/S). In response Dr. Bashir DG Environmental Protection Agency letter vide No. EPA/NOC/BTS/295 dated 07/10/2013, (F/T) responded that neither this NOC was issued by his office nor these were his signatures.

The statement of Dr. Bashir (F/L) is also pertinent in which he stated that he was visited by an officer introducing himself as DMG officer, posted as Additional Secretary in industries department and requested for issuing NOC for 780 BTS tower of Mobilink. Dr. Bashir further stated that actually senate standing committee in 2008 (F/U) and Federal Government (EPA Guidelines) 2009 (F/V) wanted to regulate establishment of BTS tower, therefore he was frequently visited by his acquaintances for NOC, especially when the Provincial Government started regulating establishment of BTS towers, however the issue arose when the Mobilink requested for clearing backlog of BTS towers established before 2009, when there were no requirement of securing NOC for establishment of BTS towers. He made a point that without inspection of BTS, he will not be in a position to issue NOC for BTS towers. He further stated that he politely refused the gentleman who visited his office and also directed his PS to check with industries department if there was someone by the name of Mr. Muhammad Sohail as Additional Secretary Industries Department. However, my PS informed me that one Mr. Muhammad Sohail was posted as Deputy Secretary Industries Department, who was a PMS officer. He further stated that he could not confirm with 100% surety that the present accused officer was the one who visited his office. He informed that he gave the statement in

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the de-novo inquiry conducted by Mr. Kamran Rehman and Mr. Mian Muhammad (F/I). He however informed that Mr. Naeem Khan PS to Secretary Environment Department knew him as he had frequent interactions with him as Secretary RTA.

From the statement of Mr. Iqbal Khattak, Ex-Deputy Secretary Environment Department (F/O), it is clear that Mr. Sohail was the person who admitted in front of the de-novo inquiry committee headed by Mr. Kamran Rehman and Mr. Mian Muhammad, that he delivered the Fake NOC letter to the Secretary Environment's office and handed it over to the PS to Secretary Environment Mr. Naeem Khan. Mr. Mir Zali-Khan Ex- Section Officer Environment Department also in his statement stated that Mr. Muhammad Sohail (Accused Officer) admitted that in the de-novo inquiry that he delivered the letter to PS to Secretary Environment, Mr. Naeem Khan.

Mr. Sohail in his statement, however has denied all the charges levelled against him. He stated in his statement that he never visited Environmental Protection Agency Office, and in his statement, further stated that he has never delivered NOC for BTS sites for Pakistan Mobile Communication Limited (Mobilink) in the office of Chief Secretary or Secretary Environment Department.

Charge No. 3:

You had no official relation being a Deputy Secretary Industries with the EPA Environmental Approval but got yourself involved in it.

As far as charge No. 3 is concerned, the accused officer stated that being Deputy Secretary Industries Department, he had no link with Environmental Protection Agency, and that he was ignorant about activity, that he never delivered approval for 780 BTS sites to Secretary Environment Department. However, Mr. Naeem Khan PS to Secretary Environment, stated that the accused officer himself brought the NOC which makes the intentions of the accused officer suspicious. Though, apparently, the accused officer being posted at Industries department had nothing to do with Environment Department, however, if it is presumed that he was the one who went to DG Environmental Protection Agency office with a request for issuing NOC for 780 BTS towers, then he had some interest attached to the NOC. However, it is clear that no monetary benefit could be secured from the fake NOC for 780 BTS towers as the fake NOC was withdrawn/disowned and was of no use to any one including the accused officer and the Mobile Company (Mobilink) as informed by DG Environmental Protection Agency. Furthermore, DG Environmental Protection Agency disowned the fake NOC letter vide No. EPA/NOC/BTS/295 dated 7/10/2013 (F/T) conveyed to Section Officer, Environment Department, Government of Khyber Pakhtunkhwa.

5. Conclusion

The Inquiry Committee after perusing statements of accused officer, witnesses, previous inquiry reports and other related evidences, is of the view that Mr. Muhammad Sohail (Accused Officer) is guilty of committing a misconduct by bringing NOC for 780 BTS towers to the office of Secretary Environment, having fake signature of DG Environmental Protection Agency however intention of bringing NOC for 780 BTS towers to the office of Secretary Environment is not known. However it can be presumed that it was an attempt to favor Mobile Company (Mobilink) which was desperately in need of NOC for 780 BTS towers established before 2009, which DG Environmental Protection Agency had declined.

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The inquiry committee is further of the view that since the fake NOC was withdrawn/disowned by DG Environmental Protection Agency after coming to know about it, therefore, the intention of the accused officer to favor Mobile Companies also stood frustrated and therefore, the NOC was of no use to any party whether the accused officer and Mobilink Company.

The inquiry committee agrees with the conclusion of de-novo inquiry headed by Mr. Kamran Rehman Khan (PAS BS-19), Additional Secretary (PFC), Finance Department and Mr. Mian Muhammad (PCS-SG-BS-19), Additional Secretary (Estt.), Establishment Department, wherein charge No.2 was stated to be proven against the accused officer, whereas charge No. 1 was stated to be not proven and charge No.3 was stated to be partially proven.

The inquiry committee therefore concludes by absolving the accused officer from charge No.1 however holds him guilty for charge No.2, and partially holds him guilty for charge No.3.


6. Recommendations:

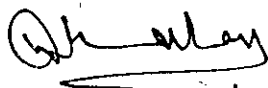
The chairman Inquiry committee in light of the findings has come to know that the accused officer was suspended from service dated 19/05/2015 (7 years & 11 months) for personally delivering NOC from Chief Secretary office to Secretary Environment office. Since then he has faced 3 inquiries and spent around 7 years of energies and resources in various court of laws to clear his guilt and get him reinstated to service. Therefore, the Chairman Inquiry Committee taking his around 8 years of suspension as enough punishment and recommend him for reinstatement into service with all back benefits and minor punishment of censure.

7. Dissenting Note of Member Technical Inquiry Committee:

Member Technical of the inquiry committee Mr. Waheed Khan, Deputy Director Environment Protection Agency is however of the view that since the accused officer has been proved guilty for charge No.02 and partially guilty for charge No.03. Therefore, he recommends that the accused officer may be one scale demoted at least as the charges have been proved on him.

This de-novo inquiry report consists of 05 pages. Each page is signed by the committee.


Zaka Ullah Khattak 17/4
Chairman
Inquiry Committee


Waheed Khan 17/4/23
Technical Member
Inquiry Committee

